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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41389; File No. SR-CBOE-99-18]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, To Terminate its Lease Deposit Fee Program

May 11, 1999.

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 April 26, 1999, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange"), filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 proposes to terminate its \$500 lease deposit fee requirement. The requirement is currently set forth in CBOE's Membership Fee Circular and would be deleted from that Circular under this proposal.

#### 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 terminate CBOE's lease

deposit fee program. Under this program, every CBOE member that is a lessee of a CBOE membership, a member organization nominee on a leased CBOE membership, or a Chicago Board of Trade ("CBOT") Exerciser member of CBOE who is leasing a CBOT membership (a CBOT delegate) is required to submit a \$500 lease deposit fee to the Exchange. The Exchange uses this lease deposit fee to satisfy any debts owed by the member to the Exchange upon the member's termination from membership. Upon the completion of the membership termination process, the Exchange returns to the lessee, nominee, or delegate, without interest, any portion of the lease deposit fee remaining after payment of any Exchange debts owed by the lessee, nominee, or delegate.

The original purpose of the lease deposit fee program was to provide the Exchange with a source of collateral in the event a lessee, nominee, or delegate owed money to the Exchange. The Exchange is now proposing to eliminate the program because the costs of administering the program have been exceeding the benefits derived from the program. Additionally, the Exchange has other means of collecting monies owed to the Exchange by members, including lessees, nominees, and delegates. These include CBOE's Integrated Billing System under CBOE Rule 3.23 pursuant to which a member's Exchange fees are drafted by the Exchange against a CBOE Clearing Member designated by the member, the requirement under CBOE Rule 3.8(a)(2) that a member organization guarantee its nominees' obligations to the Exchange, and the authority of the Chairman of the Exchange's Executive Committee to suspend a current member (or bar a former member) until payment of past due amounts owed to the Exchange is made.

###### 2. Statutory Basis

The CBOE believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>3</sup> in general, furthers the objectives of Section 6(b)(4) of the Act,<sup>4</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

##### 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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>5</sup> and subparagraph (f) of Rule 19b-4 thereunder.<sup>6</sup> At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate such rule change if it appears to the Commission that such action is necessary or appropriate in the protection of investors, or otherwise in furtherance 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 is consistent with the Act.<sup>7</sup> 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 also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-99-18 and should be submitted by June 7, 1999.

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4(f)(2).

<sup>7</sup> In reviewing the proposed rule change, the Commission considered its potential impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78f.

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

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. 34-41386; File No. SR-NYSE-99-09]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Rule 79A.15

May 10, 1999.

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 March 10, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Exchange Rule 79A.15, to provide that deactivation of Quote Assist will require that the specialist review that decision with a Floor Official as soon as practicable, and no later than three minutes from the time of deactivation. The text of the proposed rule change is available at the Exchange 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 Exchange 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 III below and is set forth in Sections A, B, and C below.

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

##### 1. Purpose

In January 1997, Commission Rule 11Ac1-4 under the Act ("Display Rule")<sup>3</sup> became effective. The Display Rule requires specialists to display immediately, *i.e.*, as soon as practicable, which under normal market conditions means no later than 30 seconds from the time of receipt, the price and full size of customer limit orders that would improve the bid or offer in a security. On January 7, 1997, the Exchange implemented a Display Book<sup>4</sup> enhancement known as "Quote Assist" to compute and disseminate a quote within the 30-second timeframe. Quote Assist is designed to help specialists comply with the Display Rule.

Quote Assist monitors the limit order book for new orders and compares those orders with the published quotation. When a new order would improve the quote or increase the size at a quoted price, Quote Assist publishes a new quote at the improved price or increased size 30 seconds after the order arrives if the specialist has not already done so. Quote Assist is always active at the beginning of the trading day. A specialist has the ability to deactivate Quote Assist as to a particular stock or stocks.

The Exchange proposes to amend Exchange Rule 79A.15 to provide that deactivation of Quote Assist will require that the specialist obtain approval of that decision from a Floor Official. Floor Official approval would only be granted in instances when there is an influx of orders resulting in gap pricing, an ITS outgoing commitment, or other unusual circumstances. Approval of a Floor Official to deactivate Quote Assist should be obtained as soon as practicable, and must be obtained no later than three minutes from the time of deactivation. If approval is not obtained within three minutes from the time of deactivation, the matter will be reviewed as a market surveillance issue by the Exchange.

<sup>3</sup> 17 CFR 240.11Ac1-4.

<sup>4</sup> The specialist's Display Book is an electronic workstation at the trading post that keeps track of limit orders and incoming market orders. Various window-like screen applications allow the specialist to view one or more issues at a time at various levels of detail. Incoming SuperDOT limit orders automatically enter the Display Book. When a floor broker gives the specialist a limit order, the specialist's clerk can enter the order into the Display Book using the keyboard. The Display Book sorts the limit orders and displays them in price/time priority.

As an interim measure, Floor Official approvals will be documented on the Exchange's electronic Floor Official approval forms. After mid-year, the Exchange expects to modify the Display Book so that Floor Official approval will be documented within that system.

The requirement to keep Quote Assist active is not meant to serve as a substitute for the actual posting of quotes by specialists. Specialists will be reminded that they are not to rely solely on Quote Assist to generate quotes, because this would not comply with the Commission's requirements for limit order display. Rather, specialists should always attempt to reflect a limit order by manually quoting the stock as soon as practicable, even though the Quote Assist feature is active.

The Exchange believes that Quote Assist provides valuable help to enable specialists to comply with their responsibilities under the Commission's Display rule. The requirement that Quote Assist generally remain active throughout the day will ensure that specialists avail themselves of the tools provided for managing order flow and updating quotes.

##### 2. Statutory Basis

Section 6(b)(5) of the Act<sup>5</sup> requires an Exchange to have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The proposed rule change will help perfect the mechanism of a free and open market by facilitating compliance with the Commission's Display Rule.

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

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

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing including whether the proposed rule change is consistent with the Act. Persons making written submissions

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

<sup>8</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.