

to represent two calendar years of assumed DPM operation. The Commission finds that the use of this multiplier to determine the value of a DPM's business as such is reasonable because it seeks to approximate the multiple of earnings that parties utilize to value DPM units in the marketplace.

Since Amendment No. 2 only modifies that the scope and clarifies the application of the proposed rule change, but did not change the intent of the proposal, the Commission believes that good cause exists, consistent with Sections(b)(5)<sup>26</sup> and 19(b) of the Act<sup>27</sup> to accelerate approval of Amendment No. 2.

In Amendment No. 3, the CBOE proposed to renumber the proposed rules to make them consistent with recently approve changes to the CBOE's DPM rules.<sup>28</sup> The CBOE did not make substantive changes to the proposed rules in Amendment No. 3. Therefore, the Commission believes that good cause exists, consistent with Sections 6(b)(5)<sup>29</sup> and 19(b) of the Act,<sup>30</sup> to approve Amendment No. 3 on an accelerated basis.

## V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 2 and 3, including whether the amendments are 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 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-99-37 and should be submitted by September 15, 2000.

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> 15 U.S.C. 78s(b).

<sup>28</sup> See Securities Exchange Act Release No. 43004 (June 30, 2000), 65 FR 43060 (July 12, 2000).

<sup>29</sup> 15 U.S.C. 78f(b)(5).

<sup>30</sup> 15 U.S.C. 78s(b).

## VI. Conclusion

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>31</sup> that the amended proposed rule change (SR-CBOE-99-37) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>32</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43185; File No. SR-CBOE-00-30]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Routing of Cancel Replace Orders

August 21, 2000.

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 July 14, 2000, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On August 10, 2000, the CBOE submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> 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 implement a systems change to its Order Routing System ("ORS") to provide for the automatic rerouting of cancel replace orders.

<sup>31</sup> 15 U.S.C. 78s(b)(2).

<sup>32</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.

<sup>3</sup> See letter from Timothy Thompson, Assistant General Counsel, Legal Department, CBOE, to Kelly Riley, Division of Market Regulation, SEC, dated August 9, 2000 ("Amendment No. 1"). In Amendment No. 1, the CBOE clarified the purpose section and set forth its anticipated implementation schedule.

#### 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, Proposed Rule Change

###### 1. Purpose

The purpose of the proposed rule change is to implement a systems change to provide for the automatic rerouting of cancel replace orders.

a. *Background.* Currently, when orders residing on the Exchange's electronic book ("Ebook") are replaced at the market, the original order will be canceled and the marketable replace order will be placed on the "Live Ammo" trading screen. Previously, this marketable replace order has waited on the Live Ammo screen until, one by one, each order was traded. The replace order was not immediately displayed as part of the best book bid or ask, and was not reflected in the market quote until the order was individually addressed by either the designated primary market maker ("DPM") or order book official ("OBO") handling the Ebook.<sup>4</sup>

To provide for certain of these Live Ammo orders to be addressed in a more automated and expedited fashion, the Exchange developed a system<sup>5</sup> that allows for a Live Ammo order (or a group of Live Ammo orders) to be manually selected by the DPM or OBO. Once selected, the system developed by the Exchange evaluates each selected order and routes it to one of three locations depending on the routing parameters then in place and the terms of the particular order. If the order is marketable and otherwise meets all of the eligibility criteria for execution on the Exchange's Retail Automatic Execution Systems ("RAES"), the order will be routed to RAES and executed

<sup>4</sup> In most cases, staff of the DPM operates Ebook for the option classes assigned to them.

<sup>5</sup> The Commission approved the Exchange's Live Ammo processing system on a pilot basis earlier this year. The pilot expires October 31, 2000. Securities Exchange Act Release No. 42379 (February 2, 2000), 65 FR 6665 (February 10, 2000) (File No. SR-CBOE-98-27).

automatically. If the order is not RAES-eligible, it will be routed to Ebook or back to Live Ammo depending on the existing routing parameters in place.

b. *Proposed System Changes to Address Commission Expectations.* In the Commission's order approving the Exchange's Live Ammo processing system on a pilot basis, the Commission stated that it expects "that the Exchange will make the necessary systems enhancements to ensure that a maximum number of customer orders in the CBOE system are matched against one another."<sup>6</sup> The Exchange began to address the Commission's desire for customer order matching opportunities and its own desire to more efficiently process customer orders even before the Commission issued the Live Ammo approval order by developing and implementing an Automated Book Priority ("ABP") system that trades incoming RAES orders against orders in the Exchange's limit order book.<sup>7</sup> The Exchange also will continue to consider other system changes to provide for further matching opportunities for customer orders.

The Commission further stated in its approval order that it expects "that the Exchange will develop the necessary systems enhancements to ensure that . . . RAES-eligible orders will be routed directly to RAES without the interim step of appearing first on the Live Ammo screen."<sup>8</sup> The Exchange believes that the proposed system change, discussed below, addresses the Commission's expectations for a system to route orders to RAES without the interim step of appearing first on the Live Ammo screen.

c. *New System.* The proposed new system would process a cancel replace order for an order residing on Ebook by routing the cancel replace order through the Exchange's ORS as a new order, after the cancel portion has been completed. Normal parameter routing would be evaluated for this order, including the firm volume edits. The replace order, as with any new incoming order, may be eligible for RAES execution, crossing with other Ebook orders through ABP, routing directly into the book (automatically updating the quote if it improves the market), or routing to a broker's Public Automated Routing ("PAR") terminal or Booth Automated Routing terminal ("BART") for potential price improvement.

The Exchange believes that the proposed system change will have a number of benefits including a reduction of order flow to Live Ammo where manual intervention is required for execution,<sup>9</sup> and fair pricing, increased speed and efficiency of execution for customer replace orders. The system also will ensure that orders that are rerouted to the book will be reflected in the best bid or offer in a timely manner.

d. *Implementation.* The Exchange intends to implement the proposed systems change as soon as the required testing has been completed. The Exchange anticipates that the system will be implemented at the end of August 2000 or the beginning of September 2000. Once implemented, the system will be active for every options class traded on the Exchange.

## 2. Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act<sup>10</sup> because it is designed to remove impediments to a free and open market and to 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

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 rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and subparagraph (f)(5) of Rule 19b-4<sup>12</sup> under the Act as a systems change that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and

<sup>9</sup> According to the Exchange, although the majority of orders on the Exchange's Live Ammo screen are cancel replace orders to the market or to some marketable limit, orders can appear on the Live Ammo screen in a few other situations. Consequently, although the number of Live Ammo orders should be substantially reduced, there occasionally may still be circumstances when the DPM staff may have reason to reroute live ammo orders manually pursuant to this system.

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3).

<sup>12</sup> 17 CFR 240.19b-4(f)(5).

(iii) does not have the effect of limiting the access to or availability of the system. 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.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 File No. SR-CBOE-00-30 and should be submitted by September 15, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>6</sup> See *supra* note 5.

<sup>7</sup> See Securities Act Release No. 41995 (October 8, 1999), 64 FR 56547 (October 20, 1999).

<sup>8</sup> See *supra* note 5.