

the course of time it takes to process orders manually.

Moreover, the Amex proposal will offer investors an additional benefit by allowing their orders in many cases to be executed at better prices than the NBBO. At the same time, orders entering the system are protected against receiving automatic execution at prices inferior the NBBO. A further advantage of the proposed system is that by executing trades automatically, Auto-Ex will facilitate comparison and settlement of trades, thereby enhancing efficiency.

The Commission believes that the authority granted to the Auto-Ex Enhancements Committee to change the minimum and maximum size of Auto-Ex orders and to adjust the price improvement increments to be offered by the system, based on changing circumstances and variables and the balancing of various interests as noted above, is a reasonable means of helping ensure flexible, fair, and orderly operation of the system.

As discussed above, the proposed rule change bars the successive entry of Auto-Ex orders on behalf of the same person within a 30-second interval. The Commission believes that this restriction should help reduce market risk exposure and, at the same time, provide a clear and objective standard for members and member organizations with respect to the entry of orders otherwise eligible for Auto-Ex on Behalf of the same person.

The Commission further believes that the proposed methodology for the allocation of Auto-Ex orders among the specialist and ROTs fairly assigns the specialist a certain guaranteed percentage of each order in recognition of the specialist's contribution to the market and the extra risks and burdens the specialist assumes. At the same time, the allocation methodology preserves a sufficient share of incoming orders for execution by the ROTs in the crowd to assure that they can maintain their competitive presence in the market.

The Amex represents that a member that submits an order into Auto-Ex, including an order for its own account, will have no control over its execution, neither when the order is automatically executed nor when it is routed to the specialist. The Amex further represents that the specialist receiving the order will be unable to tell whether that order is for the account of a member or a customer. The Commission thus believes that transactions effected under the proposed rule change will meet the

criteria set forth in Rule 1a2-2(T)(a)(2) under the Act.¹²

Finally, the Commission notes that the proposed rule change provides that Auto-Ex will be unavailable in certain situations. In approving the proposal, the Commission notes that in no way does Amex Rule 128A exempt market participants from their obligations under Rule 11Ac1-1(c)(2) (the "Firm Quote Rule").¹³

The Amex has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act¹⁴ for approving the proposed rule change prior to the 30th day after publication in **Federal Register**. The Amex is concerned that it would be placed at competitive disadvantage relative to other market centers—which, it states, have already, or soon will, offer automatic execution of ETF orders—if it is not permitted to promptly begin offering Auto-Ex for ETFs.

The Commission notes, as the Amex points out, that the Exchange will be using the same Auto-Ex system with which it has long provided automatic execution for eligible options orders. In addition, the Commission notes that a recent rule change to Amex's Auto-Ex system for options provides for price improvement and certain order-eligibility parameters to be determined by the same Committee that would decide price improvement and order-eligibility parameters in the ETC context.¹⁵ The Commission also recently considered the issue of restricting successive entry of orders by members of an exchange on behalf of the same beneficial owner within a specified time period, and approved exchange rules that do so.¹⁶

¹² Rule 11a2-2(T)(a)(2) provides, in brief, that a member of an exchange "initiating member" may effect a transaction on the exchange for its own account, the account of an associated person, on an account over which it or an associated person exercises investment discretion of (i) the transaction is executed on the floor of the exchange or through its facilities by a member that is not associated with the initiating member; (ii) the order is transmitted from off the exchange floor; (iii) neither the initiating member nor any associated person participates in the execution of the order after it has been transmitted; and (iv) in transactions for accounts over which the member or associated person exercises investment discretion, neither the member nor associated person retains compensation in connection with effecting the transaction unless expressly provided otherwise in writing by the person authorized to transact business for the account. 17 CFR 240.11a2-2(T)(a)(2).

¹³ See 17 CFR 140.11Ac1-1(c)(2).

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ See Securities Exchange Act Release No. 44013 (February 28, 2001), 66 FR 13816 (March 7, 2001).

¹⁶ See, e.g., Securities Exchange Act Release No. 44017 (February 28, 2001), 66 FR 13820 (March 7, 2001) (ordering approving File No. SR-ISE-00-20).

The Commission believes that the proposed rule change extending Auto-Ex to ETFs and implementing various other features, including price improvement and the prohibition on members submitting orders for the same person within 30 seconds of each other, raises no significant new regulatory issues. Moreover, Amex is proposing Auto-Ex for ETFs as six-month pilot program, which will enable the Exchange and the Commission to evaluate its operation before the program can be renewed. The Commission therefore finds good cause to accelerate approval of the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁷ that the proposed rule change (File No. SR-Amex-2001-29) be, and hereby is, approved on an accelerated basis as a pilot program through December 19, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-15850 Filed 6-22-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44443; File No. SR-CBOE-2001-22]

Self-Regulatory Organizations; Notice of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Permanent Approval of the Pilot Program to Eliminate Position and Exercise Limits for OEX, SPX, and DJX Index Options

June 18, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 14, 2001, the Chicago Board Options Exchange, Incorporated ("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.

¹ 15 U.S.C. 78s(b)(2).

² 17 CFR 200.30-3(a)(12)

¹ 15 U.S.C. 78(b)(1).

² 17 CFR 240.19b-4.

