

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Sections 6(b)(5) and 6(c)(3) in particular in that it is designed to examine the training, experience and competence of Amex members and persons associated with them, and to verify the qualifications of such persons with respect to Amex membership. In addition, the proposed rule change serves to protect investors and the public interest by helping to assure member competence.

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

The proposed rule change will impose no 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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. 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-Amex-95-18 and should be submitted by June 28, 1995.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder pertaining to a national securities exchange. In particular, the Commission

believes that the proposed rule change is consistent with Sections 6(b)(5) and 6(c)(3)(B) of the Act.⁷ Section 6(b)(5) requires, among other things, that the rules of an exchange be 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, in general, to protect investors and the public interest. Section 6(c)(3)(B) provides that a national securities exchange may examine and verify the qualifications of an applicant to become a person associated with a member in accordance with procedures established by the rules of the exchange, and require any person associated with a member, or any class of such persons, to be registered with the exchange in accordance with procedures so established.

The Commission also believes that the proposed rule change is consistent with Section 15(b)(7) of the Act,⁸ which stipulates that prior to effecting any transaction in, or inducing the purchase or sale of, any security, a registered broker or dealer must meet certain standards of operational capability, and that such broker or dealer and all natural persons associated with such broker or dealer must meet certain standards of training, experience, competence, and such other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors.

The Commission believes that the proposed requirement that members who accept orders from professional customers for execution on the Amex trading Floor pass the Series 7A examination is consistent with the Act. Moreover, the Commission believes that the proposed requirement that the clerks of such Floor members pass the new Series 7B examination also is consistent with the Act. These requirements should help to ensure that only those Floor members and Floor clerks with a comprehensive knowledge of Exchange rules and the Act are able to accept orders from professional customers for execution on the trading Floor.⁹

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date

of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval is appropriate given the prior approval of the examinations and their use on the NYSE and because the accelerated approval will allow Amex to begin utilizing the examinations as soon as practicable.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-Amex-95-18) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35785; File No. SR-CBOE-94-54]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to the Proposal Relating to Firm Quote Responsibilities

May 31, 1995.

On January 4, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to expand the applicability of CBOE Rule 8.51, its firm quote rule, to certain two-part equity option orders in an attempt to allow public customers to execute defined risk strategies, such as spreads and straddles, at the disseminated market quotes.

Notice of the proposed rule change was published for comment and appeared in the **Federal Register** on February 14, 1995.³ No comments were received on the proposal. On May 24, 1995, the CBOE submitted Amendment No. 1 to the filing ("Amendment No. 1") in order to clarify certain non-substantive matters.⁴ This order approves the proposal, as amended.

⁷ 15 U.S.C. 78f(b)(5) and (c)(3)(B) (1988 & Supp. V 1993).

⁸ 16 U.S.C. 78o(b)(7) (1988).

⁹ The Exchange will continue to require the successful completion of the Series 7 examination for members and their Floor clerks seeking to become registered representatives dealing with other than professional customers. In addition, any person who has successfully completed the Series 7 Examination will not be required to complete the Series 7A and 7B Examinations.

¹⁰ 15 U.S.C. § 78s(b)(2) (1988).

¹¹ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. § 78s(b)(1) (1988 & Supp. V 1993).

² 17 CFR 240.19b-4 (1994).

³ See Securities Exchange Act Release No. 35345, 60 FR 8433.

⁴ See Letter from Michael L. Meyer, Schiff Hardin & Waite, to Michael A. Walinkas, Chief, Options Branch, SEC, dated May 24, 1995. Specifically,

I. Description of the Proposal

The purpose of the proposed rule change is to expand the applicability of CBOE Rule 8.51, its firm quote ("firm quote") or ten-up ("ten-up") rule, to include two-part equity option orders in which the component series are on opposite sides of the market and in a one-to-one ratio. The CBOE believes this change will enhance the ability of public customers to execute defined risk strategies, such as spreads and straddles, at the disseminated market quotes.⁵

CBOE Rule 8.51 places the responsibility on the trading crowd to ensure that non-broker-dealer customer orders are sold or bought, up to ten contracts, at the quoted offer or bid, respectively. This "firm quote" or "ten-up" requirement is meant to provide confidence that the displayed quotes may be relied upon by the investing public and to ensure that public customer orders will be executed at those quotes, or better.

From its inception the ten-up rule was intended to apply to, and has been interpreted to apply only to, single part orders, *i.e.*, either a buy order or a sell order for a particular option series. The Exchange has determined, however, that public customers would be served better if the interpretation were expanded to include a requirement to provide a ten-up market in two-part equity option orders in which the components of the order are on opposite sides of the market and in a one-to-one ratio to each other. The expansion in the interpretation of this rule would make it possible for public customers to execute both sides of a defined risk strategy, for up to ten contracts on each side, such as a spread or a straddle, at the disseminated prices. The exchange believes the rule change should help it compete more effectively for public customer order flow and trading activity.

