

Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20855-2738, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Al Gutterman, Morgan, Lewis, & Bockius LLP, 1800 M Street, N.W., Washington, DC 20036-5869, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated October 19, 2000, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20855-2738, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 28th day of February, 2001.

For the Nuclear Regulatory Commission.

**Darl S. Hood,**

*Senior Project Manager, Section 1 Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 01-5397 Filed 3-5-01; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Filings and

Information Services, Washington, DC 20549

#### Extension:

Form S-3, OMB Control No. 3235-0073, SEC File No. 270-61

Form S-8, OMB Control No. 3235-0066, SEC File No. 270-66

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission ("Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Form S-3 is used by issuers to register securities pursuant to the Securities Act of 1933. Form S-3 gives investors the necessary information to make investment decisions regarding securities offered to the public. Approximately 3,483 issuers file Form S-3 at an estimated 398 hours per response for a total annual burden of 1,385,934 hours.

Form S-8 is a primary registration statement used by qualified registrants to register securities issued in connection with employees benefit plans. It is estimated that 1,660 issuers file Form S-8 annually at estimated 24 hours per response for a total annual burden of 39,840 hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: February 26, 2001.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-5401 Filed 3-5-01; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44008; File No. SR-CBOE-01-03]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Maximum Size of Options Orders Eligible for Automatic Execution

February 27, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 8, 2001, 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

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

The CBOE proposes to amend its rules governing the operation of its Retail Automatic Execution System ("RAES") to increase the maximum order size eligibility for RAES from seventy-five contracts to one hundred contracts. 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 III below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

<sup>2</sup> 17 CFR 240.19b-4.

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

1. Purpose

The purpose of the proposed rule change is to increase from seventy-five contracts to one hundred contracts the maximum size of orders for equity and index options that are eligible to be executed through RAES.<sup>3</sup>

Currently, the maximum size of RAES-eligible orders is seventy-five contracts for all classes of options traded on the CBOE for which a greater maximum is not expressly provided in the rules.<sup>4</sup> Options subject to the seventy-five contract maximum include all classes of equity options, all classes of sector index options and all other classes of index options except options on the S&P 500 index, options on the Nasdaq 100 index, options on the Dow Jones Industrial Average ("DJIA"), options on the High Yield Select Ten, and interest rate options.<sup>5</sup>

Increasing the RAES eligibility maximum to one hundred contracts for these classes of options will not automatically permit orders up to this size to be entered into RAES. Instead, the actual maximum RAES eligibility size is established by the appropriate Floor Procedure Committee ("FPC") of the Exchange, which may maintain the maximum for particular classes at levels below the one hundred contract maximum that would be allowable under the proposed rule change.

The CBOE represents that increasing automatic execution levels will provide the benefits of automatic execution to a larger number of customer orders. The CBOE also represents that RAES affords prompt and efficient executions at the CBOE displayed price or, in many cases, at the current best bid or offer in another market if the current best bid or offer in that market is better than the CBOE'S displayed bid or offer.<sup>6</sup>

<sup>3</sup> RAES is the Exchange's automatic execution system for public customer market or marketable limit orders of less than a certain size.

<sup>4</sup> See Securities Exchange Act Release No. 43517 (November 3, 2000), 65 FR 69082 (November 15, 2000).

<sup>5</sup> The RAES eligibility maximum is currently one hundred contracts for options on the S&P 500 Index, the Nasdaq 100 Index, the DJIA, the High Yield Select Ten, and interest rate options. See *supra* note 4.

<sup>6</sup> *Interpretation .02* to CBOE Rule 6.8 provides, in pertinent part, that: orders to buy or sell options that are multiply traded in one or more markets in addition to the Exchange will not be automatically executed on RAES at prices inferior to the current best bid or offer in any other market, as such best bids or offers are identified in RAES. In respect of those classes of options that have been specifically designated by the appropriate FPC as coming

The Exchange notes that there are a number of safeguards incorporated into Exchange rules to ensure the appropriate handling of RAES orders, even as the maximum order size is being increased. The Exchange rules require CBOE Designated Primary Market-Makers to participate in any automated execution system which may be open in appointed option classes (CBOE Rule 8.85(a)(ix)), and state that market makers are expected to participate in and support Exchange-sponsored automated programs, including, but not limited to, RAES (*Interpretation .07* to CBOE Rule 8.7). CBOE Rule 8.16(b) requires a market maker who has logged onto RAES at any time during an expiration month to log onto RAES in that option class whenever he is present in the trading crowd until the next expiration. CBOE Rule 8.16(c) states that, if there is inadequate participation on RAES, then Floor Officials of the appropriate Market Performance Committee may require market makers who are members of the trading crowd to log on RAES absent reasonable justification or excuse for non-participation, or the Floor Officials may allow market makers in other classes of options to log on RAES in such classes.

In addition, the Exchange does not believe that raising the maximum order size will create materially greater risks for CBOE market maker participants. The Exchange believes that the implementation of the Variable RAES and the 100 Spoke RAES Wheel order assignment methodologies on the CBOE provide safeguards to market makers from excessive risk from any one RAES order.<sup>7</sup>

The Exchange believes that the proposed increase should provide customers with quicker executions for a larger number of orders, by providing automatic rather than manual executions, thereby reducing the amount of orders subject to manual processing. In support of its proposal to increase the RAES eligibility maximum, the CBOE represents that its systems capacity is sufficient to accommodate the increased number of automatic executions anticipated to result from the implementation of this proposal.

within the scope of this sentence ("automatic step-up classes"), under circumstances where the Exchange's best bid or offer is inferior to the current best bid or offer in another market by no more than the "step-up amount" as defined below, such orders will be automatically executed on RAES at the current best bid or offer in the other market.

