

terms and conditions set forth in the order approving that rule.

## 2. Statutory Basis

The Exchange believes that this proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act<sup>9</sup> in that it would remove impediments to and 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

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder<sup>11</sup> because the proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) by its terms, does not become operative for 30 days from the date of filing, or such shorter time that the Commission may designate if consistent with the protection of investors and the public interest; and (4) CBOE provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date. At any time within 60 days of the filing of such 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.

The Exchange has requested that the rule change be accelerated to become operative immediately to ensure that the Exchange not be disadvantaged in the listing of new index option products vis-a-vis the American Stock Exchange

("Amex"). Amex filed a similar rule change with the Commission that became operative as of March 11, 1999. Additionally, the Exchange notes that the public has had ample notice of the Commission's New Products Release, which describes the kind of rule change effected by the Exchange in the instant proposal. The Commission finds that accelerating the operative date of the rule change as proposed furthers the aims of the New Products Release and is consistent with the protection of investors and the public interest, and thus designated the date hereof as the operative date.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments 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, N.W., Washington, D.C. 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 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-99-16, and should be submitted by June 3, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41376; File No. SR-CBOE-99-14]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Listing Criteria for Warrants

May 6, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 6, 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. 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 proposes to amend its Rule 31.5.E to add an alternative set of distribution criteria for broad-based stock index warrants. The text of the proposed rule change follows. *Italics* indicate material to be added.

\* \* \* \* \*

Chicago Board Options Exchange, Inc.  
Rules

\* \* \*

#### CHAPTER XXXI

Criteria for Original Listing

\* \* \*

Rule 31.5 Criteria for Eligibility of Securities

\* \* \*

E. Currency, Currency Index and Stock Index Warrants

\* \* \*

(2) Public Distribution. *The Exchange may list warrants that meet either of the two alternative sets of criteria below.*

##### (i) Alternative 1

Warrants outstanding ..	1,000,000
Principal amount/aggregate market value	\$4,000,000
Number of public holders .....	400

##### (ii) Alternative 2

Warrants outstanding ..	2,000,000
Principal amount/aggregate market value	\$12,000,000

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 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).

<sup>12</sup> 17 CFR 200.30-3(a)(12).

Number of public holders ..... case by case  
 Initial price ..... \$6/warrant  
 \* \* \*

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

In its filing with the Commission, CBOE 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 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

#### 1. Purpose

The purpose of the proposed rule change is to amend CBOE Rule 31.5.E, which sets forth the listing criteria for "Currency, Currency Index and Stock Index Warrants." Currently, the listing criteria for warrants under Exchange Rule 31.5.E require that the following public distribution requirements be met before a warrant may be listed for trading on the Exchange: (1) Warrants outstanding: 1,000,000; (2) principal amount/aggregate market value: \$4,000,000; and (3) number of public holders: 400. Other marketplaces have similar listing criteria for warrants. Although not specifically included in Rule 31.5, the Exchange represents that industry practice has been to discourage the listing of instruments of this kind that are priced below \$4 per unit—a practice that the CBOE finds appropriate.

CBOE member firms have advised staff of the Exchange that the existing 400-holder requirement for broad-based stock index warrants frequently poses a significant barrier to seeking a listing on the CBOE. Unlike offerings of common stock and common stock warrants, offerings of stock index warrants are limited to options-approved accounts and are primarily directed to institutional and high net worth clients. The Exchange argues that member firms often find it considerably more cost effective to offer stock index warrants either offshore or in the over-the-counter (OTC) derivatives market. This is because achieving the existing 400-holder requirement usually entails an extensive and drawn out marketing

effort—an effort that, in the Exchange's view, does not provide any additional market or investor benefits. At the same time, CBOE believes that stock index warrant investors would be generally better served by having these securities listed and traded on the Exchange, where transaction size and prices are broadly disseminated.

To be more competitive with the OTC and overseas marketplaces in the listing of stock index warrants, the Exchange is proposing to establish an alternative set of distribution criteria without a minimum public holder requirement. Under this alternative, the minimum number of public holders required for a stock index warrant to be listed would not be defined, but would be determined on a case by case basis. Other criteria would include: (1) Minimum warrants outstanding: 2,000,000, which is double the existing requirement; (2) minimum principal amount/aggregate market value: \$12,000,000, which is three times the existing requirement; and (3) minimum price: \$6 per warrant, which is one and one-half times the minimum based on existing informal guidelines. Adoption of these criteria would, in the opinion of the Exchange, enhance listing competition for these products while accommodating the transaction size normally attractive to institutional and high net worth investors, who the Exchange believes to be major users of these types of instruments.

The Exchange does not believe that the minimum holder requirement has the importance for stock index warrants that it may have for common stock or common stock warrant listings. Stock index warrants, it argues, are economically equivalent to standardized options, which are routinely introduced without any immediate "open interest." While investor interest may ultimately develop for these products, there is no distribution whatsoever when the contract is first listed. When interest develops subsequently, market-makers are expected to provide liquidity and produce quotes based on market variables even without customer order flow.<sup>3</sup> The Exchange believes that this is equally true for broad-based stock index warrant contracts. A minimum original distribution should not impair the ability of market-makers to maintain fair and orderly markets.<sup>4</sup>

<sup>3</sup> The Exchange argues that the underlying cash price as well as any related futures contracts are of prime importance.

