the amount of its subadvisory fees will be affected by the investment performance of an Unaffiliated Subadviser.

5. With respect to purchases of securities by an Affiliated Portion during the existence of an underwriting or selling syndicate, a principal underwriter of which is an Affiliated Underwriter, the conditions of rule 10f–3 will be satisfied except that paragraph (b)(7) will not require the aggregation of purchases by the Affiliated Portion with purchases by Unaffiliated Portions.

6. With respect to purchases by an Unaffiliated Portion of securities issued by a Securities Affiliate, the conditions of rule 12d3–1 will be satisfied except for paragraph (c) to the extent such paragraph is applicable solely because such issuer is an Affiliated Subadviser or an affiliated person of an Affiliated Subadviser.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–5146 Filed 3–4–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45479; File No. SR–CBOE–2001–62]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Minimum Trading Increments for Spread, Straddle, and Combination Orders in Options on the S&P 500 Index

February 26, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 13, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or the ''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 CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

CBOE proposes to amend CBOE Rule 6.42, *Minimum Increments for Bids and Offers,* to require that bids and offers on spread, straddle, or combination orders in options on the S&P 500 Index, except for box spreads, be expressed in decimal increments no smaller than $0.05. The text of the proposed rule change appears below. New text is in *italics.*

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Chapter VI—Doing Business on the Exchange Floor

Section C: Trading Practices and Procedures

* * * * *

Rule 6.42. Minimum Increments for Bids and Offers

The Board of Directors may establish minimum trading increments for options traded on the Exchange. When the Board of Directors determines to change the trading increments, the Exchange will designate such change as a stated policy, practice, or interpretation with respect to the administration of Rule 6.42 within the meaning of subparagraph (3)(A) of subsection 19(b) of the Exchange Act and will file a rule change for effectiveness upon filing with the Commission, provided, however, that no change may be made to the minimum trading increment as set forth in this Rule for options trading in decimals that is inconsistent with the Decimals Implementation Plan (''Plan'') submitted to the Commission on July 24, 2000, and that otherwise changes the minimum trading increment for options trading in decimals unless the change has been filed with the Commission pursuant to rule 19b–4(f)(6) under section 19(b) of the Exchange Act. Subject to the foregoing, the following minimum trading increments shall apply to options traded on the Exchange:

(1) Subject to paragraph (2) below, bids and offers shall be expressed in decimal increments no smaller than $0.10 for option classes trading in decimals or eighths of $1 (e.g., 3⅛) for option classes trading in fractions, unless a different increment is approved by the appropriate Floor Procedure Committee for an option contract of a particular series.

(2) Bids and offers for all option series quoted below $3 a contract shall be expressed in decimal increments no smaller than $0.05 for options trading in decimals or sixteenths of a dollar (e.g., 1⁄16) for options trading in fractions.

(3) Bids and offers on spread, straddle, or combination orders as defined in Rule 6.53 may be expressed in any decimal or fractional price regardless of the minimum increments otherwise appropriate to the individual legs of the order. *Notwithstanding the foregoing sentence, bids and offers on spread, straddle or combination orders in options on the S&P 500 Index, except for box spreads, shall be expressed in decimal increments no smaller than $0.05.* Spread, straddle or combination orders expressed in net price increments that are not multiples of the minimum increment are not entitled to the same priority under Rule 6.45 as such orders expressed in increments that are multiples of the minimum increment.

Interpretations and Policies

.01–.04 Unchanged.

.05 For purposes of this rule, ''box spread'' means an aggregation of positions in a long call option and short put option with the same exercise price (''buy side'') coupled with a long put option and short call option with the same exercise price (''sell side'') all of which have the same aggregate current underlying value, and are structured as either: (A) a ''long box spread'' in which the sell side exercise price exceeds the buy side exercise price or (B) a ''short box spread'' in which the buy side exercise price exceeds the sell side exercise price.

