

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, and, in general, to protect investors and the public interest.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,⁷ that the proposed rule change (File No. SR-Amex-2001-25) 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.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44530 File No. SR-CBOE-2001-27]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Rerouting of Certain Orders

July 9, 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 29, 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.

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

The CBOE proposes to amend Exchange Rule 6.8, *RAES Operations*, to make it clear that an order rerouted from RAES may be routed to a location of the sending firm's choice. Below is the text of the proposed rule change.

New text is in *italics*. Proposed deletions are in [brackets].

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Chicago Board Options Exchange, Inc. Rules

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Chapter IX—Doing Business with the Public

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RAES Operations

Rule 6.8.

(a)–(c) No change.

(d) Execution on RAES.

(i) When RAES receives an order, the system automatically will attach to the order its execution price, determined by the prevailing market quote at the time of the order's entry to the system, except as otherwise provided in this Rule 6.8 and the Interpretations to this rule. A buy order will pay the offer, a sell order sell at the bid. Marketable limit orders will not be executed to sell for less or buy for more than the specified price, but the order can be executed to sell for a higher price or buy for a lower price. However, if the order's limit price is under \$3, RAES will execute the order only if the necessary bid or offer is ¹ point or less from the limit price. If the order's limit price is \$3 or more, RAES will execute the order only if the necessary bid or offer is one dollar or less from the limit price.

(ii) A Market-Maker logged on to participate in RAES (a "Participating Market-Maker") will be designated as contra-broker on the trade.

(iii) A trade executed on RAES at an erroneous quote should be treated as a trade reported at an erroneous price and adjusted to reflect the accurate market after receiving a Floor Official's approval.

(iv) When the best bid or offer on the Exchange's book constitutes the best bid or offer on the Exchange, contra-side incoming RAES orders shall be executed in accordance with either (A)[(i)] or (B)[(ii)] below, as determined by the appropriate Floor Procedure Committee on a class-by-class basis.

(A)[(i)] When the best bid or offer on the Exchange's book constitutes the best bid or offer on the Exchange and is for a size less than RAES order eligibility size for that class, such fact shall be denoted in the Exchange's disseminated quote by a "Book Indicator". An incoming RAES order will be executed against the order in the book. In the event the order in the book is for a smaller number of contracts than the RAES order, the balance of the RAES order will be assigned to participating

market-makers at the same price at which the initial portion of the order was executed up to an amount prescribed by the appropriate Floor Procedure Committee on a class-by-class basis (the "Book Price Commitment Quantity"). Any remaining balance thereafter shall be (i) routed to the crowd PAR terminal (*or to another location in the event of system problems or contrary firm routing instructions*) if Autoquote is not in effect for that series; (ii) assigned to participating market-makers at the Autoquote price if Autoquote constitutes the new prevailing market bid or offer; or (iii) executed against any order in the book that constitutes the new prevailing market bid or offer with the balance of the RAES order being assigned to participating market-makers at that price up to the Book Price Commitment Quantity. Any additional remaining balance of a RAES order shall be handled in accordance with (ii) or (iii) of this paragraph.

(B)[(ii)] An incoming RAES order will be executed against the order in the book. In the event the order in the book is for a smaller number of contracts than the RAES order, the balance of the RAES order will be assigned to participating market-makers at the same price at which the initial portion of the RAES order was executed.

(v) Notwithstanding sub-paragraph (d)(iv), for a six month pilot program ending August 21, 2001, for any series of options where the bid or offer generated by the Exchange's Autoquote system (or any Exchange approved proprietary quote generation system used in lieu of the Exchange's Autoquote system) crosses or locks the Exchange's best bid or offer as established by an order in the Exchange's customer limit order book, orders in RAES for options of that series will not be automatically executed but instead will be rerouted on ORS to the crowd PAR terminal or to another location in the event of system problems or contrary firm routing instructions.

(e)–(g) No change.

Interpretations and Policies

.01 No change.

.02 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 Floor Procedure Committee as coming within the scope of this sentence ("automatic step-up classes"),

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.

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. In respect of (i) automatic step-up classes of options under circumstances where the Exchange's best bid or offer is inferior to the current best bid or offer in another market by more than the step-up amount, or (ii) in respect of series of option classes designated by the appropriate Floor Procedure Committee or its Chairman under circumstances where the NBBO for one of the series is cross (e.g., 6.10 bid, 6 asked) or locked (e.g., 6 bid, 6 asked), or (iii) in respect of specified automatic step-up classes or series of options or specified markets under circumstances where the Chairman of the appropriate Floor Procedure Committee or his designee has determined that automatic step-up should not apply because quotes in such options or markets are deemed not to be reliable, or (iv) in respect of classes of options other than automatic step-up classes where the Exchange's best bid or offer is inferior to the current best bid or offer in another market by any amount, such orders will be rerouted *for nonautomated handling* to the DPM or OBO for that class of options, *or to any other location in the event of system problems or contrary routing instructions for the firm that forwarded the order to RAES.* [for non-automated handling.] *If the order has been rerouted to the DPM or OBO, the [The] DPM or OBO will report the execution or non-execution of such orders to the firm that originally forwarded the order to RAES.* With respect to the orders that are rerouted for manual handling pursuant to (ii) above, the appropriate Floor Procedure Committee may determine to have the orders for a particular series within a designated class of options executed on RAES notwithstanding the fact that the NBBO is either cross or locked. Also, with respect to (ii) above, the appropriate Floor Procedure Committee may determine to have the orders rerouted for manual handling only when the CBOE RAES becomes cross or locked as a result of applying the step-up amount. As used in this Interpretation and Policy .02, the term "step-up amount" shall mean the minimum increment for options of that series established pursuant to Rule 6.42, or any greater amount established by the appropriate Floor Procedure Committee in respect of specified automatic step-up

classes or series of options. The procedures described in this Interpretation .02 shall not apply in circumstances where a "fast market" in the options that are the subject of the orders in question has been declared on the Exchange or where comparable conditions exist in the other market such that firm quote requirements do not apply.

