

than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

*The Commission orders:*

(a) The Postal Service shall file the record in this appeal by May 30, 1995.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

**Margaret P. Crenshaw**,  
Secretary.

**Appendix**

Rowletts, Kentucky 42772 Docket No. A95-12

May 15, 1995—Filing of Appeal letter.

May 23, 1995—Commission Notice and Order of Filing of Appeal.

June 9, 1995—Last day of filing of petitions to intervene (see 39 CFR 3001.111(b)).

June 19, 1995—Petitioners' Participant Statement or Initial Brief (see 39 CFR 3001.115(a) and (b)).

July 10, 1995—Postal Service's Answering Brief (see 39 CFR 3001.115(c)).

July 24, 1995—Petitioners' Reply Brief should Petitioner choose to file one (see 39 CFR 3001.115(d)).

July 31, 1995—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116).

September 12, 1995 Expiration of the Commission's 120-day decisional schedule (see 39 U.S.C. 404(b)(5))

[FR Doc. 95-13093 Filed 5-26-95; 8:45 am]

BILLING CODE 7710-FW-P

**SECURITIES AND EXCHANGE  
COMMISSION**

[Release No. 34-35742; File No. SR-CBOE-95-04]

**Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, Relating to Certain Procedures Regarding Trading Rotations and Opening Procedures**

May 19, 1995.

**I. Introduction**

On January 18, 1995, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed the following proposed rule changes with the Securities and Exchange Commission ("SEC" or "Commission"), 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> (1) Granting two concurring Floor Officials the discretion to call for one or more trading rotations on any business day pursuant to Rule 6.2; (2) codifying in Rule 6.2, the current practice of allowing two concurring Floor Officials the discretion to delay commencement of the opening rotation in any class of options; (3) granting two concurring Floor Officials the discretion to delay the commencement of the opening rotation for index options, and deleting the requirement that any delays in the opening rotation must be in five minute intervals, pursuant to Interpretation .03 to Rule 24.13; (4) granting Order Book Officials the discretion to determine the appropriate rotation order and manner, or to deviate from a previously established rotation policy or procedure, pursuant to Rule 6.2; (5) adding Interpretation .04 to Rule 6.2 to specify that the decision to conduct an abbreviated rotation is one, but not the only example of a type of rotation modification that may be employed; (6) granting the Order Book Official the authority to prescribe that two or more trading rotations be employed simultaneously pursuant to Rule 6.2; (7) granting two concurring Floor Officials the authority to commence more than one trading rotation after 3:10 p.m. (central time) pursuant to Interpretation .02 to Rule 6.2; (8) clarifying that the factors, provided in Interpretation .02 to Rule 6.2, to consider in determining whether to commence more than one trading rotation after 3:10 p.m., are not limited to those enumerated; (9) clarifying that although closing rotations are not ordinarily conducted in expiring

series of index options, such closing rotations are not absolutely prohibited pursuant to Interpretation .03 to Rule 6.2; (10) granting two concurring Floor Officials the authority to deviate from the procedures for closing rotations pursuant to Interpretation .03 to Rule 6.2; (11) granting Order Book Officials the discretion to determine the appropriate rotation order and manner, or to deviate from a previously established rotation policy or procedure for index options pursuant to Rule 24.13; and (12) deleting a portion of Rule 24.13 that requires an Order Book Official to open the nearest expiration series of index options before opening the remaining series in a manner she or he deems appropriate.

Notice of the proposal was published for comment and appeared in the **Federal Register** on February 21, 1995.<sup>3</sup> No comment letters were received on the proposed rule changes. This order approves the Exchange's proposal.

**II. Description of Proposal**

The CBOE proposes to amend its rules relating to certain procedures regarding trading rotations<sup>4</sup> and opening procedures.<sup>5</sup> First, CBOE proposes to amend Rule 6.2 to grant two concurring Floor Officials discretion to direct that one or more trading rotations be employed on any business day. Currently, Rule 6.2 grants only the Floor Procedures Committee this discretion. CBOE believes that it is impractical to assemble the entire Floor Procedures Committee for such as intra-day decision. CBOE states that under Rule 6.6(b)(iii), two concurring Floor Officials already have the discretion to call a trading rotation after the declaration of a fast market. By amending Rule 6.2, this discretion would not be limited to fast market situations.