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, Proposed Rule Change

1. Purpose

CBOE Rule 6.42 establishes the minimum trading increments for options traded on the Exchange. CBOE Rule 6.42(1) provides that, subject to Rule 6.42(2), bids and offers shall be expressed in decimal increments no smaller than $0.10 unless a different increment is approved by the appropriate Floor Procedure Committee for an option contract of a particular

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

series. CBOE Rule 6.42(2) provides that bids and offers for all option series quoted below $3.00 a contract shall be expressed in decimal increments no smaller than $0.05. CBOE Rule 6.42(3) provides that bids and offers on spread, straddle, or combination orders as defined in CBOE Rule 6.53 may be expressed in any decimal or fractional price regardless of the minimum increments otherwise appropriate to the individual legs of the order.[3]

The proposed rule change amends CBOE Rule 6.42(3) to require that bids and offers on spread,[4] straddle,[5] or combination[6] orders in options on the S&P 500 Index (''SPX''), excluding box spreads, be expressed in decimal increments no smaller than $0.05. Expressing spread, straddle and combination orders in decimal increments no smaller than $0.05 will increase the efficiency of SPX traders in executing these types of orders. In addition, the proposed rule change adds new interpretation .05 to CBOE to define the term ''box spreads.''[7]

Spread, straddle, and combination orders are complex and multi-part orders, which involve special pricing and handling. A member holding a spread, straddle or combination order typically bids and offers on the basis of a total debit or credit for the order.[8] After a spread, straddle, or combination order has been executed at the total debit or credit, the parties to the trade record on a trade ticket the contract quantities and prices for each component option of the order. This task is straightforward and uncomplicated when the total debit or credit for a spread, straddle, or combination trade is expressed in the minimum increment under CBOE Rule 6.42.[9]

When spread, straddle and combination orders are expressed in increments smaller than $0.05, it results in ''split'' prices for each of the component options in order to reach the quoted debit or credit price and thus ''split'' contract quantities. SPX traders, particularly floor brokers, have found that when such orders are expressed in decimal increments smaller than $0.05, it is difficult and time consuming for the parties to perform the mathematical calculations to break down the order into the required contract quantities and prices.[10] This difficulty is exacerbated when the quantity of such an order is an odd lot quantity (such as 106 contracts). The result is that on active trading days, SPX floor brokers executing these types of orders cannot be as efficient in representing other customer orders that they are holding.

CBOE believes that the proposed rule change will enable SPX traders to more efficiently execute these types of transactions by permitting the parties to execute the trades more expeditiously and with less component parts in the transaction. In addition, CBOE believes that the proposed rule change is appropriate given the complexity of these orders, the size of the underlying S&P 500 index, and the participants in the SPX market, which are primarily institutional.

2. Statutory Basis

The proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act.[11] It is designed to promote just and equitable principles of trade, and protect investors and the public interest by increasing the efficiency of execution for spread, straddle and combination orders in SPX options.

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

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

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.

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

[3] *See* Securities Exchange Release No. 34–34764 (September 30, 1994), 59 FR 51223 (October 7, 1994) (order approving amendments to CBOE Rule 6.42).

[4] A spread order is an order to buy a stated number of option contracts and to sell the same number of option contracts, or contracts representing the same number of shares at option, of the same class of options. CBOE Rule 6.53(d).

[5] A straddle order is an order to buy a number of call option contracts and the same number of put option contracts on the same underlying security which contracts have the same exercise price and expiration date; or an order to sell a number of call option contracts and the same number of put option contracts on the same underlying security which contracts have the same exercise price and expiration date. For example, an order to buy two XYZ July 50 calls and to buy two July 50 XYZ puts is a straddle order. In the case of adjusted option contracts, a straddle order need not consist of the same number of put and call contracts if such contracts both represent the same number of shares at option. CBOE Rule 6.53(f).

[6] A combination order is an order involving a number of call option contracts and the same number of put option contracts in the same underlying security. In the case of adjusted option contracts, a combination order need not consist of the same number of put and call contracts if such contracts both represent the same number of shares at option. CBOE Rule 6.53(e).

[7] Under the proposed rule change, the term ''box spread'' is defined to mean an aggregation of positions in a long call option and a short put option with the same exercise price (''buy side'') coupled with a long put option and short call option with the same exercise price (''sell side'') all of which have the same underlying component or index and time expiration, and are based on the same aggregate current underlying value, and are structured as either: (A) a ''long box spread'' in which the sell side exercise price exceeds the buy side exercise price or (B) a ''short box spread'' in which the buy side exercise price exceeds the sell side exercise price. In other words, a box spread is a synthetic long position at one strike price and a synthetic short position at another strike price.

[8] For example, if option A is bought at 5 and option B sold at 6, the order is executed at a net credit of one, or if option A is sold at 5.10 and option B is bought at 6.10, the order is executed at a net debit of one.

