

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45992; File No. SR-CBOE-2002-12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Its AutoQuote Triggered EBook Execution System

May 29, 2002.

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 March 13, 2002, 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. That filing was amended on April 17, 2002.³ 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 adopt an interpretation to its "Trigger" rule (Rule 6.8(d)(v)) to clarify when a Trigger trade must be manually endorsed to a trading crowd member(s) instead of to the RAES "wheel." 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 VI—Doing Business on the Exchange Floor

Section A: General

This Rule governs RAES operations in all classes of options, except to the extent otherwise expressly provided in

this or other Rules in respect of specified classes of options.

RULE 6.8 (a)–(c) No change.

(d) Execution on RAES

(i)–(iv) No change.

(v) Notwithstanding sub-paragraph (d)(iv), for classes of options as determined by the appropriate Floor Procedure Committee, 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) is equal to or crosses the Exchange's best bid or offer as established by an order in the Exchange's limit order book, orders in the book for options of that series will be automatically executed against participants on RAES up to the number of contracts equal to the applicable maximum size of RAES-eligible orders for that series of options ("Trigger"). *In the event a member in the trading crowd verbally initiates a trade with a book order prior to the time the book staff announces to the trading crowd that the order has been removed from the book by Trigger, the book staff will manually endorse the book order to that member(s).* In the event the order in the book is for a larger number of contracts than the applicable RAES contract limit, the balance of the book order will be executed manually by the trading crowd. In the limited circumstance where contracts remain in the book after an [automatic] execution of a book order up to the applicable RAES contract limit, and the disseminated quote remains crossed or locked with the Autoquote bid or offer, or for any series where Trigger has not yet been implemented by the appropriate Floor Procedure Committee, 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 Polices

.01–.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, 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 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 proposes to adopt an interpretation to Rule 6.8(d)(v), which governs the operation of the AutoQuote Triggered EBook Execution system ("Trigger"). The proposed interpretation will make clear when a Trigger trade must be endorsed manually to a trading crowd member(s) instead of to the RAES "wheel." Trigger is a system that allows certain orders resting in the book to be automatically executed in the limited situation where the bid or offer for a series of options generated by the Exchange's AutoQuote system (or any Exchange approved proprietary quote generation system used in lieu of the Exchange's AutoQuote system) is equal to or crosses the Exchange's best bid or offer for that series as established by a booked order.⁴

In those classes where Trigger has been activated, as AutoQuote⁵ changes and the quote generated by AutoQuote either touches or crosses a resting order in the book on the opposite side of the quote, the Trigger process is initiated and the book order(s) is immediately taken out of the book (the book order is "Triggered") and a last sale is disseminated. An inversion notice ticket is printed on the book printer and an item will appear on the EBook Trigger Endorsement Screen notifying the book clerk that Trigger has taken an order(s) out of the book and an endorsement is required. At this point, the book staff will announce to the trading crowd that an order in the book has been Triggered and the terms of the trade. After the book clerk verifies with the DPM (or OBO) that the Trigger trade is valid based on movements in the underlying security, the trade will be endorsed by the book clerk to the RAES "wheel" up to the RAES contract limit applicable for that particular series of options.

In its original filing, the Exchange noted that in most instances a Trigger trade will be endorsed to the RAES wheel, but that the Trigger system has the functionality to allow the book staff

⁴ The Commission approved the rule governing the Trigger system in Securities Exchange Act Release No. 44462 (June 21, 2001), 66 FR 34495 (June 28, 2001) (approving SR-CBOE-00-22).

⁵ The use of the term "AutoQuote" herein means either the Exchange's AutoQuote system or any Exchange-approved proprietary quote generation system.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Jaime Galvan, CBOE, to Andrew Shipe, Special Counsel, Division of Market Regulation, Commission, dated April 16, 2002 ("Amendment No. 1"). In Amendment No. 1, the CBOE revised its proposal to add text to its Rule 6.8(d)(v), rather than adopt an interpretation without rule text. For purposes of determining the effective date and calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers April 17, 2002 to be the effective date of the proposed rule change, the date CBOE filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

to endorse a Trigger trade manually when appropriate.⁶ The typical situation that was envisioned by the Exchange that would result in a DPM manually endorsing a Trigger trade to a crowd member is when the DPM noticed that a crowd member was in the process of verbally initiating a trade with the book. In this situation, the DPM could decide to utilize the manual endorsement functionality to award the Triggered trade to that particular crowd member as opposed to endorsing it to the RAES wheel because that crowd member was first to bid (offer) for the book order.

As Trigger has been rolled out to the trading floor, the Exchange has observed that while it is possible for the book staff to know exactly when a crowd member initiated a trade with the book, it is not possible to know exactly when a Trigger activation occurred. When there is a crowd member claiming to have traded with the book first and the book staff is uncertain which came first, the crowd member's bid or offer or the Trigger, the DPM (OBO) practice has been to endorse the Trigger trade to the RAES wheel.

The Exchange proposes to interpret Rule 6.8(d)(v) to require a DPM (OBO) to manually endorse a Triggered book order to a crowd member not only in the situation when it is known a crowd member was bidding (offering) for a book order prior to Trigger activation, but also to a crowd member who bids (offers) for a Triggered book order prior to the time the book staff announces the Triggered order to the crowd. In these instances, the DPM (OBO) will manually endorse the order to the crowd member(s) who is bidding (offering) for the booked order that was Triggered as opposed to endorsing the order to the RAES wheel.⁷ The Exchange believes this interpretation is appropriate for the reason that it provides a clear reference point for determining the priority of a member's bid or offer in regards to a Triggered book order. The proposed interpretation will enable a market maker to trade against a Triggered book order in the instance where a market maker initiated the procedure to trade with the Triggered book order before it is announced to the trading crowd.

The general rule will be that if the book staff does not receive any bids (offers) from a crowd member for a

Triggered book order by the time the book staff announces the Triggered order to the crowd, the book staff will endorse the trade to the RAES wheel.

2. Statutory Basis

The proposed rule change is consistent with and furthers the objectives of 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 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 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,¹⁰ and subparagraph (f)(1) of Rule 19b-4 thereunder because it is designated as a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule.¹¹ 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.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 CBOE. All submissions should refer to File No. CBOE-2002-12 and should be submitted by June 25, 2002.

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. 34-45988; File No. SR-CHX-2002-16]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated To Eliminate CHX Rule Provisions Governing Stop Order Bans

May 28, 2002.

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 24, 2002, the Chicago Stock Exchange, Incorporated ("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 Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6)⁴ thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to

¹³ 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. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6). The CHX provided the Commission written notice of its intent to file the proposal on November 21, 2001. The Exchange has asked the Commission to waive the 30-day operative delay to allow the proposal to be effective and operative upon filing with the Commission.

⁶ 66 FR at 34495.

⁷ As with any trade that takes place at the DPM's previously established principal bid or offer, the DPM would be entitled to participate in a percentage of the trade with the book order pursuant to Rule 8.87 and would manually endorse that portion of the order to himself.

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 240.19b-4(f)(1).

¹² See supra note 3.