

6. SPV will loan at least 85% of any cash or cash equivalents raised by SPV to applicant and the Operating Subsidiaries as soon as practicable, but in no event later than six months after SPV's receipt of the cash or cash equivalents. In the event SPV borrows amounts in excess of the amounts to be loaned to applicant and the Operating Subsidiaries at any given time, SPV will invest the excess in temporary investments pending lending the money to applicant and the Operating Subsidiaries. Consistent with rule 3a-5, all investments by SPV, including all temporary investments, will be made in government securities, securities of applicant or a company controlled by applicant, or debt securities which are exempted from the provisions of the 1933 Act by section 3(a)(3) of the 1933 Act.

7. SPV's articles of association and its memorandum of association and any trust indenture agreement will: (i) Limit its activities to issuing the Notes or other debt securities and loaning the proceeds to applicant and the Operating Subsidiaries; and (ii) prohibit the transfer of SPV's shares to any party other than HoldCo SPV or TrustCo.

8. HoldCo SPV's articles of association and its memorandum of association will: (i) Limit its activities to borrowing funds from applicant to purchase and hold shares of SPV; (ii) prohibit the transfer of HoldCo SPV's shares to any party other than TrustCo; (iii) prohibit the transfer of SPV's shares to any party other than TrustCo; and (iv) prohibit HoldCo SPV from issuing any securities (other than the initial issuance of its share capital to TrustCo) or otherwise incurring any indebtedness other than the loan from applicant sufficient to cover the costs of purchasing the shares of SPV and costs incidental to the maintenance of HoldCo SPV and SPV.

Applicant's Legal Analysis

1. Applicant states that SPV may be viewed as falling technically within the definition of an investment company under section 3(a)(1) of the Act. Applicant requests an exemption under section 6(c) of the Act exempting SPV from all provisions of the Act. Section 6(c) of the Act permits the SEC to grant an exemption from the provisions of the Act if, and to the extent, that such exemption is necessary and appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

2. Applicant states that rule 3a-5 under the Act provides an exemption

from the definition of investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies. Applicant states that SPV meets all of the requirements of rule 3a-5 except for one, which it cannot meet for Spanish corporate law reasons. Rule 3a-5(b)(1)(i) under the Act requires that all of SPV's common stock be owned by applicant or a company controlled by applicant. Applicant asserts that, while for Spanish corporate law reasons SPV's common stock will be held by HoldCo SPV, SPV will be organized to serve solely as a conduit for applicant's and the Operating Subsidiaries' capital raising activities. Applicant further states that SPV's functions will be limited by its constitutional documents and any trust indenture agreement to the activities of a traditional finance subsidiary.

Applicant's Conditions

Applicant agrees that any order granting the requested relief will be subject to the following conditions:

1. SPV will comply with all provisions of rule 3a-5 under the Act, except with respect to rule 3a-5(b)(1)(i), over 95% of SPV's common shares will be held by HoldCo SPV (all of whose shares will in turn be held under the terms of an English law charitable trust), with the rest held by TrustCo. For purposes of rule 3a-5 under the Act, applicant will be deemed to be SPV's "parent company" and each Operating Subsidiary will be deemed to be a "company controlled by the parent company."

2. SPV's articles of association and memorandum of association and any trust indenture agreement will: (i) Limit the SPV's activities to issuing the Notes or other debt securities and loaning the proceeds to applicant and the Operating Subsidiaries (as well as other activities incidental to the issuance of the Notes, loaning the proceeds thereof, and the day-to-day operations of the SPV); and (ii) prohibit the transfer of SPV's shares to any party other than HoldCo SPV or TrustCo.

3. HoldCo SPV's articles of association and its memorandum of association will: (i) Limit HoldCo SPV's activities to borrowing funds from applicant to purchase and hold shares of SPV; (ii) prohibit the transfer of HoldCo SPV's shares to any party other than TrustCo (pursuant to the terms of the charitable trust); (iii) prohibit transfer of SPV's shares to any party other than TrustCo; and (iv) prohibit HoldCo SPV from issuing any securities (other than the initial issuance of its share capital

to TrustCo) or otherwise incurring any indebtedness, other than a loan from applicant sufficient to cover the costs of purchasing the shares of SPV and costs and incidental to the maintenance of HoldCo SPV and SPV.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-7726 Filed 3-28-00; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42558; File No. SR-CBOE-99-21]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 Relating to the Exchange's Firm Quote Rule

March 22, 2000.

I. Introduction

On May 27, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change relating to the exchange's Firm Quote Rule. The proposed rule change was published for comment in the **Federal Register** on July 6, 1999.³ No comments were received on the proposal. On September 23, 1999, CBOE submitted Amendment No. 1 to the proposed rule change.⁴ On January 11, 2000, CBOE submitted Amendment No. 2.⁵ In this

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 41558 (June 24, 1999), 64 FR 36414.