The Exchange does not believe this rule change would be burdensome to market-makers because, under the current interpretation, the market-makers would be required to satisfy the ten-up requirement as to each leg of a spread or straddle if each was placed as a separate order. This rule change would merely ensure that these two components may be done at the same time, as one order, and at the same prevailing market quotes. The Exchange

believes, however, that it is inappropriate, under any circumstance, to extend the firm-quote treatment to multipart orders with all parts on the same side of the market as this would effectively impose the burden on options market-makers of making markets in the underlying security. For example, a position in a long call and a short put is economically equivalent to being long the underlying stock; and thus, requiring a trading crowd to provide firm quote treatment to an order for this position would essentially be requiring the option market-makers to act as market-makers in the underlying security.⁶

II. Discussion

The Commission finds that 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, the requirements of Section 6(b)(5).⁷ In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers, and dealers.

The Commission believes that the CBOE's proposal to modify its current ten-up rule should expand the benefits to public customers associated with ten-up markets. In general, the ten-up rule results in faster executions of public customer orders and improves the quality of the Exchanges' options markets and market maker performance. Specifically, the proposal will extend the ten-up rule to each leg of certain two-part equity options. Accordingly, small public customers will be assured order execution for both parts of the order at the same time and at the best bid or offer to a minimum depth of ten contracts. Accordingly, the proposal should result in better executions for these types of non-broker dealer customer orders.

The Commission also believes the proposal will provide greater depth to the option markets without imposing any undue burdens upon market makers. Because market makers are already required to satisfy the ten-up requirement as to each leg of two part equity option orders as if each was

placed as a separate order, the Commission does not believe the proposal will impose any additional unnecessary burdens or capital risks upon market makers.

The Commission also notes that the proposal will only apply to two-part equity option orders in which the components are on opposite sides of the market and in a one-to-one ratio. The Commission believes these conditions are reasonable measures that should help ensure that the proposal will not allow the simultaneous execution of certain types of orders that otherwise might effectively raise the firm quote requirements above the current ten contracts limit, which could create disparate firm quote treatment for "one" versus "two" part orders.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 adopts Interpretation and Policy .06 to Rule 8.51, which reflects in summary form the policy described in the Regulatory Circular. Because the Regulatory Circular was included as part of the filing, the substance and policy of which were discussed in the notice, the Commission does not believe that Amendment No. 1 raises any new or substantive issues. Therefore, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-CBOE-94-

Amendment No. 1 proposes to add Interpretation and Policy .06 to CBOE Rule 8.51.

⁵ In its filing, the CBOE included a draft regulatory circular to be issued to members describing the change in policy applicable to the ten-up guarantee under CBOE Rule 8.51.

⁶ Under existing Rule 8.51, the firm quote size minimum will continue to not apply whenever a "fast market" is declared under Rule 6.6, and may be suspended for any class or series on a case by case basis as determined by the Market Performance Committee.

⁷ 15 U.S.C. 78f(b)(5) (1982).

54 and should be submitted by June 28, 1995.

It Therefore Is Ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-CBOE-94-54) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35789; File No. SR-CBOE-95-05]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1, 2, and 3 to the Proposed Rule Changes by the Chicago Board Options Exchange, Incorporated, Relating to Trading Halts, Trading Suspensions, the Re-opening of Trading after a Trading Halt or Suspension, and the Suspension of the Retail Automatic Execution System

May 31, 1995.

I. Introduction

On January 18, 1995, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange"), filed 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")¹ and Rule 19b-4² thereunder, to: (1) Codify the Exchange's existing practice regarding the factors considered and circumstances under which the Exchange could decide to halt or suspend trading in its markets; (2) establish procedures for the resumption of trading after a halt or suspension is lifted; and (3) grant the senior person in charge of the CBOE Control Room the authority to turn off the Retail Automatic Execution System ("RAES") if the Control Room receives a credible indication that trading has stopped in the underlying stock. The Exchange filed Amendment No. 1 to the proposal on February 21, 1995,³ Amendment No.

2 to the proposal on May 10, 1995,⁴ and Amendment No. 3 to the proposal on May 31, 1995.⁵

Notice of the proposal was published for comment and appeared in the **Federal Register** on February 27, 1995.⁶ No comment letters were received on the proposed rule changes. This order approves the Exchange's proposal, as amended.