CBOE proposes to further amend Rule 6.2 by codifying the current practice of allowing two concurring Floor Officials to delay commencement of the opening rotation in any class of options in the interests of a fair and orderly market. CBOE believes that the rules should expressly grant Floor Officials the power to react to market conditions and circumstances by delaying an opening rotation when it is in the interests of a fair and orderly market. Interpretation .01(b) to Rule 6.2 currently grants two

<sup>3</sup> See Securities Exchange Act Release No. 35369 (February 14, 1995), 60 FR 9702 (February 21, 1995).

<sup>4</sup> A "trading rotation" is a series of very brief time periods during each of which bids, offers, and transactions in only a single, specified option contract can be made. See CBOE Rule 6.2.

<sup>5</sup> See CBOE Rules 6.2 and 24.13.

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

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

concurring Floor Officials the authority to conduct the rotation in a manner other than that set forth in the Rule, but Rule 6.2 does not state expressly that the Floor Officials may also delay the opening rotation.

Similarly, CBOE proposes to amend Interpretation .03 to Rule 24.13, by granting two concurring Floor Officials greater discretion to delay the commencement of the opening rotation for index options, and by deleting the requirement that any delays in the opening rotation must be in five (5) minute intervals. Rather than limiting the circumstances and the time period in which two concurring Floor Officials may delay the opening, amended Interpretation .03 would permit Floor Officials to delay the opening rotation at their discretion in the interests of a fair and orderly market. The circumstances outlined in current Interpretation .03 to Rule 24.13, in which two concurring Floor Officials may delay the opening, would remain as factors that Floor Officials may consider in deciding whether to delay the opening rotation. If Floor Officials do in fact delay the opening rotation, CBOE believes that these officials should be granted greater discretion to end the delay and commence the opening before the five (5) minute interval has lapsed, if the circumstances warrant that decision. In addition, CBOE believes that for lengthy delays, it is impractical to require two Floor Officials to remain at the index options post for the sole purpose of declaring successive five minute delays.

CBOE believes that these amendments are consistent with the amendments proposed for Rule 6.2, which grant two Floor Officials the authority to delay the opening rotation in any class of options in the interests of a fair and orderly market. CBOE argues that because current Interpretation .01 to Rule 24.13 provides that the procedures for modification of a rotation and other aspects of the rotation set forth in Rule 6.2 are applicable to index options, the authority regarding delays in opening contained in Rule 6.2 likewise should apply to index options.

CBOE also proposes to amend Rule 6.2 to grant Order Book Officials more discretion regarding the rotation order and manner. CBOE proposes that if the appropriate Floor Procedures Committee<sup>6</sup> has not acted to establish any policy applicable to the particular class of options in question, then the

Order Book Official would be authorized to determine the appropriate order and manner for conducting the rotation. CBOE believes this aspect of the rule change would allowed Order Book Officials to respond to particular circumstances the Floor Procedures Committee has not considered and to conduct the rotation as is appropriate under those circumstances.

CBOE also proposes to further amend Rule 6.2, granting the Order Book Official, with the approval of two concurring Floor Officials, the authority to deviate from a rotation policy or procedure previously established by the appropriate Floor Procedures Committee. The Exchange believes that in certain circumstances, it may be appropriate to deviate from the established procedure, but it would be impractical to assemble the Floor Procedure Committee for an intra-day decision allowing such a deviation. Rule 6.2, as amended, would allow two concurring Floor Officials to act for the entire committee and approve or disapprove an Order Book Official's proposed deviation from the previously established rotation policy or procedure. Currently, pursuant to Interpretation .01(b) to Rule 6.2, the Order Book Official, with the approval of two concurring Floor Officials or the Floor Procedures Committee, may conduct an *opening* rotation in a manner other than that set forth in Interpretation .01(b). By amending Rule 6.2, CBOE proposes to extend this existing policy to *all* rotations.

