meeting. Pursuant to the Distribution Policies, the shareholders of each Fund currently receive a fixed distribution of 12.5 cents per share on a monthly basis. If for any taxable year, the total distributions required by the Distribution Policies exceed the sum of each Fund's net investment income and net realized capital gains, the excess generally will be treated as a return of capital (up to the amount of the shareholder's adjusted tax basis in his shares). Applicants state that the Distribution Policies provide a steady cash flow to the Funds' shareholders and are a method to reduce the trading discount from NAV.

3. Applicants request relief to permit the Funds, so long as they maintain in effect the Distribution Policies, to make up to twelve long-term capital gains distributions in any one taxable year.

Applicants' Legal Analysis

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the Commission may prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b–1(a) under the Act permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(C) of the Internal Revenue Code of 1986, as amended (the ''Code''). Rule 19b–1(a) also permits a supplemental distribution to be made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b–1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under section 4982 of the Code.

2. The Funds assert that rule 19b–1, by limiting the number of net long-term capital gains distributions the Funds may make with respect to any one year, would prohibit the Funds from including available net long-term capital gains in certain of their fixed monthly distributions. As a result, the Funds state that they could be required to fund these monthly distributions with returns of capital (to the extent net investment income and net realized short-term capital gains are insufficient to cover a monthly distribution). The Funds further assert that, to distribute all of their long-term capital gains within the limits in rule 19b–1, the Funds may be required to make total distributions in excess of the annual amount called for by the Distribution Policies or retain and pay taxes on the excess amount. The Funds assert that the application of rule 19b–1 to their Distribution Policies may create pressure to limit the realization of long-term capital gains based on considerations unrelated to investment goals.

3. The Funds submit that the concerns underlying section 19(b) and rule 19b–1 are not present in their situation. One of the concerns leading to the adoption of section 19(b) and rule 19b–1 was that shareholders might be unable to distinguish between frequent distributions of capital gains and dividends from investment income. The Funds state that the Distribution Policies have been described in the Funds' periodic communications to their shareholders. The Funds further state that, as required by rule 19a–1 under the Act, a separate statement showing the source of the distribution will accompany any distribution. The Funds also state that a statement showing the amount and source of each monthly distribution during the year will be included with each Fund's IRS Form 1099–DIV report sent to each shareholder who received distributions during the year (including shareholders who sold shares during the year).

4. The Funds submit that another concern underlying section 19(b) and rule 19b–1 is that frequent capital gains distributions could facilitate improper fund distribution practices, including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming dividend (''selling the dividend''), when the dividend results in an immediate corresponding reduction in NAV and is, in effect, a return of the investor's capital. The Funds state that this concern does not apply to closed-end investment companies, such as the Funds, that do not continuously distribute their shares.

5. The Funds state that increased administrative costs also are a concern underlying section 19(b) and rule 19b–1. The Funds assert that this concern is not present because the Funds will continue to make monthly distributions regardless of whether capital gains are included in any particular distribution.

6. Section 6(c) of the Act provides that the Commission may exempt any person or transaction from any provision of the Act or any rule under the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons stated above, the Funds believe that the requested relief satisfies this standard.

Applicants' Condition

The Funds agree that the order granting the requested relief will terminate upon the effective date of a registration statement under the Securities Act of 1933, as amended, for any future public offering by the Funds of their common shares other than:

(i) A non-transferable rights offering to shareholders of the Funds, provided that such offering does not include solicitation by brokers or the payment of any commissions or underwriting fee; and

(ii) An offering in connection with a merger, consolidation, acquisition, spin-off or reorganization; unless the Funds have received from the staff of the Commission written assurance that the order will remain in effect.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7039 Filed 3–22–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [67 FR 10778, March 8, 2002].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Tuesday, March 12, 2002 at 10:00 a.m.

CHANGE IN THE MEETING: Additional Item.

The following item was added to the closed meeting held on Tuesday, March 12, 2002: regulatory matter concerning financial markets.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries attended the closed meeting. Certain staff members who had an interest in the matter were also present.

The General Counsel of the Commission, or his designee, 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), permitted consideration of the scheduled matter at the closed meeting.

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: March 19, 2002.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–7166 Filed 3–20–02; 5:02 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45574; File No. SR–CBOE–2001–63]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 Thereto by the Chicago Board Options Exchange, Inc. Relating to the Exchange's AutoQuote System

March 15, 2002.