II. Description of the Proposal

The CBOE proposes to amend its rules and Regulatory Circulars RG94-17 ("Inter-Exchange Procedures in Volatile Markets") and RG93-58 (formerly RG92-40 ("Trading Halt Policy")) to codify existing practices regarding the factors the Exchange considers in deciding whether to halt or suspend trading and the circumstances under which trading is generally halted or suspended by the Exchange. The CBOE also proposes to establish procedures for the resumption of trading after a halt or suspension is lifted, and to grant the senior person in charge of the Control Room the authority to turn off RAES⁷ for a particular stock option if the Control Room receives a credible indication that trading in the underlying stock has been halted.

A. Status of Rotation as Factor Considered in Halt or Suspension

Specifically, the CBOE proposes to amend Rules 6.3(a), 6.4(a) and 24.7(a) to

Regulation"), Commission, dated February 17, 1995. ("Amendment No. 1").

⁴ Amendment No. 2 proposes to amend Interpretation .05 to CBOE Rule 6.3 to indicate that the senior person in the Control Room may rely on a *verified report* from the CBOE trading crowd as a credible indication of a trading halt or suspension in the primary market of an underlying security.

CBOE also proposes to clarify that its proposed rescission of CBOE Rule 6.3A is intended to encompass the two Interpretations and Policies previously adopted for that rule. See Letter from Michael Meyer, Schiff, Hardin & Waite, to John Ayanian, Attorney, Market Regulation, OMS, Commission, dated May 10, 1995. ("Amendment No. 2".)

⁵ Amendment No. 3 proposes to amend Regulatory Circular RG93-58 to indicate that two Floor Officials may permit trading to continue for more than 15 minutes after a failure of last sale and/or quotation dissemination from either the Exchange or the Options Price Reporting Authority ("OPRA") only with the concurrence of a senior Exchange official. See Letter from Michael Meyer, Schiff, Hardin & Waite, to John Ayanian, Attorney, Market Regulation, OMS, Commission, dated May 31, 1995. ("Amendment No. 3".)

⁶ See Securities Exchange Act Release No. 35397 (February 21, 1995), 60 FR 10621 (February 27, 1995).

⁷ RAES automatically executes public customer market and marketable orders of a certain size against participating market makers in the CBOE trading crowd at the best bid or offer reflected in the CBOE quotation system. A more detailed description of RAES is provided in Securities Exchange Act Release No. 22015 (May 6, 1985), 50 FR 19832 (May 10, 1985).

include the status of the trading rotation⁸ as a factor that may be considered in a decision whether to halt or suspend trading. Although not presently explicit in the CBOE rules, the Exchange states that its current practice includes consideration of the rotation status in deciding whether to halt or suspend trading. An explicit statement would notify members and the public that, when deciding whether to halt trading, Floor Officials may consider the extent to which the rotation has been completed and other factors regarding the status of the rotation. When deciding whether to suspend trading, the Board of Directors similarly would be able to consider the extent to which the rotation is complete and other factors regarding the status of the rotation.

B. Regulatory Halt or Suspension

CBOE further proposes to add Interpretation .04 to Rule 6.3 and Interpretation .01 to Rule 6.4 to reflect the current CBOE practice that, in general, trading in a stock option will be halted when a regulatory halt in the underlying stock has occurred in the primary market for that stock. Pursuant to Rule 6.3, any two Floor Officials may halt trading in any security in the interests of a fair and orderly market for a period not in excess of two consecutive business days. Similarly, the proposal reflects the current CBOE practice that, in general, trading in a stock option will be suspended when a regulatory suspension in the underlying stock has occurred in the primary market for that stock. In the case of a regulatory suspension, the Board of Directors is authorized under Rule 6.4 to suspend trading in any security in the interests of a fair and orderly market for an indefinite period.

Rules 6.3 and 6.4 list factors considered in deciding whether to halt or suspend trading. While the factors listed are considered in deciding whether to halt trading, when a regulatory halt in the underlying stock has been declared in the primary market, generally the Exchange will halt or suspend trading in the overlying stock option. The Exchange believes that the close relationship between the underlying stock and the pricing of stock options overlying that security typically justify such a result. When a regulatory halt is declared in the underlying stock, it often is because some news is pending regarding the

⁸ A "trading rotation" is a series of very brief time periods during which bids, offers, and transactions in only a single, specific option contract can be made. See CBOE Rule 6.2.

⁸ 15 U.S.C. § 78s(b)(2) (1988)

⁹ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 proposes to delete the reference to Rule 6.3A in paragraph (c) of Rule 24.7, because the rule change proposes the deletion of Rule 6.3A in its entirety. See Letter from Michael Meyer, Schiff, Hardin & Waite, to John Ayanian, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market