CBOE also proposes to add Interpretation .04 to Rule 6.2 to specify that the decision to conduct an abbreviated rotation is one of the deviations permitted under the amended rule. Interpretation .04 provides an example of a type of rotation modification, or deviation from rotation policy or procedure that may be employed, but it is not intended to be an exclusive list.

CBOE proposes to further amend Rule 6.2 so that the Order Book Official, or the Floor Procedures Committee, may prescribe that two or more trading rotations be employed simultaneously. CBOE believes that it would be impractical to assemble the Floor Procedures Committee for an intra-day decision regarding simultaneous trading rotations.

CBOE proposes to amend Interpretation .02 to Rule 6.2 to grant two concurring Floor Officials the authority to commence more than one trading rotation after 3:10 p.m. (central time), and to clarify that the reasons stated for allowing two concurring Floor Officials to conduct a rotation after the

close of trading are not exclusive. While the amended interpretation indicates that, in general, no more than one trading rotation will be commenced after 3:10 p.m., CBOE believes that it is in the interests of a fair and orderly market to grant two concurring Floor Officials the discretion to exercise their judgment in response to market conditions or circumstances. The amended interpretation does not enumerate all the possible underlying conditions and circumstances for commencing more than one trading rotation after the close of trading. Those listed include the current practice of employing a trading rotation after the end of normal trading hours in connection with a year-end rotation or due to the restart of a rotation which is already in progress. CBOE believes it may be necessary to continue the rotation after the normal close of trading in order to complete the rotation for circumstances including, but not limited to, those stated in the amended interpretation.

Interpretation .03 to Rule 6.2 currently provides that "a closing rotation for an expiring series of index options *shall* not be employed." (Emphasis Added.) Although closing rotations are not ordinarily employed in expiring series of index options, CBOE believes it is inappropriate to prohibit closing rotations for such series. CBOE, therefore, proposes to amend the interpretation to state that a closing rotation for such expiring series "is not ordinarily" employed. CBOE believes the proposed amendment to Interpretation .03 is necessary to clarify that, unlike the case with equity options, closing rotations are not ordinarily conducted in expiring series of index options, but that such closing rotations are not absolutely prohibited.<sup>7</sup>

Interpretation .03 to Rule 6.2 would also be amended to grant two concurring Floor Officials the authority to deviate from the procedures for closing rotations if they determine such deviation is in the interests of a fair and orderly market. Again, CBOE believes that it is in the interests of a fair and orderly market to allow two concurring Floor Officials to exercise their

<sup>7</sup> CBOE believes that a system malfunction or a major announcement in the markets late in the trading day, among other things, may require a closing rotation for expiring series of index options in order to accommodate any order flow problems resulting from such occurrences. Telephone conversation between Edward Joyce, CBOE, Michael Meyer, Attorney, Schiff, Hardin, and Waite, Michael Walinskas, Branch Chief, and John Ayanian, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, on February 13, 1995.

<sup>6</sup> The "appropriate" Floor Procedures Committee is the committee that makes policy regarding the particular class of options in question. See Securities Exchange Act Release No. 35369 (February 14, 1995), 60 FR 9702 (February 21, 1995).

judgment in response to market conditions and circumstances.

Consistent with the above changes to Rule 6.2 regarding the order and manner of the rotation, CBOE proposes to amend Rule 24.13 to give the Order Book Official greater discretion to determine the appropriate order and manner for conducting the rotation for index options. Similar to amended Rule 6.2, the Floor Procedures Committees that make policy for an index option would have the authority to set policy regarding the order and manner of the opening rotation. If the Floor Procedures Committee has not acted to establish a policy applicable to a particular situation, then the Order Book Official would be permitted to determine the appropriate order and manner for conducting the opening rotation. Again, as similarly proposed in amended Rule 6.2, CBOE proposes to further amend Rule 24.13 to grant the Order Book Official the authority to deviate from the appropriate Floor Procedures Committee's established procedure regarding the order and manner of the opening rotation so long as two concurring Floor Officials approve such as a deviation. CBOE believes that it would be impractical to assemble a Floor Procedures Committee for an intra-day decision allowing a deviation from established opening rotation policy or procedure.

