

associated persons (as defined in the Application Agreement) will trade with others transmitted through the Terminal. There are two exceptions to this restriction. First, the applicant or an associated person will be able to trade with an order in the Terminal system if no one wishes to trade with it. Second, the applicant and its associated persons will be able, if they so desire, to participate in the order on the same basis that other market makers who do not have priority participate. Paragraph E also prohibits the applicant and its restricted persons from using for their own benefit any information contained in any order in the Terminal system until that information has been disclosed to the trading crowd.

Initially, the Exchange will limit the use of Terminals to the SPX options trading crowd for routing of orders in SPX options. This limitation will give the Exchange the opportunity to observe how the Terminals are being used in a crowd which is active enough to bring to light any unforeseen problems and to gain experience with the use of Terminals in that trading crowd before the Exchange implements the policy floor-wide.⁶

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Sections 6(b)(1) and 6(b)(5) of the Act, in particular, in that the proposal is designed to improve communications to and from the Exchange's trading floor in a manner that gives the Exchange necessary monitoring tools and that is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, perfect the mechanisms of a free and open market, and protect investors and the public interest.

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

The Exchange believes that the proposed rule change will not impose any inappropriate burden on competition. To the contrary, the Exchange believes that the proposed rule change will promote competition among brokers by encouraging the development and use of new systems designed to facilitate the execution of customer orders, while preserving the benefits of the auction market for all customers. The proposed rule change does place conditions on the use of the proposed Terminals, but the Exchange

believes those conditions are reasonably necessary and appropriate for the protection of investors and in furtherance of the other purposes of the Act.

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

Written comments on the proposed rule change were neither solicited nor received. In a collateral document addressed to the Exchange after the proposed policy was adopted, counsel for the firm referred to above which seeks to establish a Terminal on the Exchange floor stated that the conditions imposed by the Application Agreement were "unauthorized restrictions" and then stated:

In particular, paragraph C of the [Application] Agreement limits the use of the terminals to certain kinds of orders, namely, ones that "do not create a pattern of offering in the aggregate either to make two-sided markets or simultaneously to represent opposite sides of the market in any class of options." In addition to being vague and ambiguous, this restriction lacks any basis in the rules of the Exchange. Equally important, this restriction violates the letter and spirit of the Securities Exchange Act of 1934, as amended, in that it: undermines investor protections; erects impediments to the mechanism of a free and open market and a national market system; inhibits the economically efficient execution of securities transactions; and unnecessarily impairs competition.⁷

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., 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 Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-CBOE-95-48 and should be submitted by November 3, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jonathan G. Katz,
Secretary.

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[Release No. 34-36343; File No. SR-CBOE-95-33]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to an Amendment to the Exchange's Crossing Rule

October 5, 1995.

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 July 12, 1995, the Chicago Board Options Exchange ("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. 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 its crossing rule (Rule 6.74) by adding Interpretation and Policy .05, which will permit Floor Brokers to cross equity option orders in certain limited situations without having to comply with all of the requirements of the rule.

⁸ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² CFR 240.19b-4 (1994).

⁶ The Commission notes that any decision to extend the policy floor-wide would have to be submitted to the Commission as a proposed rule change pursuant to Section 19(b) of the Act.

⁷ See Amendment No. 1 *supra* note 2.

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, 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 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

The purpose of proposed Interpretation and Policy .05 to Rule 6.74 is to create an exception to CBOE Rule 6.74(a) to enable Floor Brokers representing certain types of *equity* option orders to cross those orders without having to satisfy the price improvement requirement embodied in subparagraphs (a) (ii) and (iii) of Rule 6.74.

Rule 6.74(a) imposes specific order exposure requirements on Floor Brokers seeking to cross buy orders with sell orders. Specifically, Rule 6.74(a)(i) provides that a Floor Broker who holds orders to buy and sell the same option series may cross such orders, but only where the Floor Broker first requests bids and offers for such option series and makes all persons in the trading crowd aware of his request. Subparagraph (a)(ii) provides that, after giving the trading crowd an opportunity to make bids and offers in response to his request, the Floor Broker either bids above the highest bid in the market and gives a corresponding offer at the same price or at prices differing by the minimum fraction, or offers below the lowest offer in the market and gives a corresponding bid at the same price or at prices differing by the minimum fraction. Under subparagraph (a)(iii) of the rule, only if such higher bid or lower offer is not taken may the Floor Broker cross the orders at such higher bid or lower offer by announcing by public outcry the cross and giving the quantity and price.

In certain situations where a Floor Broker has been continuously representing a limit order to buy equity options at a price which is equal to the lowest offer or sell equity options at a

price which is equal to the highest bid ("Resting Order")³ and the same Floor Broker subsequently receives a market or marketable limit order to sell or buy that same option series, the Exchange represents that the effect of Rule 6.74(a)(ii) and (a)(iii) is to prevent the Resting Order from competing equally with other pre-existing bids (offers) because the Floor Broker must comply with Rule 6.74 and improve the stated market before executing the crossing transaction. As a result, in this situation, strict compliance with Rule 6.74 allows the trading crowd to trade ahead of the new market or marketable limit order to buy or sell. Thus, the Exchange states that the Resting Order and the subsequent market or marketable limit order may be in a less competitive situation because the orders were represented by a single Floor Broker rather than by separate Floor Brokers.

