

Futures Trading Commission ("CFTC") regarding offers and sales to U.S. citizens of futures and options on futures on those sub-indices. In these previous reviews, the Commission evaluated each of the individual sub-indices noted above and found that they were broad-based indices comprised of highly capitalized stocks with high trading volumes that were not readily susceptible to manipulation.

Specifically, in the letters to the CFTC, the Commission found that certain of the sub-indices are not readily susceptible to manipulation because of the representative nature of the various industry segments included in the individual index, the relative weighted value of the index's component stocks, and the substantial capitalization and trading volume of the component stocks.<sup>28</sup> In Commission orders previously approving the FT-SE 100 for warrant and reduced-value options trading, the CAC 40 for warrant trading, and the DAX for warrant trading, the Commission made similar findings that the index was a broad-based index of actively traded, well capitalized stocks.<sup>29</sup> Additionally, Amex's surveillance procedures should serve to deter as well as detect any potential manipulation.<sup>30</sup>

The Commission finds good cause to approve Amendment Nos. 1 and 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. As noted above, Amendment No. 1 states that the Exchange's equity rules, including the equity margin rule and the suitability rule, will apply to the trading of the proposed Index Notes. The Draft Information Circular included in Amendment No. 2 also adopts heightened suitability standards, as described above, for this particular MITTS product. In addition, Amendment No. 1 clarifies that the

Exchange will distribute to its membership, prior to trading the proposed Index Notes, a circular providing guidance with regard to member and member firm compliance responsibilities, including suitability recommendations, when handling transactions in the proposed Index Notes and highlighting their special risks and characteristics.

Amendment No. 1 also states that the continued listing standards set forth in Sections 1001-1003 of the Amex *Company Guide* will apply to the trading of the proposed Index Notes, and Amendment No. 2 further clarifies this by stating that Section 1003(b), in particular, will apply. Finally, Amendment Nos. 1 and 2, collectively, state that the shares for each sub-index will remain fixed, except in the event of a significant action taken by the publisher, such as a split in the sub-index value, a change in the calculation of the sub-index, or if the sub-index ceases to be published. Amendment No. 2 gives an example of how a split in the value of the sub-index would affect the Major 8 European Index, and clarifies the alternatives available to Amex if a sub-index ceased to be published. Amendment No. 2 also states how Amex would calculate the major 8 European Index if the marketplace of a sub-index was closed on any given business day in the U.S., such as if a market disruption occurred due to a natural disaster or a foreign holiday.

The Commission believes that Amendment Nos. 1 and 2, as described herein, clarify and strengthen the Exchange's proposal by, among other things, providing the specific continued listing standards that will apply, which should help ensure a minimal level of depth and liquidity for continued trading of the product on Amex, identifying which trading rules will apply to the trading of Index Notes, and adopting a heightened suitability standard for recommendations concerning the Index Notes.

Amendments Nos. 1 and 2 also refine the original proposal by specifying in further detail how the Exchange will be responsible for determining any changes in the sub-indices due to a significant event, and the terms of the Information Circular to members and members, firms. Additionally, the Exchange's proposal to list and trade the proposed indexed term notes was noticed for the full comment period and no comment letters were received. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment Nos. 1 and 2 to the proposal on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2 to the rule proposal. 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 also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-97-19 and should be submitted by August 1, 1997.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>31</sup> that the proposed rule change (SR-Amex-97-19), including Amendment Nos. 1 and 2, 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. 34-38817; File No. SR-CBOE-97-29]

#### Self-Regulatory Organizations; The Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Fee Reduction Program for Market-Maker Transaction Fees, Floor Broke Fees, and Member Dues; and the Customer "Large" Trade Discount Program

July 9, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on June 30, 1997, the Chicago Board Options Exchange ("CBOE" or "Exchange") filed with the Securities and Exchange

<sup>28</sup> The Commission has issued these non-objection letters relating to the offer and sale of futures and/or options on futures on the FT-SE 100, the DAX, the CAC 40, the MIB 30, the OMX, and the IBEX 35.

<sup>29</sup> See Securities Exchange Act Release Nos. 27769 (March 6, 1990), 55 FR 9380 (March 13, 1990) (FT-SE-100 Warrants); 28544 (October 17, 1990), 55 FR 42792 (October 23, 1990) (CAC 40 Warrants); 28587 (October 30, 1990), 55 FR 46595 (November 5, 1990) (CAC 40 Warrants); 29722 (September 23, 1991), 56 FR 49807 (October 1, 1991) (FT-SE 100 Reduced-Value Index Options); and 36070 (August 9, 1995), 60 FR 42205 (August 15, 1995) (DAX Warrants).

