

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44433; File No. SR-CBOE-2001-30]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Joint Account Trading in Certain Broad-Based Index Options and Options on Exchange-Traded Fund Shares

June 15, 2001.

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 May 30, 2001, 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. The proposed rule change has been filed by the CBOE as a "non-controversial" rule change under Rule 19b-4(f)(6) of the Act.<sup>3</sup> 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's OEX/SPX/DJX Joint Account Circular ("Circular") currently applies to the trading activities of joint account participants in Standard & Poor's ("S&P") 100 Index options ("OEX"), S&P 500 Index options ("SPX"), and Dow Jones Industrial Average options ("DJX"). The CBOE proposes to amend the Circular to apply its terms to trading in options on the Mini-NDX Index ("MNX<sup>SM</sup>"), the Nasdaq-100 Index ("NDX"), and the Nasdaq-100 Tracking Stock ("QQQ").<sup>4</sup>

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 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 Circular currently applies to the trading activities of joint account participants in OEX, SPX, and DJX options. The CBOE proposes to apply the terms of the Circular to trading in certain additional broad-based index options and options on exchange-traded fund shares.<sup>5</sup> Specifically, the CBOE proposes to amend the Circular to apply its terms to trading in MNX, NDX, and QQQ options. The CBOE does not propose to modify any of the joint account trading policies or procedures set forth in the Circular.

The Circular provides that joint accounts may be represented in the crowd by participants trading in-person for the joint account. In addition, the Circular provides that joint account participants who are not trading in-person in the crowd may enter orders for the joint account with floor brokers even if other participants are trading the same joint account in-person. The joint account circular applicable to equity options does not allow a joint account participant to enter orders while another joint account participant is trading in-person on behalf of the joint account.

<sup>5</sup> The Commission approved the Circular on September 10, 1992. See Securities Exchange Act Release No. 31174 (September 10, 1992), 57 FR 42789 (September 16, 1992) (order approving File No. SR-CBOE-91-40). The CBOE updated the Circular to allow more than one SPX participant to participate on a trade on behalf of the joint account. See Securities Exchange Act Release No. 35579 (April 7, 1995), 60 FR 18867 (April 13, 1995) (notice of filing and immediate effectiveness of File No. SR-CBOE-95-17). In addition, the CBOE updated the Circular to apply the terms of the Circular to trading in DJX options. See Securities Exchange Act Release No. 39092 (September 18, 1997), 62 FR 50412 (September 25, 1997) (notice of filing and immediate effectiveness of File No. SR-CBOE-97-44). The CBOE also updated the Circular to allow certain transactions between joint accounts that have common participants. See Securities Exchange Act Release No. 44152 (April 5, 2001), 66 FR 19262 (April 13, 2001) (order approving File No. SR-CBOE-00-13).

The Exchange believes the OEX/SPX/DJX model is more appropriate for MNX, NDX, and QQQ options because these trading crowds are comparable in size to the OEX, SPX, and DJX trading crowds.

The Exchange believes that options on exchange-traded fund shares derived from broad-based indexes, such as the QQQ options, share trading characteristics similar to the trading characteristics of broad-based index options. Accordingly, the CBOE believes that the same rules should apply to options on exchange-traded fund shares derived from broad-based indexes. The CBOE states that QQQ options can be used as a hedge against broad-based index options such as MNX and NDX because the QQQ contract derives its value from the Nasdaq-100 Index. According to the CBOE, joint account participants who trade MNX, NDX, and other broad-based index options may want to place hedging trades in QQQ options into their joint accounts. For these reasons, the Exchange believes the joint account trading procedures in the Circular should also apply to joint account trading in QQQ options.

The Exchange believes that applying the terms of Circular to MNX, NDX, and QQQ options will inform the CBOE's members that the existing Exchange policies and procedures regarding permissible joint account trading in OEX, SPX, and DJX Index options will now apply also to trading in MNX, NDX, and QQQ options. The Circular profits market-makers from trading with their joint account and prohibits trades in which the buyer and seller represent the same joint account and are on opposite sides of the transaction. The CBOE's Department of Market Regulation will conduct surveillance of joint account trading in MNX, NDX, and QQQ options by applying existing surveillance procedures that are designed to detect and deter abusive trading by joint account participants.

The CBOE believes that the proposed rule change is consistent with and 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 mechanisms of a free and open market and a national system and to protect investors and the public interest.

##### (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 not necessary or appropriate in furtherance of the purposes of the Act.

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> QQQ options are options overlying the Nasdaq-100 Index Tracking Stock, an exchange-traded fund designed to track the performance of the Nasdaq-100 Index. The CBOE has determined to treat options on exchange-traded fund shares like index options and to generally apply to exchange-traded fund shares the same rules that are applicable to index options.

*(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 CBOE has filed the proposed rule change as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>7</sup> Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative for 30 days after the date of the filing, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6). The CBOE also provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change. At any time within 60 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, including whether it 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 at the Commission's Public Reference

Section, 450 Fifth Street, N.W., Washington, D.C. 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-2001-30 and should be submitted by July 13, 2001.

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. 34-44435; File No. SR-CBOE-2001-34]**

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Goldman, Sachs Technology Composite Index ("GSTI") and the GSTI Sub-Indexes**

June 15, 2001.

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 June 14, 2001, 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. The proposed rule change has been filed by the CBOE as a "non-controversial" rule change under Rule 19b-4(f)(6) of the Act.<sup>3</sup> 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 currently lists and trades European-style, cash-settled options on the Goldman Sachs Technology Composite Index ("GSTI Composite Index" or "Index")<sup>4</sup> and on six GSTI Sub-indexes ("Sub-Indexes").<sup>5</sup> Pursuant

to determinations by Goldman, Sachs & Co. ("Goldman Sachs"), the CBOE proposes to: (1) Revise the guidelines governing the selection of stocks in the GSTI Composite Index to allow Goldman Sachs to exclude from the GSTI Composite Index companies that Goldman Sachs believes are classified inappropriately as technology companies despite their Standard Industrial Classification ("SIC")/Russell code; (2) revise the weighting criteria for the six Sub-Indexes so that all components will be subject to a maximum weight cap of 8.5% of the total capitalization of any Sub-Index; and (3) change the dates of the semi-annual rebalancing for the GSTI Composite Index and the six Sub-Indexes from the third Friday in January and July of each year to the third Friday in December and June of each year. The CBOE seeks continued approval to list and trade options on the GSTI Composite Index and on the Sub-Indexes after the proposed revisions become effective after the close of trading on June 15, 2001. In addition, the CBOE proposes to amend CBOE rule 24.14, "Disclaimers," to include a specific reference to Goldman Sachs as entitled to the benefit of the disclaimer of liability with respect to the GSTI Composite Index and the six Sub-Indexes.

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 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 CBOE currently lists and trades European-style, cash-settled options on

the GSTI Hardware Index, the GSTI Internet Index, the GSTI Semiconductor Index, the GSTI Software Index, the GSTI Services Index, and the GSTI Multimedia Networking Index.

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

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

<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.

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> See Securities Exchange Act Release No. 37693 (September 17, 1996), 61 FR 50362 (September 25, 1996) (order approving File No. SR-CBOE-96-43).

<sup>5</sup> See Securities Exchange Act Release No. 37696 (September 17, 1996), 61 FR 50358 (September 25, 1996) (order approving File No. SR-CBOE-96-44) ("Sub-Index Order"). The six Sub-Indexes include: