

proposed system adjustments. During this 9-month period, the restrictions shall not apply. Notwithstanding other provisions, if, for any Rolling Calendar Quarter, the PCX Application Percentage exceeds 30%, the PCX must cease computer-generating "trade-at" commitments for three calendar months beginning the first business day of the second month following the end of such Rolling Calendar Quarter.

Finally, Section 8(h)(vi) provides that, each month, the PCX shall furnish the ITSOC with a report showing the number of shares for each component of the PCX Application Formula, as well as the number of executed shares resulting from "trade-through" commitments.¹⁰

IV. Discussion

The Commission has made a preliminary determination that the proposed amendment is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets, and the removal of impediments to, and perfection of the mechanisms of, a national market system. While comment is being solicited on the proposed amendment, the Commission therefore will make the amendment summarily effective on a temporary basis upon publication of notice of the amendment.¹¹

The Commission believes that the linkage of the PCX Application to ITS will further the purposes of Section 11A of the exchange Act¹² and the development of the national market system by promoting economically efficient securities transactions, fair competition among markets, the best execution of customer orders, and an opportunity for orders to be executed without the participation of a dealer. The Commission notes that the PCX Application has been linked to ITS since January 29, 1999, under the same terms now being proposed. These terms were agreed upon by the ITS participants after extensive discussions.¹³ The Commission believes

that linking the PCX Application to ITS has provided, and potentially will continue to provide, a new and more efficient way to match and execute trading interest.¹⁴ The Commission therefore believes it is appropriate to make the proposed amendment summarily effective on a temporary basis upon publication of notice of such amendment in order to allow the PCX Application to continue to be linked to ITS without interruption following termination of the ITS participants' exemptive relief.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the proposed amendment, including whether the proposed Plan amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed Plan amendment change that are filed with the Commission, and all written communications relating to the proposed Plan amendment change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such Plan amendment will also be available for inspection and copying at the principal office of the ITS. All submissions should refer to File No. 4-208 and should be submitted by May 3, 1999.

VI. Conclusion

The Plan amendment is hereby made summarily effective on a temporary basis not to exceed August 10, 1999 pursuant to Exchange Act Rule 11Aa3-2(c)(4).¹⁵

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41252; File No. SR-CBOE-99-09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. To List Index Options for an Additional Expiration Month

April 5, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 15, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend CBOE Rule 24.9, *Terms of Index Option Contracts*, to allow the Exchange to list up to seven expiration months, instead of the currently permitted six, for certain index options up until the expiration of those options in January 2000. The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

¹⁰ A trade-through occurs when a transaction is effected at a price below the best prevailing bid, or above the best prevailing offer. The ITS Plan requires price continuity among the various markets by ensuring that the best national bids and offers are provided opportunities to trade with other markets effecting trades outside the best national quote.

¹¹ See Exchange Act Rule 11Aa3-2(c)(4).

¹² Section 11A(a)(1)(D) of the Act, 15 U.S.C. 78k-1(a)(1)(D).

¹³ The participants agreed upon these amendments after the Commission published a proposal to amend the ITS Plan. See Exchange Act Release No. 40204 (July 15, 1998), 63 FR 39306 (July 22, 1998) ("Proposing Release"). The Commission received 30 comment letters on the Proposing Release, generally favoring linking the PCX Application to ITS.

¹⁴ See *Id.*

¹⁵ 17 CFR 240.11Aa3-2(c)(4).

¹⁶ 17 CFR 200.30-3(a)(29).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Although the Exchange spoke with staff in the Division of Market Regulation ("Division") at the Commission to give notice of its intent to file the proposed rule change, the Exchange did not provide the Commission with written notice and the text of the proposed rule change at least five business days prior to the date of filing the proposed rule change. Rule 19b-4(f)(6)(iii). However, the Commission has decided to waive the pre-filing requirement. On March 18, 1999, CBOE made technical amendments to the proposal. Telephone conversations between Timothy H. Thompson, Director, Regulatory Affairs, CBOE, and Kenneth Rosen and Joseph Morra, Attorneys, Division, Commission.

places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange is proposing to amend paragraph (a)(2) of CBOE Rule 24.9 to allow, for a limited time, the Exchange to list up to seven expiration months in certain index options. When options are listed for seven expiration months, one of those expiration months would be January 2000. Currently, CBOE Rule 24.9(a)(2) permits the Exchange to list only six expiration months in any index options at any one time.

Under the current application of the Rule, the Exchange generally will list three consecutive near term months and three months on a quarterly expiration cycle. For example, the Exchange currently lists options on the Standard & Poor's 500 Index ("SPX options") for the following expiration months: March 1999, April 1999, May 1999, June 1999, September 1999, and December 1999. After the March 1999 options expire, the exchange intends to list SPX options with an expiration month of March 2000. The Exchange believes it is necessary to list the March 2000 SPX options because a number of institutional customers commonly engage in a strategy where they purchase a new option with the same expiration month but for the next year when the options with the same expiration month in the current year expire. When the Exchange lists the March 2000 SPX options, it will have used its current allotment of six expiration months under CBOE Rule 24.9(a)(2).

The Exchange, however, has been approached by a number of institutional customers who are interested in trading SPX options and other index options with an expiration of January 2000. These customers have explained to the Exchange that they believe that index options expiring in January 2000 will provide a useful tool to hedge positions in stocks overlying particular index options or to hedge market exposure to the equity markets generally against the uncertainty presented by potential Year 2000 computer problems. By listing index options with a January 2000 expiration at this point, the Exchange

will provide these customers with the opportunity to hedge their positions in an orderly fashion well in advance of the beginning of the Year 2000.

The Exchange recognizes that this request to expand the allowable expiration months for index options is a unique situation presented by the unusual risks presented by potential Year 2000 problems, and so the Exchange only intends to seek the ability to list seven expiration months until the January 2000 options expire.

The Exchange believes that it has the system capacity to more than adequately handle the series that would be permitted to be added by this proposal. In addition, the Exchange has received a letter from the Options Price Reporting Authority ("OPRA") stating that OPRA has the necessary capacity to handle the additional series that could be added through this proposal.

Because the temporary increase in the number of expiration months for index options would satisfy significant customer demand to address a unique hedging need and because the series could be added without presenting capacity problems, the Exchange believes this rule change is consistent with, and furthers the objectives of, section 6(b)(5) of the Act⁴ in that it would remove impediments to the perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection on competition; and
- (ii) impose any significant burden on competition; and

⁴ 15 U.S.C. 78f(b)(5).

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective⁵ pursuant to section 19(b)(3)(A) of the Act⁶ and Rule 19b-4(f)(6) thereunder.⁷ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and argument concerning the foregoing including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-99-09, and should be submitted by May 3, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,
Deputy Secretary.

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⁵ The Commission has waived the 5-day pre-filing requirement. See *supra* note 3.

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6). In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 17 CFR 200.30-3(a)(12).