6(b)(5) of the Act,[4] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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; and is not designed to permit unfair discrimination between customer, issuers, brokers, or dealers.

III. Discussion

The Commission believes BSE's proposed rule change is consistent with section 6(b)(5) of the Act.[5] 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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to perfect the mechanism of a free and open national market system, and, in general, to further investor protection and the public interest.[6]

BSE is proposing to increase the fines for possession of a firearm or other weapon on the Exchange premises. The Commission believes that implementing such fines should serve as an effective deterrent against possessing weapons on the Exchange premises, thereby ensuring the safety of Exchange members, staff and guests. Similarly, the Commission believes the addition of a summary fine provision for unauthorized physical contact on the Exchange premises is appropriate as it should deter such contacts and prevent member disputes from escalating to a physical confrontation, again ensuring the safety of those present on the Exchange floor.

The Commission believes the addition of a summary fine provision for failure to comply with an appealed Floor Official ruling that stands, is appropriate as it will ensure that rule interpretations and execution quality issues on which Floor Officials are asked to making rulings are addressed in a timely manner for the benefit of the customer.

Finally, the Commission believes an amendment requiring that appeals to summary fines be filed with the Office of the General Counsel is appropriate as it will provide more efficient coordination of the appeal process, thereby furthering investor protection and the public interest.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the BSE, and in particular Section 6(b)(5).

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–BSE–97–01) be and hereby is approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–17318 Filed 7–1–97; 8:45 am]

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[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78f(b)(5).

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

[7] 15 U.S.C. 78s(b)(2)

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38782; File No. SR–CBOE–97–15]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto Relating to OEX–SPX Spread Orders, and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change

June 26, 1997.

I. Introduction

On March 4, 1997, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to 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–4 thereunder,[2] a proposed rule change to establish a rule to facilitate the transaction of spread orders between S&P 500 Index options (''SPX'') and S&P 100 Index options (''OEX''). On May 15, 1997, CBOE submitted an amendment (''Amendment No. 1'') to the proposed rule change.[3] On June 13, 1997, CBOE submitted a second amendment (''Amendment No. 2'') to clarify textual language regarding how the rule operates.[4]

The proposed rule change and Amendment No. 1 thereto was published for comment in Securities Exchange Act Release No. 38650 (May 16, 1997), 62 FR 28525 (May 23, 1997). No comments were received on the proposal. This order approves the proposed rule change and Amendment No. 1 thereto, and accelerates approval of Amendment No. 2.

II. Description of the Proposal

Exchange Rule 6.45 establishes the rules of priority for bids and offers. Generally, the highest bid and the lowest offer shall have priority, with certain designated exceptions. Rule 6.45(d) provides one such exception to the rule for members holding a spread, straddle or combination order and bidding or offering in a multiple of 1⁄16. The exception, however, is limited to spread orders involving the same class of options. Accordingly, members seeking to execute OEX–SPX spread orders (''spread orders'' or ''orders''), which involve two different classes of options, currently must execute individual legs of the transaction at two different trading posts. Because OEX–SPX orders cannot be quoted at one price and traded at the same post, market participants wishing to trade such options face a risk that the market will move in the time it takes to execute the second leg of the order at the other trading post.

The Exchange proposes to add new Rule 24.18 (''Rule'') to facilitate the transaction of OEX–SPX spread orders. Paragraph (a) of the Rule defines an OEX–SPX spread order as an order to buy a stated number of OEX (SPX) contracts and to sell an equal number of OEX (SPX) contracts. Paragraph (b) of the Rule sets forth the procedures to be followed in representing and filling an OEX–SPX spread order. An OEX–SPX spread order may be represented initially at either the OEX or SPX trading post. The trading post where the order is first represented will be the ''primary trading station'' for purposes of the Rule. Immediately after the order is represented at the primary trading station, or concurrent with the announcement of such order, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the CBOE revised the proposed language of Rule 24.18 to better reflect the intent of the proposal and provide additional justification for the proposal. *See* Letter from Timothy Thompson, Senior Attorney, CBOE, to Elaine Darroch, Attorney, Division of Market Regulation, Securities and Exchange Commission (May 14, 1997).

[4] Amendment No. 2 clarified that no leg of a spread order can trade at a price outside currently displayed bids or offers or bids or offers in the customer limit order book. *See* Letter from Timothy Thompson, Senior Attorney, CBOE, to Elaine Darroch, Attorney, Division of Market Regulation, Securities and Exchange Commission (June 12, 1997).

member initiating the order must contact the Order Book Official at the other trading station (OEX or SPX). The announcement at the other trading station must specify the terms of the order, a contact person for the order, and the telephone number of the contact person at the primary trading station.[5] The form of the announcement in the other trading station will be determined by the appropriate Floor Procedure Committee for the trading station where the announcement is to be made.

