

moved because of Exchange holidays (such as when the CBOE is closed on the Friday before expiration), the last trading day for expiring options will be Wednesday and the exercise settlement value of Index options at expiration will be determined at the opening of regular Thursday trading.

Surveillance. The Exchange will use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading on options and LEAPs on the Index. For surveillance purposes, the Exchange will complete access to information regarding activity in the under securities.

Position Limits. The Exchange proposes to establish position limits for options on the Index at 250,000 contracts on either side of the market. These limits are roughly equivalent, in dollar terms, to the limits applicable to options on other indices.

Exchange Rules Applicable. As modified herein, the Rules in Chapter XXIV will be applicable to the Index options. Broad-based margin rules will apply to the Index. In addition, the Index will have a broad-based index hedge exemption of 625,000 contracts.

Disclaimer Language. CBOE is proposing to amend Rule 24.14 in order to include specific reference to Dow Jones & Company, Inc., as being entitled to the benefit of the disclaimer of liability in respect of the Index. CBOE believes it has the necessary systems capacity to support new series that would result from the introduction of the Index options. CBOE also has been assured that the OPRA also has the capacity to support the new series.

(b) Basis

The proposed rule change is consistent with Section 6(b) of the Act³ in general and furthers the objectives of Section 6(b)(5)⁴ in particular in that it will permit trading in options based on the Dow Jones Equity REIT Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in options based on an additional index.

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 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 Commission, 450 Fifth Street, NW, Washington, DC 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 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 CBOE. All submissions should refer to File No. SR-CBOE-98-49 and should be submitted by January 12, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40786; File No. SR-CBOE-98-98-51]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., To Enhance the Exchange's Order Routing System

December 14, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4(e)(6) thereunder,² notice is hereby given that on November 13, 1998,³ the Chicago Board Options Exchange, Inc. ("CBOE") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, and II, and III below, which Items have been prepared by CBOE. 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

CBOE is proposing to allow firm and broker-dealer orders to be routed to the Public Automated Routing ("PAR") workstations across the floor. 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 propose 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. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4(e)(6).

³ On December 11, 1998, the CBOE submitted Amendment No. 1 to the proposed rule change, which clarifies certain defined terms in the notice and makes certain textual changes. See letter from Timothy Thompson, Director, Regulatory Affairs, CBOE, to Anita Cassas, Attorney, Division of Market Regulation, Commission, dated December 11, 1998.

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

⁵ 17 CFR 200.30-3(a)(12).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE is proposing to allow broker-dealer and firm order⁴ to be routed over the Exchange's Order Routing System ("ORS")⁵ to the PAR workstations (including Mobile PAR) across the floor, regardless of the location of those PAR workstations (*i.e.*, in all trading crowds). Pursuant to a Regulatory Circular RG97-67, broker-dealer and firm orders currently may be routed to those PAR workstations in the trading crowd for options on the Standard & Poor's 100 Stock Index ("OEX"), but not to PAR workstations in the trading crowds for Standard & Poor's 500 Stock Index ("SPX") options, equity options, and narrow-based options. Regulatory Circular RG97-67 was filed with and approved by the Commission as a rule of the Exchange.⁶ In its rule filing seeking approval of that Regulatory Circular, CBOE stated that after it had gained experience with routing firm and broker-dealer orders to the PAR workstations in OEX, it may determine to enable the system to route such

⁴ A "broker-dealer" order is an order for any account in which a broker-dealer has an interest, such as a proprietary account or a customer account for a broker-dealer or firm that is not an Options Clearing Corporation ("OCC") member firm. A "firm" order is an order for a firm proprietary account of an OCC member. These designations define the origin of an order sent to the Exchange electronically, so that the order can be properly routed. Broker-dealer and firm orders can not be routed to RAES and may not be placed on the customer limit order book.