CBOE would further amend Rule 24.13 by deleting the provisions that require the Order Book Official to open the nearest expiration series first and thereafter open the remaining series in a manner he deems appropriate. CBOE believes that the Order Book Official should have the discretion not to open with the nearest expiration series if a different order would be appropriate under the circumstances.

### III. Commission Finding and Conclusions

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.<sup>8</sup> Specifically, the Commission believes that the proposed rule changes are designed to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to promote just and equitable principles of trade.

First, the Commission believes that it is appropriate to amend Rules 6.2 and

24.13 to grant the Order Book Official greater discretion regarding the rotation order and manner. The Commission notes, however, that the discretion of the Order Book Official is not absolute. The Order Book Official may determine, without subsequent approval, the appropriate order and manner for conducting the rotation only if the appropriate Floor Procedures Committee has not acted to establish any policy applicable to the particular class of options in question. The Order Book Official must otherwise obtain approval from two concurring Floor Officials to deviate from the order and manner for conducting the rotation for a particular class of options already established by the appropriate Floor Procedures Committee. The Commission believes the proposed amendments to Rule 6.2 and Rule 24.13 are reasonable in view of the CBOE's intended goal to allow Order Book Officials and Floor Officials the discretion to exercise their judgment in response to market conditions or circumstances.

The Commission also believes that it is appropriate to add Interpretation .04 to Rule 6.2 to state that the decision to conduct an abbreviated rotation is one example of a deviation from rotation policy or procedure and one of the modifications of rotation order and manner that is permitted under Rule 6.2.

Further, the Commission believes that it is appropriate to amend Rule 6.2 to afford an Order Book Official the discretion to authorize two or more simultaneous trading rotations. The Commission also finds that it is appropriate to amend Rule 6.2 to grant two concurring Floor officials the discretion to direct that one or more trading rotations be employed on any given business day. Both situations involve an intra-day decision that, under current Rule 6.2, would require the entire Floor Procedures Committee to assemble. The Commission agrees that it may be impractical to assemble the Floor Procedures Committee for such intra-day decisions. The Commission also believes that by granting Order Book Officials and Floor Officials the discretion to evaluate current market conditions and employ the appropriate number of rotations in response to these conditions, these officials will be positioned to make informed decisions regarding the manner in which a rotation can maintain or contribute to the maintenance of a fair and orderly market.

Further, the Commission believes that the Exchange's proposal to amend

Interpretation .02 to Rule 6.2 to grant two concurring Floor Officials the authority to commence more than one trading rotation after 3:10 p.m. (central time) to maintain a fair and orderly market, is a reasonable response to the Exchange's attempt to respond to current market conditions. The interpretation is further amended to clarify that the factors to be considered in determining whether to commence more than one trading rotation after 3:10 p.m. are not limited to those enumerated. Although the amended interpretation grants two concurring Floor Officials the discretion to exercise their judgment in response to market conditions or circumstances, the Commission supports CBOE's policy that, in general, no more than one trading rotation will be commenced after 3:10 p.m.

The Commission also believes that it is reasonable to amend Rule 6.2 by codifying the current practices of allowing two concurring Floor Officials to delayed commencement of the opening rotation in any class of options to maintain a fair and orderly market. The proposed amendment to Rule 6.2 will expressly grant two concurring Floor Officials the power to react to market conditions and circumstances by delaying the opening rotation. The Commission believes that the proper exercise of this authority should contribute to the protection of investors and the public interest by enabling Floor Officials to respond to current market conditions in a timely manner.

For the same reason, the Commission also believes that it is appropriate to amend Interpretation .03 to Rule 24.13 to grant two concurring Floor Officials greater discretion to delay the commencement of the opening rotation for index options by deleting the requirement that any delays in the opening rotation for index options be in five minute intervals. Specifically, the Commission notes that by deleting this five minute interval requirement, Floor Officials will be able to react more promptly to current market conditions and commence the opening rotation in an interval shorter than five minutes if the circumstances warrant. By granting Floor Officials the flexibility to immediately commence an opening rotation, investors may be able to reduce their exposure to price fluctuations occurring when the index options markets have a delayed opening and the stock and futures markets are open. The Commission further notes that for lengthy delays, it may be impractical to require two Floor Officials to continuously remain at the index options post for the purpose of declaring

<sup>8</sup> 15 U.S.C. 78f(b)(5).

successive five minute delays. The proposed rule change will provide the Exchange's Floor Officials more flexibility to declare delayed openings in index options in appropriate circumstances.