<sup>7</sup> See Securities Exchange Act Release Nos. 41821 (September 1, 1999), 64 FR 50313 (September 16, 1999) (implementing Variable RAES); and 42824 (May 25, 2000), 65 FR 37442 (June 14, 2000) (implementing the 100 Spoke RAES Wheel).

2. Statutory Basis

The Exchange believes that the proposed rule change will enhance the ability of the Exchange to provide instantaneous automatic execution of public customers' orders at the best available prices, which is consistent with section 6(b)<sup>8</sup> of the Act in general, and furthers the objectives of section 6(b)(5) of the Act<sup>9</sup> in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest.

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

The CBOE does not believe that the proposed rule change will impose 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*

No written comments were solicited or received with respect to the proposed rule change.

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

The CBOE requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2)<sup>10</sup> of the Act. The Exchange believes that expanding the number of contracts in selected option classes eligible to be entered into RAES will make the benefits of assured, instantaneous, automatic execution available to a larger number of customer orders, and will allow the Exchange to compete with other options exchanges which have received approval to increase their maximum order size for automatic executions to one hundred contracts.<sup>11</sup>

**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

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78(b)(2).

<sup>11</sup> The Commission notes that it has approved similar proposals filed by the American Stock Exchange LLC ("Amex") and the Pacific Exchange, Inc. ("PCX"). See Securities Exchange Act Release No. 43887 (January 25, 2001), 66 FR 8831 (February 2, 2001) (order approving SR-Amex-00-57 and PCX-00-18).

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 in the Commission's Public Reference Room. 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-01-03 and should be submitted by March 27, 2001.

#### V. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, 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 of the Act. Among other provisions, section 6(b)(5) of the Act requires that the rules of an exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating securities transactions; remove impediments to and perfect the mechanism of a free and open market and a national securities system; and protect investors and the public interest.<sup>12</sup>

Pursuant to section 19(b)(2)<sup>13</sup> of the Act, the Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice thereof in the **Federal Register**.<sup>14</sup> The Commission believes that granting accelerated approval will provide the CBOE will flexibility to compete for order flow with other exchanges immediately.<sup>15</sup>

While increasing the maximum order size limit from seventy-five to one hundred contracts for automatic execution eligibility by itself does not raise concerns under the Act, the Commission believes that this increase raises collateral issues that the CBOE

will need to monitor and address. Increasing the maximum order size for particular option classes will make a larger number of option orders eligible for RAES. These orders may benefit from greater speed of execution, but at the same time create greater risks for market maker participants. Market makers signed onto RAES will be exposed to the financial risks associated with larger-sized orders being routed through the system for automatic execution at the displayed price. When the market for the underlying security changes rapidly, it may take a few moments for the related option's price to reflect that change. In the interim, customers may submit orders that try to capture the price differential between the underlying security and the option. The larger the orders accepted through RAES, the greater the risk market makers must be willing to accept. The Commission does not believe that, because the CBOE's appropriate FPC determines to approve orders as large as one hundred as eligible for RAES, the FPC or any other CBOE committee or officials should disengage RAES more frequently by, for example, declaring a "fast" market. Disengaging RAES can negatively affect investors by making it slower and less efficient to execute their option orders. It is the Commission's view that the CBOE, when increasing the maximum size of orders that can be sent through their respective automatic execution systems, should not disadvantage all customers—the vast majority of whom enter orders for less than one hundred contracts—by making their automatic execution systems less reliable.

*It Is Therefore Ordered*, pursuant to section 19(b)(2) of the Act,<sup>16</sup> that the proposed change (SR-CBOE-01-03) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-5330 Filed 3-5-01; 8:45 am]

**BILLING CODE 8010-01-M**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44004; File No. SR-NASD-01-06]

#### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Amending the NASD By-Laws

February 26, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 17, 1999, the National Association of Securities Dealers, Inc. ("NASD") 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 NASD. The NASD submitted Amendment No. 1 on February 5, 2001,<sup>3</sup> and Amendment No. 2 on February 26, 2001.<sup>4</sup> The Commission is publishing this notice, as amended, 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 NASD is proposing to amend its By-Laws to address several corporate governance issues, including the treatment of staff Governors for purposes of Industry/Non-Industry balancing on the NASD's Board of Governors (the "Board"); the role of the National Nominating Committee ("NNC") in contested elections; the petition process by which individuals and slates can be included in the election process; the industry classifications that must be represented on the Board; and other clarifying amendments, including the addition of

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Letter from T. Grant Callery, Senior Vice President and General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated February 2, 2001 ("Amendment No. 1"). In Amendment No. 1 the NASD provided the final ballot summary of the membership vote regarding the proposed amendments to the NASD By-Laws, indicating that the NASD membership approved the proposed amendments.

<sup>4</sup> Letter from T. Grant Callery, Senior Vice President and General Counsel, NASD, to Katherine A. England, Assistant Director, Division, Commission, dated February 23, 2001 ("Amendment No. 2"). In Amendment No. 2 the NASD amended proposed Article VII, Section 10(a)(ii) of the By-Laws to state "(ii) in the case of petitions in support of more than one person, petitions in support of the nominations of such persons duly executed by ten percent of the members."

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>15</sup> See *supra* note 11.

<sup>16</sup> 15 U.S.C. 78s(b)(2).

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