<sup>30</sup> As noted above, Amex represents that it has in place surveillance sharing agreements with the appropriate regulatory organizations in each country in the Major 8 European Index, except Sweden and Switzerland. These two countries together represented only 14.88% of the Major 8 European Index as of April 3, 1997.

<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) (1988).

Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by 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**

CBOE is proposing to renew and amend (i) its Fee Reduction Program for Market-Maker Transaction Fees, Floor Broker Fees, and Member Dues; and (ii) Its Customer "Large" Trade Discount Program.<sup>2</sup>

### **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 that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. 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**

The purpose of the proposed rule change is to renew and amend (i) the Exchange's Fee Reduction Program for Market-Maker Transaction Fees, Floor Broker Fees, and Member Dues; and (ii) its Customer "Large" Trade Discount Program. The foregoing fee changes are being implemented by the Exchange pursuant to CBOE Rule 2.22, Other Fees or Charges, and will take effect on July 1, 1997.<sup>3</sup>

The Exchange's Fee Reduction Program for market-maker transaction fees, floor broker fees, and member dues currently provides that if at the end of any quarter of the Exchange's fiscal year, the Exchange's average contract volume per day on a fiscal year-to-date basis exceeds one of certain predetermined volume thresholds, the Exchange's market-maker transaction fees, floor broker fees, and member dues

will be reduced in the following fiscal quarter in accordance with a fee reduction schedule. The Program is scheduled to terminate on June 30, 1997 at the end of the Exchange's 1997 fiscal year. The Program is proposed to be amended to provide that the Program will continue in effect during the Exchange's 1998 fiscal year and will terminate on June 30, 1998. The program also is proposed to be amended to increase the volume thresholds at which the discount commences. Specifically, the threshold volume at which the \$.01 market-maker transaction fee reduction applies will be increased from 675,000 contracts to 700,000 contracts. Also, the threshold volume at which the floor broker fee reduction of \$.005 applies will be increased from 700,000 contracts to 725,000 contracts. Finally, the member dues fee reduction, which currently ranges from 25% to 75% for volumes ranging from 650,000 to 750,000 contracts, as amended, will increase the volume thresholds, with the 25% discount commencing at 675,000 contracts, the 50% discount commencing at 750,000 contracts, and the 75% discount commencing at 775,000 contracts.

The Exchange's Customer "Large" Trade Discount Program currently provides for discounts on the transaction fees that CBOE members pay with respect to public customer orders for 500 or more contracts. Specifically, for any month the Exchange's average contract volume per day exceeds one of certain predetermined volume thresholds, the transaction fees that are assessed by the Exchange in that month with respect to public customer orders for 500 or more contracts are subject to a discount in accordance with a discount schedule. The Program is scheduled to terminate on June 30, 1997 at the end of the Exchange's 1997 fiscal year. The Program is proposed to be amended to provide that the Program will continue in effect during the Exchange's 1998 fiscal year and will terminate on June 30, 1998. In addition to renewing the current fee discount percentages under the Program, the Program is also proposed to be amended to increase by 25,000 contracts all the threshold levels to which the discount rates apply, increasing the minimum threshold level from 575,000 to 600,000 contracts at which the 30% discount rate applies. In all other respects the Program remains unchanged.

The proposed amendments are the product of the Exchange's annual budget review. The amendments are structured to fairly allocate the costs of operating the Exchange in the event that

the Exchange experiences higher volume. In addition, although the proposed rule change provides that the Exchange's Fee Reduction Program for market-maker transaction fees, floor broker fees, and member dues and the Exchange's Customer "Large" Trade Discount Program will terminate at the end of the Exchange's 1998 fiscal year, the Exchange intends to evaluate these Programs prior to the beginning of the 1999 fiscal year and may renew these Programs in the same or modified form for the 1999 fiscal year.

The proposed rule change is consistent with Section 6 of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>5</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other changes among CBOE members.

#### **(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 rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A)(ii)<sup>6</sup> of the Act and Rule 19b-4(e)(2)<sup>7</sup> thereunder. At any time within sixty 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.,

<sup>2</sup> The text of the proposed rule change is attached as Exhibit A to File No. SR-CBOE-97-29, and is available for review in the principal office of CBOE and in the Commission's Public Reference Room.