Furthermore, the Commission believes it is appropriate to amend Interpretation .03 to Rule 6.2 to state that a closing rotation for expiring series of index options "is not ordinarily" employed. Under the current interpretation, a closing rotation for an expiring series of index options "shall not be employed." The Commission believes that the proposed amendment to Interpretation .03 should provide CBOE Floor Officials the opportunity to respond to extraordinary circumstances including, but not limited to, a system malfunction or a major announcement in the markets late in the trading day.<sup>9</sup>

For the same reasons, the Commission also believes that it is appropriate to amend Interpretation .03 to Rule 6.2 to grant two concurring Floor Officials the authority to deviate from the procedures for closing rotations if they determine such deviation is to maintain a fair and orderly market.

Finally, the Commission believes it is appropriate to delete from Rule 24.13 the requirement that an Order Book Official open the nearest expiration series of index options before opening the remaining series. The Commission believes that the proposed rule change, by permitting the Order Book Official to exercise his judgment in response to market conditions or circumstances, is consistent with the purposes of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule changes (File No. SR-CBOE-95-04) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

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

[FR Doc. 95-13072 Filed 5-26-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-35752; file No. SR-PTC-95-04]

**Self-Regulatory Organizations; Participants Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Changing Custodians for the Safekeeping of Physical Certificates on Deposit With the Participants Trust Company**

May 22, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on May 1, 1995, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-PTC-95-04) as described in Items I, II, and III below, which Items have been prepared primarily by PTC. On May 9, 1995, PTC filed an amendment to the proposed rule change.<sup>2</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 proposed rule change concerns PTC's change in custodians for the safekeeping of physical certificates on deposit with PTC.

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

In its filing with the Commission, PTC 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. PTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>3</sup>

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

On April 18, 1995, PTC entered into a custody agreement with The Depository Trust Company ("DTC")

providing for the safekeeping by DTC of physical certificates on deposit with PTC. On the same date, PTC amended its custody agreement with Chemical Bank providing for the termination of the current custody arrangements with Chemical Bank. DTC began providing custodial services upon the completion of the transfer of the physical certificates to DTC on May 8, 1995. The custodial services to be provided by DTC are substantially similar to the services previously provided by Chemical Bank at considerable savings to PTC and its participants. The change in custodians was authorized by PTC's Board of Directors after completion of a due diligence review of DTC's facilities and procedures. DTC currently has approximately \$8.3 trillion in securities under its custody and control in connection with the custodial services it offers to its own participants.

PTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>4</sup> and the rules and regulations thereunder because it provides for the safeguarding of securities and funds in PTC's custody or control or for which PTC is responsible.

**(B) Self-Regulatory Organization's Statements on Burden on Competition**

PTC does not believe that the proposed rule change imposes any burden on competition.

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

PTC has neither solicited nor received comments on this proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>5</sup> and subparagraph (e)(3) of Rule 19b-4<sup>6</sup> thereunder because the proposed rule change concerns the administration of PTC. At any time within sixty days of the filing of such 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.

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> As originally filed, the proposal incorrectly stated that the effective date of the transfer of securities was to be completed on or about May 8, 1996. The amendment set forth the correct date as May 8, 1995. Letter from Leopold S. Rassnick, Senior Vice President, General Counsel, and Secretary, PTC, to Jonathan Katz, Secretary, Commission (May 9, 1995).

<sup>3</sup> The Commission has modified the text of the summaries prepared by PTC.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F) (1988).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(iii) (1988).

<sup>6</sup> 17 U.S.C. 240.19b-4(e)(3) (1994).

<sup>9</sup> See *supra* note 7.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).