

III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organizations Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend the definition of an expiration month for purposes of determining compliance with the Retail Automatic Execution System ("RAES") log-on requirement for market makers of Standard & Poor's 500 Stock Index ("SPX") options as detailed in Rule 24.16.

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 self-regulatory organization 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 self-regulatory organization 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 purpose of the proposed rule change is to amend the definition of an expiration month for purposes of determining compliance with the RAES log-on requirement for market makers of SPX options as detailed in Rule 24.16. According to CBOE Rule 24.16, once a market maker logs onto SPX RAES at any time during an expiration month, he or she must continue to do so each time he or she is present in the SPX trading crowd until the next expiration. For this purpose, an expiration month currently is defined as the period from the Monday immediately following an expiration Saturday through the Friday immediately preceding the next successive expiration Saturday. In consideration of the fact that expiring SPX option contracts cease trading at the close of business on the Thursday immediately preceding an expiration and that the new near-term series becomes the RAES eligible series on that Friday, the Exchange has determined to redefine the expiration month for SPX RAES log-on obligations. Commencing on Friday, May 17, 1996, an expiration

month for SPX RAES log-on obligation purposes will be defined as the period from the Friday immediately preceding an expiration Saturday through the Thursday immediately preceding the next successive expiration Saturday. The expiration month for SPX RAES log-on obligation purposes will be defined in this manner for each expiration thereafter.

Because the proposed rule change is meant to conform more precisely the definition of SPX market makers' obligations with the expiration cycle for SPX options, the Exchange believes that the proposed rule change is consistent with Section 6 of the Act in general and with Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in facilitating and clearing transactions in securities, and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE believes that the proposed rule change will impose no burden on competition.

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

Written comments on the proposed rule change were neither solicited nor received.

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

Because the proposed rule change constitutes a stated interpretation with respect to the meaning, administration, or enforcement of an existing rule, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. 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. 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. 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 Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-CBOE-96-38 and should be submitted by July 19, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority:²

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37348; File No. SR-CBOE-96-19]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Thereto Relating to Eligibility Requirements for Participation on the RAES System in SPX Options

June 21, 1996.

I. Introduction

On March 18, 1996, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposal to amend one of the Rule 24.16 requirements market makers in Standard & Poor's 500 Stock Index ("SPX") options must meet to qualify for participation in the Retail Automatic Execution System ("RAES"). The proposed rule change was published for comment and appeared in the Federal Register on April 15, 1996.³ No comments were received regarding the proposal. On March 27, 1996, the CBOE

² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 37078 (April 5, 1996), 61 FR 16514.

submitted Amendment No. 1 to its proposal.⁴ This order approves the proposal.

II. Description of the Proposal

The purpose of the proposed rule change is to amend one of the four Rule 24.16 requirements SPX market makers must meet to qualify for participation in RAES. RAES is the Exchange's automatic execution system for small (generally fewer than 10 contracts) public customer market or marketable limit orders. When RAES receives an order, the system automatically will attach to the order its execution price, determined by the prevailing market quote at the time of the order's entry into the system. A buy order will pay the offer; a sell order will sell at the bid. An eligible SPX market maker who is signed onto the system at the time the order is received will be designated to trade with the public customer order at the assigned price.

Rule 24.16(a)(iv), RAES Eligibility in SPX, currently states that for a market maker to qualify to participate in SPX RAES that market maker must: (A) be approved under Exchange rules as a market maker with a letter of guarantee, (B) maintain his principal business on the CBOE as a market maker, (C) execute at least seventy-five percent of his market maker contracts for the preceding month in SPX options ("75% SPX requirement"), and (D) execute at least seventy-five percent of his market maker trades for the preceding month in SPX options in person. These requirements generally seek to ensure that those market makers who are satisfying the public customer orders at the prevailing bid or offer are the same market makers who have made a commitment to make markets on a regular basis at the SPX post.

According to the Exchange, however, a number of market makers who regularly make markets in SPX nevertheless fail to execute seventy-five percent of their market maker contracts for the preceding month in SPX options. In many cases, these market makers fail to meet the 75% SPX requirement because they execute a large percentage of contracts in S&P 100 ("OEX") options on the floor of the Exchange to hedge their SPX positions. Because SPX and OEX options are legitimate hedge

vehicles for each other, the Exchange does not believe a market maker who makes markets regularly in SPX options, but who employs these hedge strategies, should be prevented from contributing to the Exchange's efforts to execute small public customer RAES orders. Consequently, the Exchange proposes that the 75% SPX requirement be reduced to a 50% requirement.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5),⁵ in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and maintain fair and orderly markets.

In its filing, the Exchange states that the proposed change should increase the number of market makers available to execute public customer RAES orders, while ensuring that the orders are filled by market makers who are best equipped to handle these orders. Hence, the 50% requirement would ensure that a market maker assigned a RAES trade would have transacted at least as many market maker contracts in SPX options as that market maker had transacted in all other products on the CBOE floor combined. Moreover, the Exchange notes that the requirement of its Rule 24.16(b) that any market maker who has logged onto RAES at any time during an expiration month must continue to do so each time he is present in the trading crowd until the next expiration will continue to apply. The Exchange believes that this should ensure that a larger number of market makers generally will be available to participate on RAES on any particular day.

The Commission believes that the presence of an adequate number of market makers protects investors and contributes to the maintenance of a fair and orderly market. The Commission believes that the proposal furthers this goal by helping the Exchange to maintain the continued availability of RAES for SPX options, thereby contributing to the effective and efficient execution of public investor orders at the best available prices. The Commission agrees with the CBOE that lowering the 75% SPX requirement to one of 50% will ensure that the affected market makers will continue to be those best equipped to handle RAES orders in SPX options given that at least half of

their CBOE transactions will continue to be in SPX options.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register. Amendment No. 1 merely serves to effect technical changes to the Exchange's proposal and does not materially affect the proposal.⁶ Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act, to approve Amendment No. 1 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. 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. 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. 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-96-19 and should be submitted by July 19, 1996.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act, and, in particular, Section 6 of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (File No. SR-CBOE-96-19) is approved.

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

Margaret H. McFarland,
Deputy Secretary.

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⁴ Amendment No. 1 effects a technical change to the proposal by replacing the term "regulatory circular" with the term "proposed rule change" in three different places in the filing: the last sentence of Item 1, the first line of Item 9, and the last sentence of Section I of Exhibit 1. Letter from Timothy Thompson, CBOE, to Michael Walinskas, Special Counsel, Office of Market Supervision, Division of Market Regulation, Commission, dated March 21, 1996 ("Amendment No. 1").

⁵ 15 U.S.C. § 78f(b)(5) (1988).

⁶ See Amendment No. 1, *supra* note 4.

⁷ 15 U.S.C. § 78s(b)(2) (1988).

⁸ 17 CFR 200.30-3(a)(12).