<sup>3</sup> CBOE notified its membership of these changes in notice to members 97-31, dated July 1, 1997. Telephone conversation with Stephanie Mullins, Attorney, CBOE, and Peggy Blake, Division of Market Regulation, Commission (July 3, 1997).

<sup>4</sup> 15 U.S.C. 78f.

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

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(e)(2).

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 Room, 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 Exchange. All submissions should refer to the File No. SR-CBOE-97-29 and should be submitted by August 1, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38816; File No. SR-CHX-97-18]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Trading in Sixteenths

July 3, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on June 25, 1997 the Chicago Stock Exchange, Incorporated ("CHX" 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. 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 Rule 37 (c) and (e) of Article XX of the Exchange's Rules. The text of the proposed rule change is as follows

(additions are *italicized*; deletions are [bracketed]):

#### Article XX

##### Rule 37

(c) No change in text of introductory paragraph.

(1) Pricing.

(i) Both buy and sell orders in markets quoted with [a minimum variation ( $\frac{1}{8}$  spread)] *less than  $\frac{1}{4}$  point spread* or orders which do not meet the criteria in (ii) or (iii) below will be executed based on the ITS BBO.

(ii) Buy orders in markets quoted with [more than an  $\frac{1}{8}$  spread] *a  $\frac{1}{4}$  point spread or wider* will be executed at a price  $\frac{1}{8}$  point better than the ITS Best Offer if (i) an execution at the ITS Best Offer would create a double up tick based upon the last sale in the primary market or (2) an execution at the ITS Best Offer would result in a greater than a  $\frac{1}{8}$  point price change from the last sale in the primary market.

(iii) Sell orders in markets quoted with [more than a  $\frac{1}{8}$  spread] *a  $\frac{1}{4}$  point spread or wider* will be executed at a price  $\frac{1}{8}$ th point better than the ITS Best Bid if (i) an execution at the ITS Best Bid would create a double down tick based upon the last sale in the primary market or (2) an execution at the ITS Best Bid would result in a greater than  $\frac{1}{8}$ th point price change from the last sale in the primary market.

For example, the execution price for a market buy order in a  $\frac{1}{4}$ - $\frac{1}{2}$  quoted market is as follows:

No change in the text of the example.

(2)-(5) No change in text.

(d) No change in text.

(e) No change in text of introductory paragraph.

(1) Stopping. If an agency market order eligible for Enhanced SuperMAX would create either a double up tick (buy order) or double down tick (sell order) if the order was executed at the ITS BBO, the Exchanged SuperMAX program will "stop" the order. Once stopped, the order will not received an execution that is worse than the stopped price. Notwithstanding anything in the previous sentence to the contrary, agency market orders in markets quoted *in less than a  $\frac{1}{4}$  point market* [with a minimum variation (usually  $\frac{1}{8}$  spread)] will not be stopped. Orders not stopped will be immediately executed based upon the ITS BBO as the case may be.

#### 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

As described below, the purpose of the proposed rule change is to describe the conditions under which the SuperMAX and Enhanced SuperMAX price improvement algorithms will apply, given the recent changes in the minimum trading increment.<sup>2</sup> The intent of the Exchange has been, and continues to be, to provide price improvement in a market with a spread of  $\frac{1}{4}$  point or wider. The prior language used to describe this intent was "more than a  $\frac{1}{8}$ th spread," and thereby assumed a minimum trading increment of  $\frac{1}{8}$ th. The proposed rule change eliminates the need for any assumptions or interpretations regarding a minimum trading increment.

##### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6<sup>3</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.<sup>4</sup>

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

The Exchange believes the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

<sup>2</sup> See, e.g., Securities Exchange Act Release No. 38590 (May 9, 1997), 62 FR 26832 (May 15, 1997)(SR-CHX-97-08, changing the minimum variation for issues traded on the American Stock Exchange and the CHX to sixteenths); Securities Exchange Act Release No. 38717 (June 5, 1997), 62 FR 32134 (June 12, 1997)(SR-CHX-97-12, changing the minimum variation for issues traded on the New York Stock Exchange and CHX to sixteenths).

<sup>3</sup> 15 U.S.C. § 78f(b).

<sup>4</sup> *Id.* § 78f(b)(5).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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