Once the order has been represented at the primary trading station and the order has been announced at the other trading station, the member representing the order may fill the order at the best net debit or credit, whether from the primary trading station or from the other trading station, provided the conditions described below are met. The priority of the bids and offers on OEX–SPX spread orders will be determined by the same concept that applies to spread orders on a single class of options as set forth in Rule 6.45(d). Paragraph (b)(iii) of the Rule provides that a member holding an order on an OEX–SPX spread that is priced net at a multiple of 1⁄16 (i.e., 1⁄4, 3⁄8, 7⁄16, 1⁄2, etc.) will have priority over bids and offers in the trading crowd (''crowd'') if both legs of the OEX–SPX spread would trade at a price that is at least equivalent to the quotes in the crowd. Similarly, such an order has priority over bids and offers in the customer limit order book[6] (''limit order book'' or ''book'') if at least one leg of the OEX–SPX spread would trade at a price that is better than the corresponding bid or offer in the book and no leg of the order would trade at a price outside the corresponding bid or offer in the book. Bids or offers that are part of an OEX–SPX spread order and that are not priced at a net multiple of 1⁄16, while permissible, will not be entitled to priority under (b)(iii) to Rule 24.18.

As an illustration, assume that the relevant OEX option, Option O, is quoted at 5 bid, 5–1⁄8 asked, and the relevant SPX option, Option S, is quoted at 6 bid, 6–1⁄8 asked, and assume that four quotes are represented in the book. In that instance, a spread involving the purchase (or sale) of Option O and the sale (or purchase) of Option S may trade at a net credit or debit of 1 (e.g., a net credit of 1 if Option O is bought at 5 and Option S is sold at 6, or a net debit if Option O is sold at 5–1⁄8 and Option S is bought at 6–1⁄8). In this example, because the net price is a multiple of 1⁄16 and the execution of the spread involves taking the same side of the market as the book on one side of the spread at the book price, but bettering the book price on the other side of the market, the spread would receive priority. (That is, in the spread consisting of the purchase of Option O at 5 and the sale of Option S at 6, only the *purchase* of Option O occurs at the same price and on the same side of the market as the book, which is bid at 5; the *sale* of Option S at 6 betters the book, because the ask price in the book is 6–1⁄8.) In this example, it would not be permissible under paragraph (b)(iii) of Rule 24.18 to trade the spread at a net debit of 7⁄8 by selling the first option at 5–1⁄8 and buying the second at 6, because this trade would be executed at the same price and on the same side of the market as the book on *both sides* of the spread.

Paragraph (b)(iv) permits bids and offers from the other trading crowd to participate equally with equal bids and offers from the primary trading station if those bids and offers from the other trading station are received promptly. The determination of whether an order is received promptly will depend on the size and the complexity of the order involved. For example, a large spread order might take a minute to execute, while a small spread order of ten contracts might require only 15 seconds to execute. The amount of time to satisfy the time requirement would be different in these two circumstances.[7]

III. 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. In particular, the Commission believes the proposal is consistent with the Section 6(b)(5)[8] of the Act in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public. In addition, the Commission believes the rule does not permit unfair discrimination between customers, issues, brokers, or dealers.

In this regard, the Commission finds that the new priority rules regarding the OEX–SPX spread orders should facilitate transactions in securities by providing an efficient manner for executing both legs of the transactions at one trading post. At the same time, the Commission believes that the proposal should not significantly undermine the rules of priority for bids or offers in the limit order books and for the trading crowds. The Commission finds that the rule strikes an appropriate balance by providing a spread order mechanism that should tighten and enhance the market in OEX–SPX spread orders, while setting limitations on when such spread orders can be executed ahead of bids and offers in the limit order books and displayed by the trading crowds.

In particular, the Commission notes that customers and traders alike often employ spread strategies between SPX and OEX options for hedging and risk management. Many customers and traders currently hedge their OEX option positions with S&P 100 futures because there are no widely available securities exchange products with the S&P 100 as the underlying. The Commission agrees with the Exchange that implementation of the proposed spread priority rule will encourage the use of OEX–SPX spread orders as an effective risk management tool, providing an alternative to cross market hedging of OEX options.[9]

The Commission notes that the CBOE has represented that traders often have difficulty in executing spread orders between the OEX and SPX trading posts. When the two legs of the order cannot be quoted at one price and traded at the same post, there is a risk that the market will move in the time it takes to execute the second leg of the OEX–SPX spread order. Consequently, the second leg of the strategy may not be filled at a price that makes the strategy feasible. Depending on the movement of the market, the execution of the second leg of the order may exacerbate the risk that the strategy was intended to hedge. The Commission agrees with the Exchange that this proposal will eliminate the risk of market movement for this strategy.

