

organization which oversees Nasdaq)—are members of the Intermarket Surveillance Group, which provides for the sharing of all necessary surveillance information among members. The Commission believes that this arrangement will ensure the availability of information necessary to detect potential manipulations and other trading abuses. In addition, the Exchange has represented that foreign country securities, or ADRs thereon, that are not subject to comprehensive surveillance agreements will not in the aggregate represent more than 20% of the weight of the Index.

The Commission notes that certain concerns are raised when a broker-dealer, such as CSFB, is involved in the development and maintenance of a stock index that underlies an exchange-traded derivative product. For several reasons, however, the Commission believes that the Exchange has adequately addressed this concern with respect to options on the Index.

First, the value of the Index, including the final settlement value, will be calculated and disseminated by the Exchange independently of CSFB. Accordingly, neither CSFB nor any of its affiliates or other persons will be in receipt of the values prior to their public dissemination. Second, CSFB has established informational barriers around the CSFB personnel who have access to information regarding changes and adjustments to the Index.²⁶ The Commission believes that these barriers will help prevent the improper use of material non-public information concerning the Index and strengthen the proposal by maintaining the integrity of changes made to the Index. In addition, CSFB currently has in place internal review procedures to monitor trading activity in Index component securities and securities included in the replacement list. Finally, the Exchange's existing surveillance procedures for stock index options will apply to the options on the Index and should provide the Exchange with adequate information to detect and deter trading abuses. In sum, the Commission believes that the procedures discussed above will help to ensure that CSFB does not unfairly use any information regarding the Index that it obtained through its role in developing and maintaining the Index.

The Commission also believes that it is appropriate for the Exchange to make

conforming changes to Exchange Rules 901C and 902C. The revisions are technical in nature and are designed to ensure that the Exchange's rules remain current. The Commission believes that it is important for the Exchange to update its rules to reflect newly listed derivative products. Pursuant to Section 19(b)(2) of the Act,²⁷ the Commission finds good cause for approving the proposal, including Amendment No. 1 thereto, prior to the thirtieth day after the date of publication of notice of the filing thereof in the **Federal Register**. The Commission notes that proposed rule changes regarding the listing and trading of options on industry group or narrow-based stock indexes may become effective immediately upon filing provided they satisfy certain generic listing standards.²⁸ The generic listing standards establish minimum guidelines concerning the design and operation of narrow-based indexes.

The Commission recognizes that the Index, as amended, satisfies all of the generic listing standards save two, the weighting methodology²⁹ and the frequency of rebalancing.³⁰ The Commission believes that because these deviations from the generic listing standards are not significant, they should not preclude the Exchange from receiving accelerated approval for its proposal.

Specifically, the modified equal-dollar weighted methodology will ensure that the weighting of the Index does not become concentrated in one or several component securities. Because the weightings assigned to the component securities are low (*i.e.*, 2.4% and 0.8%), it is unlikely that the weighting of a single component or group of component securities would increase to such a level that concentration issues would arise. Furthermore, the Exchange has represented that in no instance will a single component security represent more than 25% of the weight of the Index, nor will the five highest weighted

component securities in the aggregate account for more than 50% of the weight of the Index.

For similar reasons, the Commission believes that it is appropriate for the Exchange to rebalance the Index annually rather than quarterly. Quarterly rebalancings were designed as a prophylactic measure against concentration problems. The Commission believes, however, that the low weightings assigned to component securities of the Index at the annual rebalancings addresses the concentration concerns that underlie the need for more frequent rebalancings. Accordingly, because the Index substantially complies with the generic listing standards, and the investor protection concerns have been addressed, the Commission finds good cause exists for granting accelerated approval to the proposed rule change Amendment No. 1 thereto.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³¹ that the proposed rule change, SR-Amex-99-10, and Amendment No. 1 thereto, are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-15349 Filed 6-16-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41501; File No. SR-CBOE-99-17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Governing the Operation of the Retail Automatic Execution System

June 9, 1999

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 16, 1999, 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

²⁷ 15 U.S.C. 78s(b)(2).

²⁸ See Securities Exchange Act Release No. 34157 (June 3, 1994), 59 FR 30062 (June 10, 1994) and Commentary .02 of Exchange Rule 901C. While a proposed rule change filed in accordance with the generic listing standards becomes effective immediately upon filing, trading in the approved options may not commence until 30 days from the date of filing.

²⁹ Although the generic listing standards contemplate the calculation of indexes using capitalization weighted, price weighted, or equal-dollar weighted methods, the standards do not specifically encompass the modified equal-dollar weighted methodology that the Exchange proposes to use for the Index.

³⁰ Under the generic listing standards, indexes based upon the equal-dollar weighting methodology must be rebalanced at least quarterly.

³¹ 15 U.S.C. 78s(b)(2).

³² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁶ Details of the CSFB informational barriers have been submitted to the Commission under separate cover. See Letter from Robert L. Mazzeo; Solomon, Zauderer, Ellenhorn, Frischer & Sharp; to Richard Strasser, Assistant Director, Division, Commission, dated June 9, 1999.

May 21, 1999, the CBOE submitted to the Commission Amendment No. 1 to the proposed rule change.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 CBOE proposes to amend its rules governing the operation of its Retail Automatic Execution System ("RAES") to increase the maximum order sizes on certain options and clarify the authority of the appropriate Floor Procedure Committees ("FPCs") of the Exchange to change current procedures governing assignment and price improvement of RAES orders, as described below. 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, 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

The principal purpose of the proposed rule change is to increase from 20 to 50 contracts the maximum size of orders for equity options and certain classes of index options that are eligible to be executed through RAES. In addition, the proposed rule change clarifies the authority of the appropriate FPCs to change RAES order assignment procedures, and reflects the decision of the appropriate FPCs to implement a new assignment procedure called "Variable RAES." The proposed rule change also eliminates the current "one-tick" limit applicable to the RAES automatic "step-up" procedure, which provides for the automatic improvement

of the price at which an order is executed on RAES in order to match a better price in another market. The proposal would allow the appropriate FPCs to authorize automatic RAES step-ups for price differentials greater than the one "tick" differential currently specified in the rules. Finally, the proposed rule change makes a number of editorial revisions to clarify or update the language of current rules governing RAES operations.

Currently, the maximum size of RAES-eligible orders is 20 contracts for all classes of options traded on CBOE for which a greater maximum is not expressly provided in the rules. Options subject to the 20 contract maximum include all classes of equity options, all classes of sector index options and all other classes of index options except options on the S&P 500 Index, the Nasdaq 100 Index, the Dow Jones Industrial Average, and interest rate options.⁴ Increasing the RAES eligibility maximum to 50 contracts for these classes of options will not automatically permit orders up to this size to be entered into RAES. Instead, the actual maximum RAES eligibility size will be established by the appropriate FPC of the Exchange, which may maintain the maximum for particular classes at levels below the 50-contract maximum allowable under the proposed rule change.

Under existing Interpretation and Policy .01 under Rule 6.8, the appropriate FPC may increase the size of RAES-eligible orders for multiply-traded equity options to match the size of orders in options of the same class that are eligible for entry into the automated execution system of any other options exchange, subject to filing notice of the increase under Section 19(b)(3)(A) of the Act.⁵ The Exchange nonetheless believes the FPC should be able to permit up to 50 contracts to be eligible for RAES in response to the perceived needs of the market, as reflected in member requests, without regard to automatic execution limits on other exchanges. The proposal will also provide greater flexibility to the

Exchange in its competition for order flow with other exchanges that already have 50-contract maximum eligibility levels for their own automatic execution systems, since the Exchange will no longer be limited to acting in response to increases in automatic execution eligibility levels initiated by the other exchanges. CBOE represents that its systems capacity is sufficient to accommodate the increased number of automatic executions anticipated to result from implementation of this proposal.

In addition, the proposed rule change clarifies the authority of the appropriate FPCs to change RAES order assignment procedures, and reflects the decision of the appropriate FPCs to implement a new assignment procedure called "Variable RAES." Under current procedures, RAES orders are randomly assigned to market makers, and each market maker is required to buy or sell the entire order assigned to him or her. By contrast, under Variable RAES, each market maker will be able to designate in advance, at the time of logging on to RAES, a maximum number of contracts he or she is willing to buy or sell each time a RAES order is randomly assigned to that market maker.⁶ No market maker, however, will be able to designate a maximum that is less than a stated minimum number of contracts per assignment established by the appropriate FPC. In determining appropriate minimum execution levels, the FPC must take into account whether market makers have sufficient capital to fill an order of that size.