⁵ CBOE's Order Routing System provides member and correspondent firms with a method of efficiently delivering orders to and reports from the CBOE trading floor. ORS also interfaces with several other peripheral systems at CBOE, including the CBOE Trade Match system, the Time-and-Sales system, the Auto-quote system, and the Market-Maker Hand-held Terminals. Member firms with wires attached to the CBOE's front-end computer can send orders electronically from their branches or order desk to the ORS. Reports for such orders are sent back electronically to the point from which the order was entered.

⁶ Securities Exchange Act Rel. No. 38702 (May 30, 1997), 62 FR 31184 (June 6, 1997), order approving on a permanent basis certain enhancements to the Exchange's ORS, including the restriction on the routing of firm and broker-dealer orders to the PAR workstations except to the OEX post. (File No. SR-CBOE-97-22) See also Securities Exchange Act Rel. No. 38261 (February 10, 1997), 62 FR 7080 (February 14, 1997), notice of filing and immediate effectiveness of File No. SR-CBOE-97-06 in which these same proposed changes were adopted on a pilot basis. The Commission also approved a CBOE proposal to permit routing of firm and broker-dealer orders to PAR stations in the trading crowd for options based on the Dow Jones Industrial Average ("DJX"). Securities Exchange Act Rel. No. 39240 (October 14, 1997), 62 FR 54891 (October 22, 1997).

orders to equity and SPX crowds at some future date.

CBOE is proposing to make this change at this time for at least two reasons. First, the Exchange believes this change will enhance the ability of firms and broker-dealers to transact their business in a more efficient and timely manner. Currently, firm and broker-dealer orders must be routed to a booth on the floor where they are printed and run out to the particular post on the floor for execution. Second, CBOE believes that its experience with the routing of firm and broker-dealer orders to PAR in OEX and DJX over the last year (*i.e.*, since it has been permitted) has been positive. The Exchange has experienced no capacity problems with the PAR stations or the Order Routing System in handling the order flow. The Exchange has not experienced any incidents of kickouts of customer orders and the routing of firm and broker-dealer orders over PAR has not interfered with the transmission of customer orders to PAR or the execution of customer orders received on PAR. Further, the Exchange does not believe the routing of broker-dealer orders to PAR has slowed the transmission or processing of customer orders in OEX and DJX and the Exchange does not expect it will slow the transmission or processing of orders in other trading crowds.⁷

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)⁸ of the Act, in general, and furthers the objectives of Section 6(b)(5),⁹ in particular, in that it should foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in securities, and should remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

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

CBOE does not believe that the proposed rule change would impose any inappropriate burden on competition.

⁷ See Amendment No. 1.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

CBOE has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from November 13, 1998, the date on which it was filed and, since the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and subparagraph (e)(6) of Rule 19b-4 thereunder.¹¹

At any time within 60 days of the filing of the 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 person 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. 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.

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(e)(6).

SR-CBOE-98-51 and should be submitted by January 12, 1999.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40793; File No. SR-CHX-98-24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to the Exchange's Decorum Rules, Short Sales and Minor Rule Violation Plan

December 15, 1998.

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 September 29, 1998,³ the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 (1) Interpretation and Policy .01 of Rule 3 of Article XII relating to the Exchange's Decorum Rules regarding repetitive administrative/execution messages; (2) Rule 17 of Article IX, to codify the existing requirement for members to comply with Rule 10a-1 under the Act ("Short Sale Rule"); and (3) Rule 9(h) of Article XII, to add certain rules and policies to the Exchange's Minor Rule Violation Plan.

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 self-regulatory organization 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 Exchange first proposes to amend the list of Class B violations set forth under Rule 3, Article XII of the Exchange's Decorum Rules to include repetitive administrative/execution messages sent over the Intermarket Trading System ("ITS") or the Midwest Automated Execution System ("MAX") that are indecorous, inappropriate or unnecessary. In addition, because the Exchange believes that violations of this rule are objective in nature and easily verifiable, the Exchange proposes to include these violations as Class B violations for purposes of the Minor Rule Violation Plan and proposes to retain the existing recommended fines for Class B violations of the Decorum Rules.

