

proposed block crosses on the Amex floor, which may result in such crosses being routed to markets in which size precedence is not addressed in the manner required by Amex rules.

III. Discussion

The Commission has reviewed carefully the proposed rule change, as amended, and finds that it is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).⁶ Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 6(b)(5)⁷ in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. The Commission believes that a reduction from 25,000 shares to 5,000 shares in the minimum size block cross that will be permitted to establish size precedence is reasonable, in view of the reduction in the minimum price variation resulting from the transition from fractional to decimal pricing. The Commission notes that the provision that the broker handling the cross must bid and offer for the customer side of the proposed transaction under Amex Rule 152 ensures that the customer does not lose an opportunity for price improvement.

IV. Conclusion

For the above reasons, the Commission finds that the proposed rule change, as amended, is consistent with the provisions of the Act, in general, and with Section 6(b)(5)⁸ in particular.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-AMEX-01-01), as amended, be and hereby is approved on a pilot basis through March 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-8350 Filed 4-4-01; 8:45 am]

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

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44101; File No. SR-BSE-00-22]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Minimum Equity Requirements for Derivative-Based Products

March 26, 2001.

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 January 3, 2001, the Boston Stock Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Item 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 seeks to amend the Interpretations and Policies of Section 6, Limitations on Exchange Liability, of Chapter XXIV, Portfolio Depositary Receipts, of the Rules of the Board of Governors to reduce from \$1,000,000 to \$200,000 the minimum equity requirement for firms trading derivative-based products if the firm arranges to clear its trades through another forum and obtains Exchange approval to do so. Below is the text of the proposed rule change. New text is in *italic*.

* * * * *

Chapter XXIV

Portfolio Depositary Receipts

Limitation on Exchange Liability

Sec. 6

* * * Interpretation and Policies

* * * 03 *For derivative based trading products, the minimum equity requirement, in certain limited circumstances, will be reduced from \$1,000,000 to \$200,000. The limited circumstances under which the equity requirement will be reduced must be based on clearing arrangements with another forum, through which a BSE member firm will settle their derivative product trades executed on the floor of the Exchange through a separate, non BSECC-member, clearing center. All*

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

such arrangements must be fully disclosed to, and approved by, the Exchange, prior to the reduction of the equity requirement. The Early Warning Alert provisions set forth in Chapter XXII, Sections 2(f)(ii) and (iii), and the caretaker provision set forth in Chapter XXII, Section 2(f)(iv) shall apply.

* * * * *

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 purpose of this proposed rule change is to add Paragraph .03 to the Interpretations and Policies of Chapter XXIV, Portfolio Depositary Receipts, Section 6, Limitation on Exchange Liability, of the Rules of the Board of Governors to reduce from \$1,000,000 to \$200,000 the minimum equity requirement for firms trading derivative based products if the firm arranges to clear its derivative based products trades through another forum, ("XBSE") and obtains Exchange approval to do so. The rationale for this is that the risk to the Exchange is substantially reduced if a member firm arranges pre-approved procedures for derivative-based products to settle through another, non-Boston Stock Exchange Clearing Corporation clearing institution. This policy would only apply in the limited product area of Portfolio Depositary Receipts, as is made clear in Section 1 of the relevant Chapter (XXIV), entitled "Applicability," which states that "[t]his Chapter is applicable only to Portfolio Depositary Receipts."

2. Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,³ in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing,

³ 15 U.S.C. 78f(b)(5).

settling, processing information with respect to, and facilitating transactions in securities; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the 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 either solicited or received.

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 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 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-BSE-00-22 and should be submitted by April 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-8349 Filed 4-4-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44104; File No. SR-CBOE-00-47]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendments No. 1 and 2 Thereto by the Chicago Board Options Exchange, Inc. Relating to Changes to Its Rule Governing the Retail Automatic Execution System ("RAES")

March 26, 2001.

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 8, 2000, 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 February 27, 2001, the CBOE filed Amendment No. 1 to the proposed rule change.³ On March 23, 2001, the CBOE filed Amendment No. 2 to the proposed rule change.⁴ The

¹ 47 CFR 200.30-3(a)(12).

² 15 U.S.C. 78s(b)(1).

³ 17 CFR 240.19b-4.

⁴ See letter from Timothy Thompson, Assistant General Counsel, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated February 23, 2001 ("Amendment No. 1"). In Amendment No. 1, the CBOE amended its proposed rule language to eliminate: (1) The proposed requirement that Order Entry Firms execute an application and agreement with the Exchange; (2) the proposed language establishing a presumption that the Exchange's prohibition against unbundling would be violated when multiple orders were entered within a 15-second period; (3) the proposed prohibition against entering orders via RAES to perform a market-making function; and (4) the proposed prohibition against manipulation, which the CBOE indicated is covered by other applicable rules and regulations. Instead, the CBOE proposed to adopt a prohibition against the entry of multiple orders in a call class and/or put class for the same option issue within a 15-second period by an account or accounts for the same beneficial owner. The CBOE also made minor technical corrections to the proposed rule text. These provisions are discussed more fully in Sections II and IV below.

⁵ See letter from Timothy Thompson, Assistant General Counsel, CBOE, to Nancy Sanow, Assistant

Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change and Amendments No. 1 and 2.

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

The CBOE proposes to simplify Rule 6.8 ("Rule" or "RAES Rule") by ordering the provisions of the RAES Rule in a more organized fashion and by adopting new rules and procedures to establish means of assuring better compliance with the RAES Rule.

Below is the text of the proposed rule change. Proposed new language is *italicized* and proposed deletions are in brackets.

* * * * *

CHAPTER VI

Doing Business on the Exchange

Section A: General

* * * * *

RAES Operations

* * * * *

Rule 6.8.

This Rule governs RAES operations in all classes of options, except to the extent otherwise expressly provided in this or other Rules in respect of specified classes of options. (a)[(i)] Firms on the Exchange's Order Routing System ("ORS") will automatically be on the Exchange's Retail Automatic Execution System ("RAES") for purposes of routing *eligible orders* [small public customer market or marketable limit orders] into the RAES system.

(b) *Definitions. For purposes of this Rule 6.8:*

(i) *The term "RAES" means the automated execution system feature of ORS that is owned and operated by the Exchange and that provides automated order execution and reporting services for option.*

(ii) *The term "User" means any person or firm that obtains access to RAES through an Order Entry Firm.*

(iii) *The term "Order Entry Firm" means a member organization of the Exchange that is able to route orders to the Exchange's ORS.*

(c) *Eligible Orders.*

An order must meet the following criteria to be eligible for RAES:

(i) *The order must be a market order or a marketable limit order. A marketable limit order is a limit order where the specified price at which to sell is below or at the*

Director, Division, Commission, dated March 22, 2001 ("Amendment No. 2"). In Amendment No. 2, the CBOE made minor technical changes to its proposed rule text. The CBOE also requested accelerated approval of the instant proposal and stated that the Commission has already approved similar proposals by other options exchanges.