[9] For example, assume the market for the December SPX 1150 calls is 18 bid, 19 asked, and the market for the December SPX 1175 calls is 6.50 bid and 7.50 asked. The fair value of a call spread comprised of these two options is 11.50 (the difference between the prices quoted for each option). If an order to buy 100 of the 1150 calls and to sell 100 of the 1175 calls is quoted and executed at a net debit of 11.50 (expressed in a multiple of the minimum increment), the parties to the trade can easily determine and record on a trade ticket a price for each component option that comprises the spread. Any combination of purchase and sale prices within the quoted ranges for the component options that yield a net debit or credit of 11.50 could be used (*e.g.,* 18.50 for the 1150 calls, and 7 for the 1175 calls).

[10] Using the example in footnote 9, if instead the call spread is quoted and executed at a net debit of 11.48 instead of 11.50, in order to determine prices for the component options that are expressed in a multiple of $0.05 the trader must perform a series of calculations. In this case, the trader might determine that the trade must be split up into a 40 contract spread that traded at a net debit of 11.45 and a 60 contract spread that traded at a net debit of 11.50, which together yield a net debit of 11.48 for the entire order.

[11] 15 U.S.C. 78f(b)(5).

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 Section. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR–CBOE–2001–62 and should be submitted by March 26, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–5143 Filed 3–4–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45478; File No. SR–CHX–2002–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated To Provide for Rebilling of Costs Related to Member Firm Connectivity With the MAX System

February 26, 2002.

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 February 1, 2002, 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 Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the CHX under Section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the Commission. 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 its membership dues and fees schedule (''Schedule'') to provide for rebilling of certain costs relating to member firm connectivity with the Exchange's automatic execution system. The text of the proposed rule change is below. Proposed new language is in italics.

Membership Dues and Fees

* * * * *

H. Equipment, Information Services and Technology Charges

MAX Connection Charges If the Exchange incurs direct costs relating to a member firm's connection to the MAX System, including costs associated with installation of equipment, telecommunication lines, telecommunication services and maintenance charges, such costs will be rebilled to the member firm at cost, provided, however, that the Exchange will not seek reimbursement of those connection-related costs deemed reasonable and necessary by the Exchange if the member firm to which the costs are allocable has routed an average of not less than 100,000 trades per month to the Exchange via the MAX System, during the 6 months preceding the billing date.

* * * * *

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 IV 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

The CHX proposes to amend the Schedule to provide for rebilling of costs incurred by the Exchange relating to member firm connectivity with the MAX System.[4] The Exchange currently pays such costs with respect to several high-volume order sending firms although it has no stated policy regarding where it will absorb such costs.

To provide high-volume order sending firms with continued incentive to route orders to the Exchange, consistent with their best execution obligations, the proposed rule change includes a provision by which the Exchange would waive its right to reimbursement of MAX connectivity charges if an order sending firm had routed an average of 100,000 trades per month to the CHX during the six-month period preceding the billing date.

The CHX believes that the proposed rule change constitutes an equitable means of recovering its often-substantial technology costs, while recognizing that in certain instances, business considerations warrant the Exchange's absorption of such costs. The Exchange recognizes the Commission's interest in making available information regarding the magnitude of the MAX connectivity charges that the Exchange would waive for firms meeting the requisite volume criteria. Accordingly, while the Exchange cannot provide one fixed number due to varying utility rates and connectivity needs for each order-sending firm, the Exchange notes that the approximate average charge per month for MAX connectivity charges (*i.e.* telecommunications utility charges) will be approximately $4,000. Additionally, one-time initial hardware, software and setup charges range by order-sending firm, up to $50,000.[5]

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[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] The CHX Midwest Automated Execution system, commonly referred to as the ''MAX System,'' is the principal system by which orders are routed to the CHX and executed automatically.

[5] With regard to one-time initial hardware, software and setup charges, the decision not to seek reimbursement applies only to order-sending firms that are establishing new connectivity to the MAX System. For order-sending firms that were already connected with the MAX System at the time the CHX filed this proposed rule change, the initial hardware, software and setup charges are moot under this proposed rule change. For order-sending firms that establish new connectivity to the MAX System, the CHX will look back six months from the CHX billing date to determine whether an order-sending firm has routed an average of 100,000 trades per month to the CHX. If so, the CHX will not seek reimbursement for initial hardware, software and setup. Were an order-sending firm establishing new connectivity to the MAX System to fall below the 100,000-trade-routing threshhold within the six-month look-back period from the CHX billing date, the order-sending firm would be charged the costs of initial hardware, software and setup, as well as any monthly connectivity charges. Once six months have passed since the initial hardware, software and setup charges have been incurred, the only connectivity charges eligible for a waiver of reimbursement are the monthly connectivity charges. February 26, 2002 telephone conversation between Kathleen M. Boege, Associate