If the number of contracts in a RAES order is less than or equal to the market maker's specified limit, the market maker will be obligated to buy or sell all of the contracts in the order, and the next RAES order will be assigned to the next market maker on the RAES assignment rotation. If the number of contracts in an order exceeds the specified limit, the market maker will be obligated to buy or sell the number of contracts equal to the specified limit. The remainder of the order will be assigned to the next market maker on the RAES assignment rotation, who will likewise be obligated to buy or sell the number of remaining unassigned contracts in the order up to that market maker's specified limit. The assignment rotation will continue in this manner until all of the contracts in the order have been assigned to one or more market makers, even if this requires

³In Amendment No. 1, the CBOE clarified issues relating to the implementation of new order assignment procedures for orders entered into the CBOE's Retail Automatic Execution System. See letter from Timothy Thompson, Director, Regulatory Affairs, CBOE, to Gordon Fuller, Special Counsel, Division of Market Regulation, SEC, dated May 20, 1999 ("Amendment No. 1").

⁴The RAES eligibility maximum is currently 99 contracts for options on the S&P 500 Index and the Nasdaq 100 Index, and 100 contracts for options on the DJIA and interest rate options. To simplify the administration of RAES and eliminate confusion, the proposed rule change would make the RAES eligibility maximums 100 contracts for these four classes of options. See Rule 6.8(e). One hundred contracts is also the proposed RAES eligibility maximum for options on the Dow Jones High Yield Select 10 Index, described in File No. SR-CBOE-99-06, which is pending with the Commission. Securities Exchange Act Release No. 41357 (April 30, 1999), 64 FR 25091 (May 10, 1999).

⁵15 U.S.C. 78s(b)(3)(A).

⁶Variable RAES is proposed partly in anticipation of the likelihood that as the maximum size of RAES-eligible orders is increased, individual market makers may seek to limit the size of the RAES orders they are obligated to fill.

more than one assignment to the same market maker as the assignment rotation continues.

Variable RAES will apply to all classes of options eligible for entry into RAES. CBOE represents that the Variable RAES procedure will be implemented following the effectiveness of this proposed rule change, and will be described in a circular to be distributed to the membership prior to that time. To allow for a period of adjustment, CBOE states that the Variable RAES procedure may be implemented across option classes in phases. Finally, if the appropriate FPC decides to implement a different RAES order assignment procedure, it must file a proposed rule change with the Commission pursuant to Section 19(b) of the Act and Rule 19b-4 thereunder.

In addition, the proposed rule change authorizes the appropriate FPC to establish a "step up amount" for purposes of the automatic step-up procedure of Interpretation and Policy .02 under Rule 6.8 that is greater than the current amount, which equals the minimum quote interval ("tick") for that class of option under Rule 6.42. The automatic step-up procedure currently states that in designated classes of multiply-traded options, if the Exchange's best bid or offer is inferior to the bid or offer in another market by no more than one tick, an order in RAES will be automatically executed at the better bid or offer. The proposed rule change will enable the appropriate FPC to establish price differentials greater than one tick at which orders will be automatically executed in RAES in order to match better bids or offers in other markets.

By enhancing the Exchange's ability to provide instantaneous, automatic execution of public customers' orders at the best available prices, the Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) ⁷ of the Act in general, and furthers the objectives of Section 6(b)(5) ⁸ of the Act in particular, in that it will promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market, and protect investors and the public interest.

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

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.

VI. 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 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 the CBOE. All submissions should refer to File No. SR-CBOE-99-17 and should be submitted by July 8, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41480; File No. SR-CHX-99-04]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Inc., To Add a New Price Improvement Algorithm, SuperMax Plus

June 4, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 10, 1999, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 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 Exchange proposes to add a new price improvement algorithm, SuperMax Plus, to Rule 37 of Article XX of the Exchange's rules. The text of the proposed rule change is available at the Office of the Secretary, CHX 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. The Exchange 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

On May 22, 1995, the Commission approved a proposed rule change of the

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.