I. Introduction

On December 17, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to 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 relating to the Exchange's Auto-Quote System. The Exchange filed Amendment No. 1 to the proposed rule change on February 7, 2002.[3] The **Federal Register** published the proposed rule change and Amendment No. 1 for comment on February 13, 2002.[4] The Exchange filed Amendment No. 2 to the proposed rule change on March 7, 2002.[5] The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as amended by Amendment No. 1, and issues notice of, and grants accelerated approval to, Amendment No. 2.

II. Description of Proposal

CBOE Rule 8.15 currently provides that the appropriate MPC may appoint Lead Market-Makers (''LMMs'') and Supplemental Market-Makers (''SMMs'') for a specified period of time to participate in opening rotations in S&P 100 options (''OEX'') and options on the Dow Jones Industrial Average (''DJX''). The proposed rule change amends CBOE Rule 8.15 to make explicit in the rule that the appropriate Market Performance Committee (''MPC'') may appoint LMMs and SMMs to determine a formula for generating automatically updated market quotations and to use the Exchange's AutoQuote system or to provide a proprietary automated quotation updating system to monitor and automatically update market quotations during the trading day in any options class for which a Designated Primary Market-Maker (''DPM'') has not been appointed.

Proposed new paragraph (d) of CBOE Rule 8.15 provides that LMMs and SMMs appointed pursuant to the CBOE Rule 8.15 to determine a formula for generating automatically updated market quotations must, for the period in which its acts as LMM or SMM, use the Exchange's AutoQuote system or a proprietary automated quotation updating system to update market quotations during the trading day. Proposed paragraph (d) also requires LMMs to disclose to the trading crowd the variables of the formula for generating automatically updated market quotations unless exempted by the appropriate MPC. Proposed paragraph (d) further provides a cross-reference to the requirements of Interpretation .07 to CBOE Rule 8.7, which sets forth the AutoQuote obligations of market makers.[6] The Exchange also proposes to eliminate the references to S&P 100 options and options on the DJX from CBOE Rule 8.15 so that the appropriate MPC may appoint LMMs and SMMs in other options classes without having to file a proposed rule change with the Commission.

III. Discussion

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 exchange.[7] Specifically, the Commission believes that the proposed rule change is consistent with the Section 6(b)(8) [8] requirement that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that the proposed rule change should deter collective action, except as authorized by the Exchange's rules, by clearly establishing in the Exchange's rules the responsibilities of, and conduct permitted by, Exchange members in setting AutoQuote parameters. For instance, the proposal amends CBOE Rule 8.15 to make explicit in the rule that in options for which a DPM has not been appointed, the Exchange's MPC may appoint LMMs and SMMs to determine a formula for generating automatically updated market quotations and to use the Exchange's AutoQuote system or to provide a proprietary automated quotation updating system. The Commission believes this provision should clarify the obligations of LMMs and SMMs with respect to the Exchange's AutoQuote system. In addition, the proposal would permit the LMM or SMM to receive input from members of the crowd in setting the parameters of the formula used to automatically update options quotations. At this time, the Commission believes it is reasonable for the Exchange's rules to permit members of the crowd to be given a voice in setting AutoQuote parameters because, pursuant to the Exchange's rules, they will be obligated to execute orders at the resultant quote.[9]

Finally, the Commission finds that the proposed rule change is designed to effectively limit the circumstances in which collective action is permissible.

The Commission finds good cause for accelerating approval of Amendment No. 2 because it clarifies the obligations of LMMs and SMMs regarding AutoQuote. Accordingly, the Commission finds that good cause exists, consistent with sections 6(b)(5) of the Act,[10] and section 19(b)(2) of the Act[11] to accelerate approval of Amendment No. 2 to the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Patrick Sexton, Assistant General Counsel, CBOE, to Deborah Flynn, Assistant Director, Division of Market Regulation (''Division''), Commission (''Amendment No. 1''). Amendment No. 1 requests the Commission to designate the proposed rule change as having been filed pursuant to section 19(b)(2) of the Act. 15 U.S.C. 78s(b)(2).

[4] Securities Exchange Act Release No. 45419 (February 7, 2002), 67 FR 6772.

[5] *See* letter from Patrick Sexton, Assistant General Counsel, CBOE, to Deborah Flynn, Assistant Director, Division, Commission, dated March 5, 2002 (''Amendment No. 2'').

[6] *See* Amendment No. 2, *supra* note 5.

[7] In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(8).

[9] The Commission expects the Exchange to monitor the collective actions that are undertaken pursuant to the rule change approved herein for any undesirable or inappropriate anticompetitive effects. The Commission's examination staff will monitor the Exchange's efforts in this regard.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(2).