

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

The Exchange does not believe that the proposed rule change will impose any 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 rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁶ and subparagraph (f)(2) of Rule 19b-4 thereunder.⁷ 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 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, including whether the proposed rule change is consistent with the Act.⁸ Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. 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 Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-99-34 and should be submitted by September 14, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41746; File No. SR-CBOE-99-41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Market-Maker Surcharge Fee Schedule

August 16, 1999.

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 30, 1999, the Chicago Board Options Exchange, Inc. ("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. On August 3, 1999, the CBOE filed with the Commission Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The CBOE is proposing to make changes to its fee schedule pursuant to CBOE Rule 2.40, *Market-Maker Surcharge for Brokerage*.⁴

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to CBOE Rule 2.40, the Equity Floor Procedure Committee ("Committee") approved the following fees for the following option classes:

| Option class | Market-maker surcharge (per contract) | Order book official brokerage rate (per contract) ⁵ |
|---|---------------------------------------|--|
| General Dynamics Corporation (GD) | \$0.07 | \$0.00 |

⁵ The surcharge will be used to reimburse the Exchange for the reduction in the Order Book Official brokerage rate from \$0.20 in the relevant option classes. Any remaining funds will be paid to Stationary Floor Brokers as provided in Exchange Rule 2.40.

The fee will be effective as of August 2, 1999.⁶ This fee will remain in effect until such time as the Committee or the Board determines to change these fees and files the appropriate rule change with the Commission.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4)⁷ of the Act because it is designed to provide for the equitable allocation of

reasonable dues, fees, and other charges among its members.

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

The Exchange does not believe that the proposed rule change will impose

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

⁷ 17 CFR 240.19b-4(f)(2).

⁸ In reviewing this proposal, the Commission has considered its potential impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1, notes that General Dynamics options became multiply-listed on August 2, 1999, and proposes that the surcharge take effect on that date. See letter from Stephanie Mullins, Attorney, CBOE, to Michael Walinskas, Associate Director,

Division of Market Regulation, Commission, dated August 2, 1999 ("Amendment No. 1").

⁴ See Securities Exchange Act Release No. 41121 (February 26, 1999), 64 FR 11523 (March 9, 1999) (order approving CBOE Rule 2.40).

⁶ See Amendment No. 1.

⁷ 15 U.S.C. 78f(b)(4).

any burden on competition that is not necessary or appropriate in furtherance of the 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.

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

The foregoing rule change establishes or changes a due, fee, or other imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)(ii)⁸ of the Act and subparagraph (f)(2) of Rule 19b-4 thereunder.⁹ At any time within 60 days of the filing of the proposed rule change,¹⁰ 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.¹¹

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. 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 Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-99-41 and should be submitted by September 14, 1999.

⁸ 15 U.S.C. 78s(b)(3)(A)(ii)

⁹ 17 CFR 240.19b-4(f)(2).

¹⁰ The proposed rule change is deemed filed as of the date Amendment No. 1 was received by the Commission.

¹¹ In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41747; File No. SR-CBOE-99-24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Changes to Option Trading Permit Auction Procedures

August 16, 1999.

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 June 9, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. Amendment No. 1 was filed on August 2, 1999.³ 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

CBOE proposes to amend the procedure through which it auctions Options Trading permits ("Permits") from the Permit lease pool. The text of the proposed rule change is available at 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

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 expands the discussion on the proposed rule change and clarifies the proposed text of the rule change. See letter from Christopher R. Hill, Attorney, CBOE, to Heather Traeger, Attorney, Division of Market Regulation, SEC, dated August 2, 1999.

Exchange 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

CBOE Rule 3.27(a)(3) provides for the creation of a Permit lease pool to be administered by the Exchange. The procedures for the administration of this lease pool were previously filed with and approved by the Commission.⁴ Under these procedures, the Exchange conducts and auction every six months during which members and non-members who have qualified for membership may submit bids equal to the monthly rent that the bidder is willing to pay for a month-to-month Permit lease. Upon the close of the bidding period, Permits in the lease pool are awarded to the highest bidders in a number equal to the total number of Permits in the lease pool at that time. Under the existing procedures, the monthly rent to be paid by a lessee is the dollar value of the bid submitted by that lessee. Following each auction, the Exchange continues to accept bids for Permit leases. Should any Permit lessee desire to give up that lessee's Permit prior to the next auction, the Permit is transferred to the highest bidder at a monthly lease price equal to the new lessee's bid for the remainder of the six month auction cycle.

The Exchange proposes to amend the method of the auction to establish a procedure known as a Dutch auction. Under the Dutch auction, bidders will submit bids equal to the monthly rent which they are willing to pay for a six-month lease, and, upon the close of the bidding period, Permits in the lease pool will continue to be awarded to the highest bidders in a number equal to the total number of Permits in the lease pool at that time. Under the Dutch auction procedure, however, each successful

⁴ The procedures for the administration of the Permit lease pool were filed with the Commission in SR-CBOE-97-14. SR-CBOE-97-14 provided for the issuance of Permits in connection with the transfer of the options business of the New York Stock Exchange, Inc. to CBOE and defined the rights and obligations associated with Permits. SR-CBOE-97-14 was approved by the Commission in Securities Exchange Act Release No. 38541 (April 23, 1997), 62 FR 23516 (April 30, 1997).

The CBOE later amended the procedures for administering the Permit lease pool in SR-CBOE-97-47, which amended the manner in which the CBOE accesses the fee that it charges when a person submits a bid to receive a Permit. See Securities Exchange Act Release No. 39179 (October 1, 1997), 62 FR 52602 (October 8, 1997).