

section 6(b)(5) of the Act<sup>13</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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 a national market system, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

#### *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

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

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 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 Amex. All submissions should refer to File No. SR-Amex-2001-25 and should be submitted by June 25, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-13883 Filed 6-1-01; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44356; File No. SR-CBOE-00-56]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc.; To Amend Its Rules To Allow for Certain Orders Entered Through the Exchange's Order Routing System To Automatically Trade Against Orders in the Exchange's Customer Limit Order Book

May 25, 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 November 13, 2000, 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.

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

The CBOE proposes to amend its rules to provide for certain orders entered through the Exchange's Order Routing System ("ORS") to automatically trade against orders in the Exchange's customer limit order book. Below is the text of the proposed rule change. Proposed new language is in *italics*.

\* \* \* \* \*

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

#### Chicago Board Options Exchange, Incorporated

#### Rules

\* \* \* \* \*

#### Chapter VI—Doing Business on the Exchange Floor

##### **Rule 6.8.B. Automatic ORS Order Execution Against Booked Orders**

(a) *When the best bid or offer on the Exchange's book constitutes the best bid or offer on the Exchange, any marketable public customer order routed through the Exchange's Order Routing System ("ORS") will be automatically executed against the book up to the size of the booked order(s) establishing the best bid or offer on the Exchange to the extent such execution is not a price inferior to the current best bid or offer in any other market. Any remaining balance of the marketable public customer ORS order shall be rerouted through ORS and handled in accordance with all applicable Exchange rules and policies.*

(b) *The appropriate Floor Procedure Committee ("FPC") may determine which option classes will be subject to paragraph (a) of this Rule.*

(c) *In unusual market conditions, two Floor Officials, the FPC Chairman, or the Chairman's designee may exempt an option class from paragraph (a) of this Rule.*

\* \* \* \* \*

#### 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 parts of such statements.

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

#### 1. Purpose

On December 1, 1998, the Commission approved a CBOE rule change establishing the Exchange's Automated Book Priority System ("ABP").<sup>3</sup> ABP allows an order entered into the Exchange's Retail Automatic Execution System ("RAES") to trade directly with an order on the Exchange's customer limit order book in those cases where the best bid (offer) on the Exchange's book is equal to the prevailing market bid (offer). ABP has

<sup>3</sup> Securities Exchange Act Release No. 41995 (October 8, 1999), 64 FR 56547 (October 20, 1999).

<sup>13</sup> 15 U.S.C. 78f(b)(5)

aided customers using the RAES system as well as customers whose orders are in the Exchange's book, because both categories of orders have been executed more quickly than they would have been executed otherwise. Further, ABP has been beneficial in helping prevent RAES orders from becoming subject to market risk and in preserving the priority of booked orders. The Exchange now proposes to expand the application of the ABP system to allow booked orders to trade directly with any incoming marketable public customer order routed through ORS, as opposed to only RAES-eligible orders.

Currently, when a non-RAES eligible order is entered into the Exchange's ORS at a time when the prevailing market bid (offer) is equal to the best bid (offer) on the Exchange's book, the order is routed to a Floor Broker's terminal, a work station in the crowd, or the order-sending firm's booth. This helps ensure that the orders are handled and executed in a manner that is consistent with CBOE Rule 6.45, which provides that bids or offers displayed on the customer limit order book are entitled to priority over other bids or offers at the same price. However, once an order is so routed, that order becomes subject to market risk as there may be some delay between the time the order is rerouted and the time the order is actually filled in open outcry. In times of extreme market volatility, even a short period of time between the rerouting and the execution of the order could have a significant effect on the price at which the order is executed.

To remedy this delay in the execution of marketable public customer ORS orders, the Exchange proposes to automatically execute incoming marketable public customer ORS orders against the customer limit order book in instances where a booked limit order represents or equals the prevailing best bid (offer). No automatic execution would take place if such execution would be a price that is inferior to the current best bid (offer) in any other market. The ORS order would be executed up to the size of the customer limit order(s) in the book establishing such prevailing best bid (offer). Any remaining balance of the ORS order would be instantly rerouted through the ORS as if it were a new order, which could, among other things, include handling under CBOE's RAES Rule (Rule 6.8).

The proposed change would be contained in proposed new Rule 6.8.B., which would further provide that the appropriate Floor Procedure Committee ("FPC") could determine which option classes would be subject to the rule.

Furthermore, the proposed rule would allow two Floor Officials, the FPC Chairman, or the Chairman's designee to attempt an option class or classes from the proposed rule's requirements if warranted by unusual market conditions.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of section 6(b)(5) of the Act<sup>4</sup> in that it is designed to remove impediments to a free and open market 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 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 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 disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule 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 20594-0609. 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-00-56 and should be submitted by June 25, 2001.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-13884 Filed 6-1-01; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44364; File No. SR-GSCC-2001-04]

### **Self-Regulatory Organizations; The Government Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to Fee Structures**

May 29, 2001.

Pursuant to section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 18, 2001, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") and on April 27, 2001, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The proposed rule change will allow GSCC to amend its fee structure to reallocate certain repurchase transaction ("repo") processing fees in both its delivery-versus-payment ("DVP") and GCF Repo services to provide for a more equitable distribution among its members. These changes became effective on May 1, 2001.

<sup>5</sup> 17 CFR 200.30-3(a)(12).

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

<sup>4</sup> 15 U.S.C. 78f(b)(5).