

market index options under Exchange Rule 24.11(b)(i).

CBOE believes it has the necessary systems capacity to support the additional series of options that would result from the introduction of investment company options, and it has been advised that the Options Price Reporting Authority ("OPRA") also has the capacity to support these additional services.<sup>3</sup>

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular because, by providing for the trading of options on listed, indexed, open-end investment companies within the framework of CBOE's regulated market place while there is trading in the underlying investment companies in other exchange markets, the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, 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 to protect investors and the public interest.

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

The Exchange believes the proposed rule change will impose no inappropriate burden on competition.

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

The Exchange 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**

Within 35 days of the 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 the 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

<sup>3</sup> See memorandum from Joseph Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated January 21, 1997.

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 CBOE. All submissions should refer to File No. SR-CBOE-97-03 and should be submitted by March 26, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

Margaret H. McFarland,

*Deputy Secretary.*

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**[Release No. 34-38332; File No. SR-CBOE-97-07]**

#### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Chicago Board Options Exchange, Inc., Relating to Certain Multi-Market Orders Involving Index Options**

February 24, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, 17 CFR 240.19b-4, notice is hereby given that on February 12, 1997, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange 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 Rule 6.48 to specify that certain duties of CBOE members in effecting options transactions on the CBOE that are part of certain stock-option orders on the CBOE involving index options. 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 CBOE 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 the Statutory Basis for, the Proposed Rule Change*

##### **(1) Purpose**

In 1995, the Exchange filed a rule change proposal with the Commission that amended Rule 6.48 and set forth the duties of CBOE members executing options orders that constitute a component of a "package" stock-options order. The execution of this type of order involves transactions in CBOE's options market and in another market (a "multi-market" order).<sup>1</sup> Rule 6.48 specifies the sole basis on which an options trade that is a component of a multi-market order may be canceled by the members that are parties thereto. However, Rule 6.48 does not currently provide for the cancellation of any stock-option order that entails the purchase of sale of index options.

Multi-market orders in index options play an important role in allowing traders to hedge their risks and thus, in providing liquidity to customers in their products. Sometimes, multi-market orders involving index options might consist of a spread between the CBOE option product and another single security traded in another market, e.g., S&P 500 index options (SPX) versus a unit investment trust in the S&P 500. In those instances where an order involves

<sup>1</sup> See Securities Exchange Act Release No. 36516 (November 27, 1995), 60 FR 62114 (December 4, 1995).

a CBOE index option and an equity index-based security traded in another market, where both are based upon the same index,<sup>2</sup> the Exchange believes it is appropriate to deem such an order a stock-option order, and thus eligible for the order cancellation provision contained in paragraph (b) of Rule 6.48. Another common type of multi-market order often involves the nearly simultaneous trading of a CBOE option and a basket of stocks in another market. The CBOE does not believe that this type of order should be deemed a stock-option order eligible for the cancellation provisions contained in Rule 6.48 because a "basket" of stocks is not an "underlying or related security" as required in the definition of stock-option order.<sup>3</sup> To date, CBOE traders in index options have relied on informal trading protocols to ensure fairness and equity in connection with the execution and cancellation of multi-market orders.

Accordingly, the Exchange is proposing to extend the order execution and cancellation provisions contained in Rule 6.48 to stock-option orders involving an index option and a single security equity index-based product traded in another market, where both are based upon the same index.<sup>4</sup> Consequently, the Exchange is proposing the deletion of paragraph (b)(ii) of Rule 6.48 which exempts stock-option orders involving index options from the two requirements set forth in paragraph (b) of Rule 6.48. The first of those requirements is that a member announcing such an order to a trading crowd must disclose all legs of the order and must identify the specific markets and prices at which the non-options leg(s) are to be filed. Second, concurrent with the execution of the option leg of any multi-market order, the initiating member and each member that is a counterparty to the trade must take steps to immediately execute the non-

options leg(s) in the identified market(s).

The Exchange believes, as with stock-option orders involving equity options, that these provisions will clarify members' expectations about the execution of each non-option component of such orders.

Current Rule 6.48 provides that a party to an options transaction that is part of a stock-option order may have the options transaction canceled only in the event that market conditions in another market prevents the execution of one or more of the non-option legs of the order.

The current proposal only addresses multi-market orders involving an index option and a single security equity index-based product traded in another market, where both are based upon the same index (e.g., a stock-option order involving SPDRs and SPX options). Additionally, Rule 6.48 is not intended to allow multi-market orders involving index options and "baskets" of securities to get the benefit of the order cancellation provisions of the rule. Stock-option orders are just one subset of the types of multi-market orders that are transacted by traders in the index crowds. As mentioned above, some multi-market orders involve a transaction of an index option coupled with a basket of stocks comprising the index. An order for this type of transaction does not meet the definition of a stock-option order which is defined under CBOE Rule 1.1(ii). The Exchange is currently reviewing the protocols used in the execution of these other types of multi-market orders to determine if further rule changes would be beneficial in the handling of these orders.

## (2) Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to deal with the special circumstances of multi-market orders involving index options in a manner that promotes just and equitable principles of trade, and the protection of investors and the public interest.

