

options exchanges and the OCC submitted the OLPP, which sets forth new procedures for the listing and trading of standardized options.⁶ In many instances the new procedures set forth in the OLPP conflict with procedures in the JEOP. On July 6, 2001, the Commission approved the OLPPP and its procedures now govern the listing and trading of standardized options.⁷ Therefore, participation in the JEOP is now unnecessary and inappropriate. Consequently, the Exchange proposes to withdraw from participation in the JEOP.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁸ in general and furthers the objectives of Section 6(b)(5)⁹ in particular in that it is designed to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and protect investors and the public interest.

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

The Amex 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.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing, or such

shorter time as designated by the Commission, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6)¹¹ thereunder. 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.

The Exchange has requested that the Commission accelerate the operative date and to waive the five day pre-filing requirement so that the proposed rule change may take effect upon approval of the OLPP by the Commission. The Commission believes that it is consistent with the protection of investors and the public interest and therefore finds good cause to accelerate the operative date of the proposed rule change and to waive the five day pre-filing requirement. Acceleration of the operative date and waiving the pre-filing requirement will permit the Exchange to implement the OLPP without undue delay. For these reasons, the Commission finds good cause to designate that the proposal became operative immediately upon Commission approval of the OLPP.¹²

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 the File No. SR-Amex-2001-43 and should be submitted by August 24, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44607; File No. SR-CBOE-2001-40]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Establishing New Exchange Fees Based on the Number of Order Cancellations Routed Through its Automated Order Routing System

July 27, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4² thereunder, notice is hereby given that on July 16, 2001, 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. 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 establish a new fee based upon the number of order cancellations that are routed to the CBOE through its automated Order Routing System ("ORS").

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

to eliminate any provisions of the JEOP that allow one market to delay the commencement of trading of an option by another market. See Section IV.B.a of the Order Instituting Public Administrative Proceedings Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000) ("Order").

⁶ See Securities Exchange Act Release No. 44287 (May 10, 2001) 66 FR 27184 (May 16, 2001).

⁷ See Securities Exchange Act Release No. 36809 (July 13, 2001).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19-4(f)(6).

¹² For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

The Exchange is proposing to establish a fee to deal with various operational problems and costs resulting from the practice of immediately following orders routed through the Exchange's automated ORS with a cancel request. Since these order frequently come in large numbers, components of the ORS, such as the Public Automated Routing ("PAR") system, can very quickly become backlogged, which increases Exchange costs and adversely impacts public customers, their clearing firms, and Exchange designed primary market-makers ("DPMs") by making the execution of other customer orders less timely. A high volume of cancellations sent through the ORS to PAR, or to the Exchange's E-Book or "Live Ammo" systems, also increases Exchange costs by requiring the Exchange to spend increased amounts on systems and other hardware to process increased order traffic flow.

Under the proposed fee, the executing Clearing Member would be charged \$1.00 for every order that it cancels through the ORS in any month where the total number of cancellations sent by the executing Clearing Member exceeds the total number of orders that same firm executed through ORS in that same month. This fee will not apply to executing Clearing Members that cancel fewer than 500 orders through ORS in a given month. The Exchange believes that the fee will help ease backlogs on ORS and particularly PAR, and fairly allocate the related costs.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the act,³ in general, and Section 6(b)(4) of the Act,⁴ in particular, in that 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

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 nor 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)(ii) of the Act⁵ and subparagraph (f)(2) of Rule 19b-4⁶ thereunder, because it establishes or changes a due, fee, or other charge. At any time within 60 days of the filing of such 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.⁷

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, N.W., 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-2001-40 and should be submitted by August 24, 2001.

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. 34-44602; File No. SR-CBOE-2001-38]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Withdrawing From the Joint-Exchange Options Plan

July 27, 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 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 withdraw from the Joint-Exchange Options Plan ("JEOP"), previously approved by the Commission on September 17, 1991.³ The CBOE proposes to withdraw from the JEOP effective as of the date that the Commission approves the Options Listing Procedures Plan ("OLPP").⁴

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 29698 (September 17, 1991), 56 FR 48594 (September 25, 1991).

⁴ The Commission directed the American Stock Exchange LLC ("Amex"), the CBOE, the Pacific Exchange, Inc. ("PCX"), and the Philadelphia Stock Exchange, Inc. ("Phlx") to amend the JEOP to eliminate advance notice to other markets of the intention to list a new or existing option; to eliminate any provisions of the JEOP that prevent a market from commencing to list or trade any option listed on another market or an option that another market has expressed an intent to list; and to eliminate any provisions of the JEOP that allow one market to delay the commencement of trading of an option by another market. See Section IV.B.a of the Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(4).

⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

⁶ 17 CFR 240.19b-4(f)(2).

⁷ See 15 U.S.C. 78(b)(3)(C).