Second, the Exchange proposes to codify in its rules the existing requirement for members to comply with the Short Sale Rule. Codifying the Short Sale Rule within the Exchange rules will allow the Exchange to assess fines for violation of the Short Sale Rule under its Minor Rule Violation Plan in appropriate circumstances, as discussed more fully below.

Finally, the Exchange proposes to add certain rules and policies to the Exchange's Minor Rule Violation Plan under Article XII, Rule 9. Specifically, the Exchange is adding violations of its rules relating to: (1) Proprietary short sales by floor members (Article IX, Rule 17) (e.g., failing to properly mark a short sale a short and executing a short sale at an inappropriate tick); (2) the issuance of pre-opening responses under the ITS Rules (Article XX, Rule 39) (e.g., using Designated Order Turnaround ("DOT"), Post Execution Reporting ("PER"), or any method other than ITS to send a pre-opening response); and (3) the failure of a

specialist to adjust limit orders to the block price when the MAX automatically executes such limit orders at the limit price upon a price penetration in the primary market (Article XX, Rule 7.06 and related Rule 37(b)(6) of Article XX). The Exchange believes that violations of these rules are objective in nature and are easily verifiable. Thus, the Exchange believes that violations of these rules in inadvertent or isolated circumstances should be handled under the Exchange's Minor Rule Violation Plan and not pursuant to the Exchange's formal disciplinary procedures.⁴ The Exchange proposes that the recommended fines for the above violations be \$100, \$500, and \$1,000 for the first, second, third and subsequent violations, respectively, except for violations of the Short Sale Rule, the recommended fines would be \$500, \$1,000 and \$2,500 for the first, second, and third subsequent violations, respectively.⁵

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b)(1),⁶ 6(b)(6),⁷ 6(b)(7),⁸ 6(d)(1)⁹ and 19(d)¹⁰ of the Act. The Exchange believes the proposal is consistent with the Section 6(b)(6) requirement that the rules of an exchange provide that its members and persons associated with its members

⁴ An inadvertent violation of the Short Sale Rule might occur, for example, if a specialist that is long 1,000 shares of a security sends an order to sell 1,000 shares in that security to the NYSE via a NYSE DOT machine. Because a specialist's inventory is not automatically updated to reflect executions over a DOT machine (unlike executions on the CHX or via ITS which are automatically reflected in a specialist's inventory on a real-time basis), it is possible that a specialist may either forget about the DOT order, or may be late in manually updating his inventory position to reflect the sale via DOT. In either event, the specialist's inventory at that time would not reflect that the specialist is now "flat" rather "long" the security. If the specialist then marks his next sale as "long" rather than properly marking the order as "short," it might be because the specialist merely looked at his inventory position and did not take the DOT order into account in determining whether he was long or short. While this would still be a violation of the short sale rule, depending on the totality of the facts (e.g., whether this is isolated or part of a larger fraud, or if other unusual circumstances existed, etc.) in certain circumstances, this violation might be considered an "inadvertent" violation that is appropriate for the minor rule violation plan. See Amendment No. 1, *supra* note 3.

⁵ See Amendment No. 1, *supra* note 3.

⁶ 15 U.S.C. 78f(b)(1).

⁷ 15 U.S.C. 78f(b)(6).

⁸ 15 U.S.C. 78f(b)(7).

⁹ 15 U.S.C. 78f(d)(1).

¹⁰ 15 U.S.C. 78s(d).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange filed Amendment No. 1 with the Commission on December 2, 1998. The amendment provides an example of an "inadvertent" violation, modifies the recommended fine schedule to increase the proposed recommended fines for short sale violations, and makes non-substantive changes. See Letter from Patricia L. Levy, Senior Vice President and General Counsel, the Chicago Stock Exchange, Inc., to Mignon McLemore, Division of Market Regulation, SEC, dated December 1, 1998.