

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of August 27, 2001:

Closed meetings will be held on Tuesday, August 28, 2001, at 10:00 a.m. and Thursday, August 30, 2001, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), 9(B), and (10) and 17 CFR 200.402(a)(5), (7), (9)(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled for Tuesday, August 28, 2001, and Thursday, August 30, 2001, will be:

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: August 21, 2001.

Jonathan G. Katz,
Secretary.

[FR Doc. 01-21521 Filed 8-21-01; 3:48 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44718; File No. SR-CBOE-2001-33]

Self-Regulatory Organizations; Notice of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Options Exchange, Incorporated Relating to Step-up From the Designated Primary Market Maker's Autoquote Price

August 17, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 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. On August 16, 2001, the Exchange submitted Amendment No. 1 to the proposed rule change.³

The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to clarify, for purposes of automated step-up, that the term “Exchange's best bid or offer” would refer to the Designated Primary Market Maker's (“DPM”) Autoprice price or the price from the DPM's proprietary automated quotation updating system. 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 if 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.

¹ 15 U.S.C. 78(b)(1).

² 17 CFR 240.19b-4.

³ See letter to Debby Flynn, Assistant Director, Division of Market Regulation, Commission, from Steve Youhn, Attorney, CBOE, dated August 15, 2001. (“Amendment No. 1”) In Amendment No. 1, the Exchange made two changes to be proposed rule text. First, the Exchange modified the reference point from which the Exchange will step-up from the Exchange BBO to the Autoquote price. The Exchange amended the rule text to state that step-up will be measured from the price for the series as established by the Autoquote or the DPM's proprietary automated quotation updating system. Second, Amendment No. 1 amended the proposed rule text to clarify that if Autoquote is not activated for a particular class or series, that class or series would not be designated as a step-up class. Specifically, the amendment deleted the phrase “unless otherwise designated by the appropriate FPC” from the proposal.

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

1. Purpose

Interpretation .02 to CBOE Rule 6.8 establishes the process for the automatic execution of orders through the Retail Automatic Execution System (“RAES”) when the Exchange's best bid or offer (“Exchange's BBO”) is inferior to that of another market. Under this provision, the Exchange automatically fills any equity option order submitted through RAES at any better price being quoted in another market (“step-up”), so long as the price on the away market is better than the Exchange's BBO by no more than one tick (“step-up amount”).⁴ If the price on the away market is better by more than the automatic step-up amount (*i.e.*, more than one-tick), the order is rerouted to the DPM for non-automated handling.⁵

As mentioned above, in determining whether the CBOE price is inferior to that of another market, CBOE measures from the “the Exchange's BBO.” The term “Exchange's BBO” could be interpreted to include any price displayed by the Exchange, whether that price represents Autoquote, a customer order in the limit order book, or a market maker's quote. The purpose of this rule filing is to clarify the term “Exchange's BBO.” Under the proposal, the Exchange would amend CBOE Rule 6.8.02 to include new subsection (b).

Under this new subsection, CBOE proposes that the term “Exchange's BBO” for purposes of the step-up feature would mean the Autoquote price as established by the DPM or the DPM's proprietary automated quotation updating system⁶ for the class or series. Under this change, the Exchange will “step-up” to an away market price when the away market price is better than the Exchange's Autoquote price or the DPM's proprietary automated quotation updating system for the same series by

⁴ The Commission approved the CBOE automatic step-up plan in Exchange Act Release No. 40096 (June 16, 1998), 63 FR 34209 (June 23, 1998) (order approving SR-CBOE-98-13). CBOE Rule 6.42 establishes the minimum trading increments for bids and offers. For option series quoted at or below \$3 per contract, the minimum increment is 5 cents. For option series quoted above \$3, the trading increment is 10 cents.

⁵ The Commission published notice of the filing and immediate effectiveness of a CBOE proposed rule change that would allow the DPM to vary the step-up amount by order size parameter. See Exchange Act Release No. 44490 (June 28, 2001), 66 FR 35681 (July 6, 2001) (SR-CBOE-2001-32). The Exchange also has a filing before the Commission (SR-CBOE-2001-08), which would allow the DPM to vary the step-up amount by order entry firm.

⁶ See Amendment No. 1, *supra* note 3.