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

The Exchange seeks permanent approval of the pilot program that provides for the elimination of position and exercise limits for OEX, SPX, DJX index options as well as for FLEX options overlying these indexes. 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 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 Exchange 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 January 22, 1999, the Commission approved a two-year pilot program ("Pilot Program") that allowed for the elimination of position and exercise limits for options on the S&P 500 Index ("SPX"), S&P 100 Index ("OEX"), and Dow Jones Industrial Average ("DJX") as well as for FLEX options overlying these indexes.³ The purpose of this proposed rule change is to request approval of the Pilot Program on a permanent basis.⁴

The Approval Order required the Exchange to submit a report to the Commission on the status of the Pilot Program so that the Commission could use this information to evaluate any consequences of the program and to determine whether to approve the elimination of position and exercise limits for these products on a permanent basis.⁵ The CBOE submitted the

required report to the Commission on December 21, 2000.⁶ The report indicates that during the review period, CBOE did not discover any instances where an account maintained an unusually large unhedged position. In fact, the data from the report found that only 12 accounts established positions in excess of 10% of the standard limit applicable to each index at the time the Pilot Program was approved. These positions were all in SPX and most were established by firms and market makers.; All of the accounts were hedged, although to different degrees. Most important, CBOE's analysis did not discover any aberrations caused by large unhedged positions during the life of the Pilot Program has been positive and, thus requests that the elimination of position and exercise limits for the above-referenced options be approved on a permanent basis.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁷ in general and in particular with Section 6(b)(5)⁸ in that it is designed to promote just and equitable principles of trade as well as to protect investors and the public interest, by allowing for the permanent approval of a Pilot Program that has enabled more business to be transacted on the exchanges that might otherwise have been transacted in the OTC market without the benefit of Exchange transparency and the guarantee of The Options Clearing Corporation.

The Exchange also believes that the proposed rule change is consistent with section 11A of the Act⁹ in that it will enhance competition by allowing the Exchange to compete better with the OTC market in options and with entities not subject to position limit rules.

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

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

detailing the size and different types of strategies employed with respect to positions established in those classes not subject to position limits. In addition, the report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the pilot program. The Commission expects that CBOE will take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop."

⁶ Letter from Patricia L. Cerny, Director, Office of Trading Practices, CBOE, to Elizabeth King, Division of Market Regulation, Commission, dated December 21, 2000.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78k-1.

burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange 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 be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing including whether it 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 Section. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the File No. SR-CBOE-2001-22 and should be submitted by July 16, 2001.

³ See Securities Exchange Act Release No. 40969 (January 22, 1999), 64 FR 49111 (Feb. 1, 1999) (approving SR-CBOE-99-23) ("Approval Order").

⁴ By separate filing, CBOE requested and received a four-month extension to allow for the continuation of the Pilot Program while the Commission considers whether to approve it on a permanent basis. The Pilot Program now expires on May 22, 2001. See Exchange Act Release No. 43867 (January 22, 2001), 66 FR 8250 (January 30, 2001) (approving SR-CBOE-01-01).

⁵ In the Approval Order, the Commission stated, "CBOE will provide the Commission with a report

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-15801 Filed 6-22-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44454; File No. SR-CHX-2001-09]

Self-Regulatory Organizations; The Chicago Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change To Allow Floor Brokers To Clear a Specialist's Post by Telephone

June 20, 2001.

By April 23, 2001, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("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 permit floor brokers to clear a specialist's post by telephone.

The proposed rule change was published for comment in the **Federal Register** on May 16, 2001.³ The Commission received no comments on the proposal.

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 exchange⁴ and, in particular, the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act⁶ because it will expand the ways in which floor brokers may probe the CHX's market, allowing for greater speed and efficiency, while continuing to satisfy the purpose of CHX Article XX, Rule 10.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-CHX-2001-09) be, and it hereby is, approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-15946 Filed 6-22-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44438; File No. SR-ISE-2001-13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange LLC Relating to Fee Changes

June 18, 2001.

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 May 15, 2001, the International Securities Exchange LLC ("ISE" 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 Exchange. 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 ISE is proposing the following changes to its fee schedule: (i) To extend its customer fee waiver; (ii) to provide for waivers of fees for multiple "Click" terminals; (iii) to impose certain "cabinet" and "router" fees; and (iv) to provide discounts for multiple "session" fees.

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 ISE 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 ISE 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

The purpose of the proposed rule change is to effect the following changes in the ISE's fees.

Customer fee waiver: The ISE currently waives customer transaction fees. This waiver is scheduled to expire on May 26, 2001. Because customer fee waivers continue to be part of the competitive landscape, the ISE is proposing to extend this waiver through May 2002.

"Click" fee waiver: "Clicks" are ISE order-entry terminals. The Exchange is proposing a one-year pilot program waiving all terminal and related fees for multiple Click order-entry terminals. While the ISE has provided multiple-terminal discounts for Clicks, it believes that a more aggressive program of waiving all fees for the second and subsequent terminals will help generate significant incremental order flow and enhance the Exchange's competitive posture.

Cabinet and router fees: The ISE is proposing: (1) a \$2,000 fee to remove computer cabinets from member firms and (2) a \$500 fee for installing or removing routers. These fees will recoup the ISE's costs.

"Session" fees: The ISE currently charges market makers \$1,000 for each "log-on" session. Because some members now have a high number of such sessions, it is proposing a multiple-session discount to \$750 for the 21st to 40th session and \$500 per session thereafter.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule as specified above is consistent with Section 6(b)³ of the Act, in general, and Section 6(b)(4) of the Act,⁴ in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement of the 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

Written comments were neither solicited nor received.

¹⁰ 17 CFR 200.30-3(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 44289 (May 10, 2001), 66 FR 27188.

⁴ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(4).