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[5] The contact person does not have to, but may, provide brokerage to the members of the other trading crowd. The notice, however, will inform the members of the other trading crowd who they should contact if they want to participate in the trade.

[6] The Exchange notes that one of the conditions for executing a spread order at the best net debit or credit is that the member has determined that the order may not be executed by a combination of transactions with the bids and offers displayed in the OEX or SPX customer limit order book or by the displayed quotes of the trading crowds. The Exchange states that paragraph (b)(iii) of Rule 24.18 may be reasonably and fairly interpreted to mean that if the order can be executed in the marketplace at the order's price or at a better price, then the order cannot be executed as a spread order at the best net debit or credit. *See* Amendment No. 1, *supra* note 3.

[7] *Id.*

[8] 15 U.S.C. § 78f(b)(5).

[9] The Commission previously recognized the important relationship between SPX and OEX options when it permitted haircut relief for offsetting positions. Securities Exchange Act Release No. 38248 (February 6, 1997), 62 FR 6474 (February 12, 1997).

Further, the Commission believes that the market for such orders will likely be tighter and more competitive when both legs are executed at the same post.

The Commission does not believe that investors with public orders on the limit order book and represented in the trading crowd will be significantly disadvantaged by the proposed rule change. Exchange Rule 24.18 provides that OEX–SPX spread orders can only be executed ahead of corresponding bids or offers in the limit order book or the crowd under specified conditions. The member representing an OEX–SPX spread order must check the limit order books before filling the order. The member also must provide notice to the other trading crowd. In order to achieve priority over the books, at least one leg of the OEX–SPX spread order must improve the bids or offers in the books while the other leg cannot be outside the bids or offers in the books. Executing at least one leg of the order at a better price than the established bid or offer will improve the market on at least one side. In order to be executed ahead of bids and offers in the trading crowd, the spread order must trade at a price at least equivalent to the quotes in the crowd. These conditions ensure that OEX–SPX spread order priority will only be allowed when such priority is necessary to ensure the appropriate execution of OEX–SPX spread orders, and only when such orders are priced equal to (or better) than customer orders represented in the trading crowd [10] and customer limit order book, as described in greater detail above.

The Commission finds good cause to approve Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** Specifically, because the revised rule language contained in Amendment No. 2 merely clarifies the Exchange's original intent, it raises no new regulatory concerns. In addition, the CBOE's rule proposal was published for the entire twenty-one day comment period and generated no responses. Accordingly, the Commission believes that it is consistent with Sections 6(b) [11] and 19(b)(2) [12] of the Act to approve Amendment No. 2 to the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file fix 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–97–15 and should be submitted by July 23, 1997.

V. Conclusion

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–CBOE–97–15) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–17317 Filed 7–1–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38760; File No. SR–CHX–97–16]

Self-Regulatory Organizations; Notice of Filing of and Order Granting Temporary Accelerated Approval to a Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Trading Variations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 20, 1997, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''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 on a temporary basis to the proposed rule change.

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

The Exchange proposes to modify Article XX, Rule 22 of the CHX's Rules, relating to trading variations.

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 III 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

Article XX, Rule 22 of the Exchange's Rules gives the Exchange's Committee on Floor Procedure the authority to fix minimum variations for bids and offers in specific securities or classes of securities. Pursuant to this authority, the Exchange changed its minimum variation to $1/16$ of $1.00 per share for securities traded both on the Exchange and the New York Stock Exchange (''NYSE'') that are selling at or greater than $1.00, and to $1/32$ of $1.00 per share for such securities that are selling below $1.00, effective at such time as enhancement to Intermarket Trading System (''ITS'') is made to permit trading in Tape A issues in minimum variations of a sixteenth through ITS.

Since the date of that filing, the NYSE proposed changing its minimum variation to $1/16$ for all stocks trading at or above 50¢, rather than the $1.00 standard adopted in SR–CHX–97–12.[2] The Commission recently approved the NYSE proposal.[3] As a result, the

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[10] The rule also protects broker-dealer proprietary orders in the trading crowd.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78s(b)(2).

[13] 15 U.S.C. § 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission notes that, at the time the CHX filed proposed rule SR–CHX–97–12, NYSE Rule 62 provided:

[3] Securities Exchange Act Release No. 38744 (June 18, 1997) (granting temporary approval to a proposed rule change by the NYSE that, among other things, replaced eighths with sixteenths as the minimum variation for certain securities).