

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of November 2, 1998.

A closed meeting will be held on Thursday, November 5, 1998, at 11 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Carey, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, November 5, 1998, at 11:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: October 28, 1998.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98-29316 Filed 10-28-98; 3:48 pm]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40596; File No. SR-CBOE-98-37]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto, By the Chicago Board Options Exchange, Inc. To Allow the Chairman of the Equity Floor Procedure Committee, or the Chairman's Designee, To Increase the Eligible Order Size for Entry Into RAES

October 23, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on August 21, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" 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 CBOE. On October 5, 1998, the Exchange filed with the Commission Amendment No. 1 to the proposed rule change.<sup>2</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The CBOE proposes to permit the Chairman of the appropriate Floor Procedure Committee ("Committee"), or the Chairman's designee, to exercise the authority of the Committee to determine the size of orders eligible for entry into CBOE's Retail Automatic Execution System ("RAES") in certain circumstances.<sup>3</sup>

The text of the proposed rule change is set forth below. Additions are italicized.

#### CHAPTER VI

##### Doing Business on the Exchange Floor

##### Section A: General

\* \* \* \* \*

##### RAES Operations in Equity Options

##### Rule 6.8 No change.

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

<sup>2</sup> The proposed rule change was originally filed under Section 19(b)(3)(A) of the Exchange Act. Pursuant to the Commission's request, the Exchange amended the proposed rule change to file it under Section 19(b)(2) of the Exchange Act. See letter from Timothy H. Thompson, Director, Regulatory Affairs, CBOE, to Sonia Patton, Attorney, Division of Market Regulation, Commission, dated September 15, 1998.

<sup>3</sup> RAES accepts, through the Exchange's Order Routing System, small public customer market or marketable limit orders for automatic execution. An Exchange market-maker on RAES is assigned as the contraparty to these trades.

. . . Interpretations and Policies:

.01-.04 No change.

.05 *The Chairman of the appropriate Floor Procedure Committee or the Chairman's designee may exercise the authority of the appropriate FPC under paragraph (a)(i) of the Rule to increase the size of orders eligible for RAES when the Chairman or his designee believes that the action is in the interest of alleviating a potential backlog of unexecuted orders in situations where a particular class of options is experiencing a large influx of orders and provided the decision is made for no more than one trading day. To the extent the conditions exist on the following trading day, the Chairman or his designee must review the situation and make an independent decision to increase the RAES eligible order size for that subsequent day. Any decisions made by the Chairman or his designee to increase the RAES eligible order size for a particular option class for consecutive days will be reviewed by the EFPC at its next regularly scheduled meeting.*

#### 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

Exchange Rule 6.8(a)(i) states that "the appropriate Floor Procedure Committee ("FPC") shall determine the size of orders eligible for entry into RAES." Paragraph (e) states that "[e]ligible orders must be market or marketable limit orders for twenty or fewer contracts on series placed on the system. The appropriate FPC, in its discretion, may determine to restrict eligible orders, including but not limited to lowering contract limits." Pursuant to its discretion under Exchange Rule 6.8, the Equity Floor Procedure Committee ("EFPC") has established an eligible RAES order size

of ten contracts for most equity options traded on the floor.

The Committee has discovered through experience in overseeing the operation of RAES in equity options, however, that it is often beneficial to temporarily raise the eligible order size to the allowable limit of twenty contracts in situations where a particular class of equity options is experiencing a large influx of orders. By increasing the eligible order size, a larger percentage of the order flow can be filled immediately at the Exchange's quotes or at the National Best Bid or Offer ("NBBO").<sup>4</sup> This, in turn, will allow the trading crowd to concentrate on filling the non-RAES eligible orders in a more expeditious manner.

The decision to increase the RAES eligible order size to address these high volume situations must be made quickly to be effective. In addition, the Committee believes the increase should only be made for that period of time in which the class is in a high volume situation; and so, the situation requires monitoring. Because the EFPC commonly consists of twenty or more members who conduct business in all parts of the floor, it is not practicable to provide notice to all the members of the Committee and convene a meeting to make these decisions. It is also not practicable to expect these members to monitor the situation when they are trying to conduct business on the floor that requires their attention. Intra-day meetings are not only impracticable to convene but would distract these members from the conduct of their business on the floor.

Consequently, the EFPC has determined to delegate its authority under Exchange Rule 6.8 to the Chairman of the EFPC, or to the Chairman's designee, to increase the eligible order size for RAES provided that the Chairman or his designee believes the action is in the interest of alleviating a potential backlog of unexecuted orders in situations where a particular class of options is experiencing a large influx of orders and provided the decision is made for no more than one trading day. To the extent the conditions exist on the following trading day, the Chairman or his designee must review the situation and make an independent decision to increase the RAES eligible order size for that subsequent day. Any decisions

made by the Chairman or his designee to increase the RAES eligible order size for a particular option class for consecutive days will be reviewed by the EFPC at its next regularly scheduled meeting. After reviewing these decisions the EFPC can provide guidance to the Chairman or his designee about the use of this authority if they feel it is appropriate.

## 2. Statutory Basis

By allowing the Chairman of the EFPC or his designee to make decisions to increase the eligible order size for RAES, the Exchange can help to prevent the backlog of executable orders in an efficient manner. The Exchange believes, therefore, the filing is consistent with and furthers the objectives of Section 6(b)(5) of the Act<sup>5</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market 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.

### *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 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 Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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, in Washington, D.C. 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-98-37 and should be submitted by November 20, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 98-29117 Filed 10-29-98; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40597; International Series Release No. 1163; File No. SR-NYSE-98-37]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to the Trading of the Ordinary Shares of DaimlerChrysler AG

October 23, 1998.

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 October 22, 1998, the New York Stock Exchange, Inc. ("Exchange" or "NYSE") 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

<sup>4</sup> The Exchange recently received approval of a rule change that provides that in classes designated by the EFPC, RAES orders will be executed at the NBBO to the extent the NBBO is no more than one tick better than the CBOE quote. Exchange Act Release No. 40096 (June 16, 1998), 63 FR 34209 (June 23, 1998) (approving SR-CBOE-98-13).

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

<sup>6</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.