<sup>4</sup> For example, on most broad-based stock indexes, such as the S&P 500, Dow Jones Industrial Average, Nikkei 225 and FT-SE 100, there are a number of domestic, as well as international derivative instruments, including options, futures,

The Exchange asserts that neither CBOE nor any of the other registered exchanges require a minimum number of holders as a precondition to listing and trading stock index options, because investor interest and liquidity in these instruments—as in the case of standard options and LEAPS—are derived from the availability of other products. The Exchange believes that stock index warrants—being economically equivalent to index options and available only to customers with options-approved accounts—can be expected to be an equally attractive and liquid security.

#### 2. Statutory Basis

The proposed rule changes are designed to enable the CBOE to compete effectively with the overseas and OTC markets for these types of securities. As such, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5),<sup>5</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

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

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments 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, N.W., Washington, D.C. 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

options on futures, and a variety of other structured products.

<sup>5</sup> 15 U.S.C. 78f(b)(5).

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-99-14, and should be submitted by June 3, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41366; File No. SR-CSE-99-04]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Amending the Minor Rule Violation Program To Include Violations of Limit Order Display Obligations

May 4, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 15, 1999, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the CSE. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

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

The CSE proposes to amend Exchange Rule 8.15, Imposition of Fines for Minor Violation(s) of Rules, to include Rule 12.10 and Interpretation .01 under that rule, which requires Members to display customer limit orders by complying with Rule 11Ac1-4 under the Act. The text of the proposed rule change is available at the Office of the Secretary, the CSE, 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 CSE 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 places specified in Item III below. The CSE has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

###### 1. Purpose

The proposal would amend CSE Rule 8.15, Imposition of Fines for Minor Violation(s) of Rules ("Minor Rule Violation Program" or "Program"), which provides for an alternative disciplinary regimen involving violations of Exchange rules that the Exchange determines are minor in nature. In lieu of commencing a disciplinary proceeding pursuant to Rule 8.1 through 8.14, the Minor Rule Violation Program permits the Exchange to impose a fine, not to exceed \$2500, on any member, member organization, or registered or non-registered employee of a member or member organization ("Member") that the Exchange determines has violated a rule included in the Program. Adding a particular rule violation to the Minor Rule Violation Program does not circumscribe the Exchange's ability to treat violations of those rules through more formal disciplinary measures or deprive a Member of the procedural rights embedded in the disciplinary rules. The Minor Rule Violation Program simply provides the Exchange with greater flexibility in addressing rule violations that warrant a stronger regulatory response after the issuance of cautionary letters and yet, given the nature of the violations, do not rise to the level of requiring formal disciplinary proceedings.

The Exchange is now proposing to add the failure to properly display customer limit orders contained in Interpretation .01 to Rule 12.10 to the list of rule violations and fines included in the Minor Rule Violation Program. The Exchange believes that limit order display violations often are technical in nature and, in most cases, are best addressed in a summary fashion. However, because Interpretation .01 to Rule 12.10 is predicated on compliance

with SEC Rule 11Ac1-4, which provides important customer protections, violations of this Interpretation require sanctions more rigorous than a series of cautionary letters prior to formal proceedings.

Therefore, the Exchange is proposing to use a recommended fine schedule of \$100 per violation of the Interpretation. Exchange regulatory staff will review the facts and circumstances related to a purported violation and determine the appropriateness of a fine or other sanction. The Exchange notes that the minor violation fine schedule is merely a recommended fine schedule and that fines of more or less than the recommended fines can be imposed (up to \$2,500 maximum) in appropriate circumstances. Also, as indicated above the Exchange retains the ability to proceed with formal disciplinary action if the violations, in the Exchange's view, involve circumstances where more severe sanctions would be warranted.

###### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act<sup>3</sup> in general, and furthers the objectives of Sections 6(b)(5),<sup>4</sup> 6(b)(6),<sup>5</sup> 6(b)(7),<sup>6</sup> and 6(d)(1)<sup>7</sup> in particular. The proposed rule change is consistent with Section 6(b)(5) in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest. Specifically, the proposed rule change will augment the Exchange's ability to police its market and will increase the Exchange's flexibility in responding to minor violations of Exchange rules.

The proposal also is consistent with the Section 6(b)(6) requirement that the rules of an exchange provide appropriate discipline for violations of SEC and Exchange rules. The proposed rule change will provide a procedure to appropriately discipline those Members whose violations are minor in nature. In addition, because Rule 8.15 provides procedural safeguards to the person fined and permits a disciplined person to request a full hearing on the matter, the proposal provides a fair procedure for the disciplining of Members consistent with Sections 6(b)(7) and 6(d)(1) of the Act.

<sup>3</sup> 15 U.S.C. 78f(b).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> 15 U.S.C. 78f(b)(6).

<sup>6</sup> 15 U.S.C. 78f(b)(7).

<sup>7</sup> 15 U.S.C. 78f(b)(1).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.