

those necessary for the winding up of its affairs.

6. Applicant intends to file Articles of Dissolution with the State of Maryland.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38535; File No. SR-CBOE-96-68]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to RAES Orders That Are Re-routed to the Exchange's Order Routing System

April 21, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹, and Rule 19b-4² thereunder, notice is hereby given that on November 12, 1996, the Chicago Board Options Exchange, Incorporated ("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 self-regulatory organization.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 proposes to add an interpretation to its Retail Automatic Execution System ("RAES") rule for equity options that specifies the trading crowd's firm quote obligation for RAES orders that get re-routed through the Exchange's Order Routing System. Also, the Exchange proposes to add a rule change clarifying when an order reaches the trading station for purposes of the firm quote rule. 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 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

1. Purpose

The purpose of the proposed rule change is to specify the trading crowd's firm quote obligation for RAES orders that get re-routed through the Exchange's Order Routing System ("ORS"). Also, this rule change clarifies the time at which an order reaches the trading station for purposes of the Exchange's firm quote rule.

Generally, under ordinary trading conditions, only customer market or marketable limit orders are eligible to be routed to RAES. When RAES receives such 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 to the system. A buy order will pay the offer and a sell order will sell at the bid. A market-maker who is participating in the RAES system will be designated as contra-broker on the trade.

In situations in which the prevailing market bid or offer is equal to the best bid or offer on the Exchange's books, the RAES order generally will be re-routed away from RAES on ORS, under the existing ORS parameters.⁴ This is done because the Exchange's rule governing priority of bids and offers, Rule 6.45, gives priority to orders on the customer limit order book over any other order at the post. Therefore, a RAES sell order cannot be filled by the RAES system at a price lower than or equal to the best book bid and a RAES buy order cannot be filled by the RAES system at a price higher than or equal to the best book offer. When the RAES order is re-routed

over the ORS, such an order ordinarily will be routed to a Floor Broker in the crowd via a printer or PAR terminal, or will be routed to the firm's booth. Whether the order gets routed to the booth or to the trading station is determined by the order routing instructions the broker's firm provides to the Exchange. Once the Floor Broker receives the order, it is his responsibility to represent the order in the crowd.

Because these re-routed RAES orders ("RAES kickouts") are generally customer orders for ten contracts or less, they are ordinarily eligible for firm quote treatment under Rule 8.51.⁵ Rule 8.51(a)(1) states that a trading crowd is required to sell (buy) at least ten contracts at the offer (bid) which is displayed when a buy (sell) customer order "reaches the trading station where the particular option contract is located for trading." Because the trading crowd will be expected to fill the first order at the price that existed when the RAES order was re-routed to the trading station, it is important that the Floor Broker represent the order in a timely fashion. Ordinarily, the Exchange interprets the phrase "when the order reaches the trading station" to mean when the order is represented in the crowd by a Floor Broker. The Exchange proposes to incorporate this interpretation into Rule 8.51(a)(2).

In the cases of RAES kickouts that are routed directly to the trading station, however, the Exchange believes that a public customer should be entitled to have the order filled at the bid or offer that existed at the time the order was entered into the RAES system, i.e., the price the order would have received had it traded directly with the book.⁶ The Exchange does not believe a public customer should have to take the risk that the price will move against it in the period between the time the order gets re-routed and the time the Floor Broker actually represents the order in the crowd.⁷ The Exchange takes this view because, in the case of RAES kickouts,

⁵ In some instances, the firm quote obligation for a particular option may be for other than ten contracts. See Rule 8.51(a).

⁶ If the market price is better than the guaranteed RAES knockout price when the order is represented in the crowd, pursuant to Rule 6.73, the RAES knockout order would be filled at the market price. See Amendment 1, p. 2.

⁷ In the case of an order that the firm has chosen to route to the firm's booth, the Exchange does not believe the trading crowd should bear the risk that the price will move away from the price that the customer could have received had the order not been re-routed, because of the potentially greater delay in the order being represented to the crowd. In these cases, the Floor Broker will be responsible for ensuring that the customer's order is represented in a timely fashion.

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.

³ On February 28, 1997, the Exchange filed an amendment to the rule proposal. See letter from Timothy Thompson, Senior Attorney, CBOE, to Janice Mitnick, Attorney, Division of Market Regulation, Commission, dated February 28, 1997 ("Amendment No. 1"). Amendment No. 1 made several changes to the rule proposal in order to clarify the scope of the rule filing and to conform the rule language to reflect the clarifications.

⁴ Rule 6.8(b) provides an exception to this rule for options on IBM and other option classes following the determination of special market conditions. See Rule 6.8(b).

the customer sending an order to the Exchange will have done nothing different and would have no different expectations than any other RAES customer whose order was not re-routed from RAES. The factor that determines whether an order gets re-routed, the fact that the prevailing market bid or offer matches the bid or offer on the book, is outside of the customer's control and is not likely to be known by the customer.

The new proposed RAES kickout price guarantee will cover only the "first order" which is kicked out of RAES. The "first order" is defined as the first order re-routed at a particular market.⁸ It should be noted that if more than one RAES order is re-routed at approximately the same time and at the same market, the rule change does not guarantee that the second order will be filled at the price that existed at the time of the second order's entry into the RAES system. The price at which the second or any subsequent RAES kickout order would be filled may be better or worse than the price at which the first RAES kickout order for up to ten contracts was filled. Consistent with the terms of Rule 8.51, the trading crowd would be entitled to change the quotes after the first order of up to ten contracts had been traded at that price.

The Exchange believes that it is appropriate to extend the price guarantee for the first RAES kickout order only.⁹ The Exchange notes that most RAES kickout situations involve only one order which is kicked out of RAES. Thus, the limit of the guarantee to the first order is not an issue in those situations. Additionally, in situations where there is more than one kickout at a certain price, the market in these options is likely very busy and floor brokers may as a practical matter be incapable of representing these kicked out orders immediately. In proposing to limit the guarantee to the first order, the Exchange weighed the benefits of this guarantee against the potential disruptive effect of numerous orders kicked out of RAES within a second or two of each other. If the guarantee were extended to all orders that are rejected at that price, the market-makers would be forced to fill these customer orders at quotes that might no longer reflect current market situations by the time the floor broker was able to represent the orders. In any event, the orders that do not get filled at the guaranteed RAES kickout price will be entitled to be filled at the disseminated market quotes at the time they are represented in the crowd,

which may be better than the guaranteed RAES kickout price.¹⁰

2. Statutory Basis

By clarifying the terms of one current rule and changing another rule to add further protections to public customer orders, the proposed rule furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, 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.

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

The Exchange states that it 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

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

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 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-96-68 and should be submitted by May 19, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38536; File No. SR-MBSCC-97-02]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Valuation of Securities Deposited as Collateral in the Participants Fund To Satisfy Daily Margin Requirements

April 22, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ notice is hereby given that on February 12, 1997, MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-MBSCC-97-02) as described in Items I, II, and III below, which items have been prepared primarily by MBSCC. 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 proposed rule change modifies MBSCC's method of determining the value of securities deposited as collateral in the participants fund to satisfy the MBSCC margin requirement.

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

In its filing with the Commission, MBSCC 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

⁸ See Amendment 1, p. 1.

⁹ See Amendment 1, p. 2.

¹⁰ See Amendment 1, p. 2.

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).