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

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) was provided to the Commission for its review at least five days prior to the filing date; and (4) does not become operative for 30 days from February 12, 1997, the date on which it was filed, the rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(e)(6) thereunder. In particular, the Commission believes the proposal qualifies as a "noncontroversial filing" in that the proposed standards do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition. 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 the furtherance of the purposes of the Act.

## **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, 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 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 CBOE. All submissions

<sup>2</sup>The trust which underlies S&P 500 Depositary Receipts ("SPDRs") is made to replicate the performance of the S&P 500 index; however, there are a couple of reasons why the value of the SPDR trust may deviate slightly from the S&P 500 value. First, the trust underlying SPDRs is subject to slight rounding errors because the trust must contain whole shares while the S&P 500 index is not so limited. Second, the trust underlying SPDRs is required only to make adjustments to the components monthly unless the value of the component deviates by more than a certain percentage from that component's comparable weight in the S&P 500 index.

<sup>3</sup>See CBOE Rule 1.1(ii).

<sup>4</sup>Telephone conversation between Tim Thompson, Senior Attorney, CBOE, and John Ayanian, Special Counsel, Office of Market Supervision, Division of Market Regulation, Commission, on February 21, 1997.

should refer to File No. SR-CBOE-97-07 and should be submitted by March 26, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

Margaret H. McFarland,

*Deputy Secretary.*

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[Release No. 34-38338; File No. SR-CHX-97-02]

**Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Enhanced SuperMAX**

February 26, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 30, 1997, 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 and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposal.

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

The Exchange requests permanent approval of its Enhanced SuperMAX pilot program, as amended, located in subsection (e) of Rule 37 of Article XX.

**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.

<sup>1</sup> 17 CFR 200.30-3(a)(12).

<sup>2</sup> 15 U.S.C. 78s(b)(1).

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

**1. Purpose**

On May 22, 1995, the Commission approved a proposed rule change of the CHX that allows specialists on the Exchange, through the Exchange's MAX system, to provide order execution guarantees that are more favorable than those required under CHX Rule 37(a), Article XX.<sup>2</sup> That approval order contemplated that the CHX would file with the Commission specific modifications to the parameters of MAX that are required to implement various options available under this new rule.

On July 27, 1995, the Commission approved a proposed rule change of the CHX that implemented two options available under this new rule.<sup>3</sup> These two new options, Enhanced SuperMAX and Timed Enhanced SuperMAX, were approved on a pilot basis until July 31, 1996. The Commission extended the pilot program until December 31, 1996 and requested that the CHX provide a report to the Commission, by August 31, 1996,<sup>4</sup> describing its experience with the pilot program. On August 30, 1996, the CHX submitted the report. Most recently, the Commission extended the pilot program until March 1, 1997.<sup>5</sup> In connection with the extension, the CHX agreed to provide additional data to the Commission regarding the pilot. On January 31, 1997, the Exchange submitted this data.

The purpose of the proposed rule change is to request permanent approval of the pilot program, as amended by this filing. Specifically, the Exchange is combining the two options currently available under the pilot program into one option, to be called Enhanced SuperMAX. Enhanced SuperMAX was merely a reactivation of the Exchange's Enhanced SuperMAX program, a program originally approved by the Commission on a pilot basis in 1991.<sup>6</sup> The proposed Enhanced SuperMAX program differs from the original pilot program approved in 1991 in that it is available starting at 8:45 a.m. instead of 9:00 a.m. This program also differs from

<sup>2</sup> See Securities Exchange Act Release No. 35753 (May 22, 1995), 60 FR 28007.

<sup>3</sup> See Securities Exchange Act Release No. 36027 (July 27, 1995), 60 FR 39465.

<sup>4</sup> See Securities Exchange Act Release No. 37491 (July 29, 1996), 61 FR 48690.

<sup>5</sup> See Securities Exchange Act Release No. 38098 (December 30, 1996), 62 FR 1008. Commission note: The CHX Form 19b-4 filing indicates incorrectly that the pilot program was extended until March 31, 1997.

<sup>6</sup> See Securities Exchange Act Release No. 30058 (December 10, 1991), 56 FR 65765.

the Exchange's SuperMAX program in that under this program, certain orders are "stopped" at the consolidated best bid or offer and are executed with reference to the next primary market sale instead of the previous primary market sale.

The Enhanced SuperMAX program, as amended by this filing, also includes all of the features of the pilot version of the Timed Enhanced SuperMAX program. Essentially, the new Enhanced SuperMAX program will execute orders in the same manner as the pilot Enhanced SuperMAX program, except that if there are no executions in the primary market after the order has been stopped for a designated time period, the order is executed at the stopped price at the end of such period. Such period, known as a time out period, is pre-selected by a specialist on a stock-by-stock basis based on the size of the order, may be changed by a specialist no more frequently than once a month, and may be no less than 30 seconds.

**2. Statutory Basis**

The proposed rule change is consistent with Section 6(b)(5) of the Act 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.

**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.

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

The Commission has carefully reviewed the Exchange's proposed rule change and, for the reasons set forth below, finds that the proposed rule change, as amended by this filing, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Exchange, and, in particular, with Section 6(b)(5)<sup>7</sup> of the Act 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

<sup>7</sup> 15 U.S.C. 78f(b)(5).