⁴ See Letter to Heather Traeger, Attorney, Division of Market Regulation, SEC, from Timothy Thompson, Director—Regulatory Affairs, CBOE, dated September 22, 1999 ("Amendment No. 1"). In Amendment No. 1, CBOE proposes to eliminate the discretion of the appropriate Floor Procedure Committee to determine whether or not to apply the firm quote requirement to firm or broker-dealer orders by establishing that: (1) the extension of the firm quote requirement will apply to all equity and narrow-based index options and (2) only non-broker-dealer customer orders are entitled to firm quote treatment in all other products. The amendment also clarifies the proposed rule's requirement that the trading crowd change its quotes if members of the crowd are unwilling to trade at the displayed quote with an order that is not entitled to firm quote treatment.

⁵ See Letter to Heather Traeger, Attorney, Division of Market Regulation, SEC, from Timothy Thompson, Director—Regulatory Affairs, CBOE,

notice and order, the Commission is seeking comment from interested persons on Amendment Nos. 1 and 2 and is approving the proposed rule change and is approving Amendment Nos. 1 and 2 on an accelerated basis.

II. Description of the Proposal

The proposal would amend CBOE Rule 8.51 to specify to what extent multiple orders entered by the same beneficial owner and represented at a trading station at approximately the same time will be entitled to firm quote protection. Specifically, the proposal would amend CBOE Rule 8.51 to deny firm quote protection to those orders or portions of orders for the same class of options (whether for the same or different series) that are entered by the same beneficial owner and are represented at the trading station at approximately the same time and cumulatively exceed the firm quote requirement for that particular class of options.⁶ Under the proposed new paragraph (a)(3) of CBOE Rule 8.51, only the first of these three orders would be entitled to firm quote protection. The crowd would be required to trade the other two ten lot orders at the displayed market or to change the market pursuant to the terms of the "trade or fade" policy set forth in paragraph (b) of the Rule.⁷

The Exchange also proposes to amend paragraph (b) of CBOE Rule 8.51 and Interpretation .06 to make them consistent with the change in the categories of orders proposed to be subject to the firm quote guarantee.

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. In particular, the Commission finds that the proposed rule change meets the requirements of Section (6)(b)(5) of the Act⁸ which states that, among other things, the rules of an

dated January 5, 2000 ("Amendment No. 2"). In Amendment No. 2, CBOE proposes to delete that portion of the proposed rule change that would have extended firm quote treatment to broker-dealer and firm orders.

⁶ For example, assume the firm quote requirement in option ABC is ten contracts and that a broker-dealer simultaneously sends orders to a floor broker in a crowd to buy ten at-the-money call options in each of three different series for that class ABC. The floor broker will likely represent each of these three orders one after another.

⁷ Under the "trade or fade" policy, CBOE trading crowds and specialists or crowds on other exchanges have the option to trade a broker-dealer order at the displayed quote or to change the displayed bid (offer) to reflect that the previously displayed bid (offer) is no longer available. CBOE Rule 8.51(b).

⁸ 15 U.S.C. 78f(b)(5).

exchange must be designed to facilitate securities transactions and to remove impediments to and perfect the mechanism of a free and open market.⁹

The Commission believes that providing for limits on the extension of the firm quote protection in cases where multiple orders for the same class of options are submitted at approximately the same time will prevent market makers from being subjected to undue risk arising from an inability to refresh their quotes in a timely manner. The proposal should also prevent orders from being broken up by series solely to qualify for firm quote protection. This, in turn, should ensure that all customer orders are treated consistently with respect to firm quote protection.

The Commission finds good cause for approving proposed Amendment Nos. 1 and 2 prior to the 30th day after the date of publication of notice of filing in the **Federal Register**. Amendment No. 1 made several changes to the portion of the proposed rule change that would have extended firm quote treatment to broker-dealer and firm orders. Amendment No. 2 then deleted that same portion of the proposed rule change, leaving only sections of the proposal which were published in the **Federal Register** for notice and comment. The Commission did not receive any comments on the proposed rule change. Accordingly, the Commission finds good cause pursuant to Section 6(b)(5) of the Act for accelerating approval of Amendment Nos. 1 and 2.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2, including whether the amendments are 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 at

⁹ In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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-99-21 and should be submitted by April 19, 2000.

V. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-CBOE-99-21), as amended, is approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-7687 Filed 3-28-00; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42566; File No. SR-CHX-99-31]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to the Definition of Pre-Opening Orders in Dual Trading System Issues

March 22, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice hereby is given that on January 3, 2000, 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, II and III 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.

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

The Exchange Proposes to amend Exchange Article XX, Rule 37(a)(4) governing the handling of pre-opening orders to define what constitutes a pre-opening order for purposes of that rule. The text of the proposed rule change follows, additions are italicized.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.