The Exchange believes that proposed Interpretation and Policy .05, which creates an exception to the requirements of subparagraphs (a)(ii) and (a)(iii) of Rule 6.74, would, in the limited situation described above, reduce the possible detrimental effect on execution of a Resting Order and subsequent market orders or market limit orders solely because the orders are represented by the same Floor Broker. According to the Exchange, proposed Interpretation and Policy .05 to Rule 6.74 will permit the orders represented by a single Floor Broker to compete equally with the trading crowd by permitting the Floor Broker to cross those number of contracts of the Resting Order with subsequent market or marketable limit orders represented by the same Floor Broker to the same extent as if the Resting Order and subsequent market or marketable limit orders were represented by different Floor Brokers.

The Exchange represents that proposed Interpretation and Policy .05 will only provide an exemption from the requirements of subparagraphs (a)(ii) and (iii) of Rule 6.74 as described above; the due diligence and other requirements of that rule (*e.g.*, the open outcry requirements in subparagraph (a)(i)), as well as the requirements of Exchange rules pertaining to solicited orders, facilitation crossing, and priority provisions will continue to apply.

³ Even though the limit order matches the current stated market, the Exchange represents that in certain limited situations (*e.g.*, illiquid options classes or out-of-the-money series), no one in the trading crowd will take the other side of the order. Telephone conversation between Andy Small, Senior Attorney, Legal Department, CBOE, and Brad Ritter, Senior Counsel, Office of Market Supervision, Division of Market Regulation, Commission, on July 25, 1995.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,⁴ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating securities transactions, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest, by providing an exemption from provisions that currently disadvantage Resting Orders and subsequent market or marketable limit orders held by the same Floor Broker.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

Written comments on the proposed rule change were neither solicited nor 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 Exchange 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

International 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

⁴ 15 U.S.C. § 78f(b)(5) 1988.

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 Section, 450 Fifth Street, N.W., Washington, D.C. 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. SR-CBOE-95-33 and should be submitted by November 3, 1995.

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

Jonathan G. Katz,
Secretary.

[FR Doc. 95-25370 Filed 10-12-95; 8:45 am]

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[Release No. 34-36347; File No. SR-CHX-95-21]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Amendment of Modified Versions of the SuperMAX System on a Pilot Basis

October 6, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 18, 1995, the Chicago Stock Exchange, Incorporated ("CHX" 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 self-regulatory organization. The Commission is publishing this notice to solicit comment 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, pursuant to Rule 19b-4 of the Act, proposes to amend Rule 37(e) of Article XX, relating to its Enhanced SuperMAX program.¹

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 self-regulatory organization 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

On July 27, 1995, the Commission approved a proposed rule change of the CHX that added rules for the Enhanced SuperMAX program into CHX Article XX, Rule 37(e).² That approval order contemplated that the CHX would file with the Commission a codification of its procedures with respect to a specialist's ability to make a security eligible for Enhanced SuperMAX and Timed Enhanced SuperMAX.³

The purpose of the proposed rule change is to codify those procedures. Specifically, a specialist will be permitted to engage and disengage Enhanced SuperMAX and Timed Enhanced SuperMAX for a given stock only on one given day each month, as determined from time to time by the Exchange.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act⁴ 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, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose a burden on competition.

² See Securities Exchange Act Release No. 36027 (July 27, 1995), 60 FR 39465 (August 2, 1995) (File No. SR-CHX-95-15).

³ The Timed Exchange SuperMAX program is found in CHX Article XX, Rule 37(f). The program operates in a manner identical to Enhanced SuperMAX, with the modification that the specialist pre-selects a time period, which may be no less than 30 seconds and may be changed only once a month, during which the possibility of price improvement will be available. Because Rule 37(f) incorporates by reference that portion of Rule 37(e) being amended herein, the proposed rule change also has the effect of codifying the procedures with respect to a specialist's ability to make a security eligible for Timed Enhanced SuperMAX.

⁴ 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

No comments were solicited or received.

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

The foregoing rule change constitutes a stated policy, practice or interpretation with respect to the meaning, administration or enforcement of an existing rule of the Exchange and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act⁵ and subparagraph (e) of Rule 19b-4 thereunder.⁶ At any time within 60 days of the filing of such 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.

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 NW., 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 NW., 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-CHX-95-21 and should be submitted by November 3, 1995.

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

Jonathan G. Katz,
Secretary.

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⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(e).

⁵ 17 CFR 200.30-3(a)(12) (1994).

¹ The Enhanced SuperMAX program is an optional feature of the Exchange's automated execution ("MAX") system. This program is designed to provide a possibility of price improvement under certain circumstances.