

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42112; File No. SR-CBOE-99-38]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Amending its Trade Processing Rules

November 5, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 13, 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 CBOE. 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 CBOE is proposing to update and reorganize its rules on trade processing. The text of the proposed rule change is available at the 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 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 CBOE 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 update the Exchange's trade processing rules to incorporate changes that have been made to the Exchange's trade processing system over the last few years. One significant change that has occurred at the Exchange is the increasing use of market-maker handheld trading terminals. Market-

maker handheld terminals are electronically linked to the Exchange's trade processing system and trade information is sent to the Exchange's trade processing system automatically when the trade is input onto the handheld terminal. Currently, more than 85% of market-maker trade input is done through market-maker handheld terminals. Market-makers that do not use handheld terminals must manually record their trade information on a trade card and submit a copy of the card to the member's clearing firm for inclusion into the Exchange's trade processing system.

The Exchange is proposing to change Exchange Rule 6.50 to require Members to file with, or at the direction of, the Exchange trade information required by Rule 6.51(d) for each Exchange transaction for which the Member is responsible. The rule currently states that only Clearing Members are required to file the required trade information with the Exchange. With the use of handhelds, however, much of the required trade information is already provided automatically by the market-maker members.

The Exchange is deleting the phrase "business day (the exact hours to be fixed by the Exchange)" which describes when Members are required to submit trade information because the Exchange no longer uses a scheduled batch process for processing trade information. Consequently, the Exchange no longer fixes the time by which trade information must be submitted. Currently, the Exchange processes trade information on a continuous real time basis as it receives input from handhelds and other electronic systems such as the Retail Automatic Execution System ("RAES")² and the Exchange's Order Routing System ("ORS")³ throughout the trading day.

The Exchange is proposing to change Interpretation .01 to Rule 6.51 to require the buyer and seller in each transaction to immediately provide the transaction record to the member for whom the transaction was executed and/or the clearing member that will clear the transaction. Currently, the interpretation requires the buyer and seller to provide transaction record within the time frames established by the Exchange. Again, the widespread use of technology

² RAES permits automatic execution of small public customer orders.

³ ORS provides member firms with a method of efficiently delivering orders to CBOE's trading floor. Orders received by ORS are logged onto the ORS database and evaluated, based on volume and price, to determine their routing destination on the trading floor.

in trading allows for the information to be provided immediately. The provision of the information immediately will allow for more efficient trade checking on an intra-day basis.

The Exchange is adding a new Interpretation .03 to Exchange Rule 6.51 to explicitly set forth the requirements for submitting trade information. These requirements are currently set forth in Exchange Rule 2.30, which establishes fees for late trade submission. Interpretation .03 makes it clear that members are required to submit the information in accordance with the interpretation even if the information is submitted in a timely manner for purposes of Rule 2.30. The new interpretation sets forth the following procedures for reporting transactions pursuant to Rule 6.51(d): For trades executed via an electronic data storage medium, or electronic system, trade information shall be immediately submitted to the Exchange for trade matching and clearance. For trades not executed on an electronic data storage medium, or electronic system, trade information shall be immediately recorded on a card or ticket and submitted as soon as reasonably possible, but not later than the one hour maximum time periods stated in Rule 2.30.

The Exchange is amending Rule 6.61 to provide that a member may receive either an Unmatched Trade Notification or an Unmatched Trade Report. An Unmatched Trade Notification is an electronic message sent to market-maker handheld users, whereas an Unmatched Trade Report is a written notice sent to all members and firms. Currently, under rule 6.61 a member only receives Unmatched Trade Reports. The Exchange is also proposing amending Rule 6.61 to obligate Members to reconcile all unmatched trades and advisory trades and to report all reconciliations to the Exchange "or the Clearing Member responsible for submission to the Exchange." The addition of the phrase makes it clear that all Members are responsible for reconciling unmatched trades and to report those reconciliations to the Exchange or the Clearing Member responsible for submission to the Exchange.

The Exchange is proposing to make a number of revisions to Interpretation .01 to Rule 6.61. New paragraph (a) of Interpretation and Policy .01 of Rule 6.61 essentially is an updated version of what is now paragraph (a) of Interpretation .05 to Rule 6.61. The difference is that the provision in Interpretation .05 required that a representative be available to resolve

¹ 15 U.S.C. 78s(b)(1).

unmatched trades only for transactions in index options or in any class of options which will trade ex-dividend or ex-distribution the following day. By including the requirements in paragraph (a) in Interpretation .01 the Exchange is requiring that a representative be available to reconcile unmatched trades for all options transactions on all trade dates. Because of system enhancements, the Exchange and its members now have the tools to review trade activity on an intra-day basis. By requiring reports to be reconciled on an intra-day basis, the Exchange can minimize the potential loss to members who may have to take market action to correct an outtrade.

Paragraph (b) of Interpretation .01 to Rule 6.61 also is being moved from Interpretation .05 and requires that members make reasonable efforts to detect and correct errors in carding or keying a trade. By virtue of being moved from Interpretation .05 to Interpretation .01, the requirement will become applicable to all transactions in options and not only those concerning index options or any class of options which will trade ex-dividend or ex-distribution the following day.

Paragraph (c) of Interpretation .01 changes the time requirement for correcting unmatched trades that occurred on the previous trade date from the opening of trading to fifteen minutes prior to the opening of trading on the next business day. This change will allow the involved parties to correct the positions and be prepared for open trading sooner. By resolving the unmatched trade before the market in the underlying security opens, the parties will be in a better position to enter any necessary orders in the markets to adjust their positions where necessary.

Paragraph (d) of Interpretation .05 is being moved to paragraph (d) of Interpretation .01 and states that Members who fail to comply with Rule 6.61 will be responsible for any liability resulting from an unmatched transaction that should have been matched. Moving this provision from Interpretation .05 to Interpretation .01 will make it applicable to all transactions in options and not only those concerning index options and any class of options which will trade ex-dividend or ex-distribution the following day. In addition, to further clarify to the Exchange membership the Exchange's authority to handle violations of Rule 6.61, the Exchange notes that it may establish a fine schedule with respect to the violative conduct and it may refer repeated

violations to the Business Conduct Committee.⁴

Finally, the Exchange is proposing to amend Interpretation .05 to Exchange Rule 6.61 by revising the language to make it consistent with current practice. The Exchange has deleted references to First Pass and Second Pass. First Pass and Second Pass refer to the former practice of submitting trade information for trade processing in batches at different times during the day. Now the Exchange processes the trade information continually through the trade day.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act⁵ in general and furthers the objectives of section 6(b)(5)⁶ in particular in that it is designed to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and protect 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

The Exchange did not solicit or receive written comments on the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested person are invited to submit written data, views and arguments concerning the foregoing.

⁴ The Exchange would be required to submit the appropriate rule filing in compliance with section 19(b) of the Act.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

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 CBOE. All submissions should refer to the File No. SR-CBOE-99-38 and should be submitted by December 7, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 42113; File No. SR-Phlx-99-40]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Communications With Customers or Members of the Public

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 October 7, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.