.03-.08 No change.

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

In its filing with the Commission, 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

The Exchange is proposing to amend Exchange Rule 6.8 to make it clear that an order that is rerouted from RAES may be routed to a location designated by the order routing firm. Currently, there are two sections in the RAES rule that provide that orders rerouted from RAES will be routed to the Designated Primary Market-Maker ("DPM") or to the Public Automated Routing ("PAR") terminal in the trading crowd.³ Specifically, paragraph (d)(iv)(A) of Rule 6.8 states that where a RAES order is executed against a booked order and there is a remaining balance, that remaining balance may be routed to one of three locations. The first location which the rule designates as a location for the remaining balance is "the crowd PAR terminal if Autoquote is not in effect for that series." The second section in Rule 6.8 which describes an order rerouted from RAES being routed to a PAR terminal is in Interpretation .04 to the rule, which governs orders that are rerouted because another market is displaying a better bid or offer. Interpretation .04 states that "in respect of classes of options other than automatic step-up classes where the Exchange's best bid or offer is inferior

³ DPMs in each trading crowd typically are responsible for managing the orders that are routed to the PAR terminal in each crowd.

to the current best bid or offer in another market by any amount, such orders will be rerouted to the DPM or OBO for that class of options."

In both of these cases, the Exchange was not intending to limit the alternative locations to which a firm could choose to have a rejected RAES order route. Instead, the rules were meant to describe the default locations to which the RAES order would route absent any contrary indications from the firm. In fact, paragraph (d)(v) states that orders that are rejected from RAES pursuant to this provision will "be rerouted on ORS to the crowd PAR terminal or to another location in the event of system problems or contrary firm routing instructions." [emphasis added]. The Exchange is, therefore, making clear in its rules that a firm may choose to determine to have its orders routed to another location other than to PAR or to the DPM.⁴ The Exchange believes that, unless there is some overriding regulatory concern, firms should be able to choose the location to which their orders should be routed so that they may handle their business in the most effective manner.

Additionally, system problems may occasionally prevent the Exchange from routing an order to the PAR terminal or to the DPM. In these events, although this fact may be obvious, the Exchange believes that it should specifically note this possibility in its RAES rule in those locations where it is not presently noted.

2. Statutory Basis

Because the proposed rule amends the Exchange's rules to make clear that a firm may determine where to route its RAES rejected orders and because the proposed rule otherwise makes clear that there may be some circumstances where RAES orders will need to be rerouted due to system problems, the proposed rule change is consistent with Section 6(b) of the Act⁵ in general and furthers the objectives of section 6(b)(5)⁶ in particular in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or

⁴ Currently, the Exchange's ORS provides for the order to route to a firm booth (whereupon it may be rerouted electronically from a BART terminal) or to a crowd printing terminal. The Exchange may provide other routing locations in the future.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act,⁷ and subparagraph (f)(1) of Rule 19b-4 thereunder.⁸ 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. 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 CBOE. All submissions should refer to File No. CBOE-2001-27 and should be submitted by August 6, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,
Deputy Secretary.

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⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(1).

⁹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44534; File No. SR-CHX-2001-14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by The Chicago Stock Exchange, Inc., To Eliminate the "E-Session" After-Hours Trading Session

July 10, 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 July 2, 2001, The Chicago Stock Exchange, Inc. ("CHX" 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 Exchange proposes to delete CHX Article XXA, which governed an after-hours trading session (the "E-Session") conducted by the Exchange, and to eliminate other rule references to the E-Session. The Exchange intends to cease conducting the E-Session following the Commission's approval of this proposed rule change. The text of the proposed rule change is available at the Commission and at the CHX.

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 aspects of such statements.

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

1. Purpose

On February 7, 2000, the Commission approved the CHX's proposed rule

change granting access to and governing the E-Session.³ Following continuous operation for the E-Session for the past year, the E-Session has not sustained the increases in order flow that the CHX anticipated. Consequently, in light of the costs attendant to operation of an after-hours trading session by a self-regulatory organization, the Exchange has determined that it is not feasible at this time to continue conducting the E-Session. The Exchange has discussed its intention to eliminate the E-Session with its principal E-Session order-sending firms, and is confident that each of these order-sending firms has sufficient alternative liquidity sources in the after-hours market. Accordingly, upon the Commission's approval of this proposed rule change, which proposal would delete from the CHX rules all references to the E-Session, the CHX intends to cease conducting the E-Session.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange. In particular, the Exchange believe the proposed rule change is consistent with sections 6(b) of the Act.⁴ In particular, the CHX believes the proposal is consistent with the section 6(b)(5) of the Act,⁵ in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate 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 either solicited or received.

³ See Securities Exchange Act Release No. 42403 (February 7, 2000), 65 FR 7581 (February 15, 2000)(SR-CX-99-08). See also Securities Exchange Act Release No. 42004 (October 13, 1999), 64 FR 56548 (October 20, 1999) (SR-CHX-99-16).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.