

**RAILROAD RETIREMENT BOARD**

**Proposed Data Collection Available for Public Comment and Recommendations.**

*Summary:* In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board will publish periodic summaries of proposed data collections.

*Comments are invited on:* (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the

information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

*Title and Purpose of information collection: Certification of Termination of Service and Relinquishment of Rights:* OMB 3220-0016. Under Section 2(e)(2) of the Railroad Retirement Act (RRA), an age and service annuity, spouse annuity, or divorced spouse annuity cannot be paid unless the Railroad Retirement Board (RRB) has evidence that the applicant has ceased railroad employment and relinquished rights to return to the service of a railroad employer. The procedure pertaining to the relinquishment of rights by an annuity applicant is prescribed in 20 CFR 216.24. Under Section 2(f)(6) of the RRA, earnings

deductions are required each month an annuitant works in certain nonrailroad employment termed Last Pre-Retirement Non-Railroad Employment.

Normally, the employee, spouse, or divorced spouse relinquish rights and certify that employment has ended as part of the annuity application process. However, this is *not always* the case. In limited circumstances, the RRB utilizes Form G-88, Certification of Termination of Service and Relinquishment of Rights, to obtain an applicant's report of termination of employment and relinquishment of rights. One response is required of each respondent. Responses are required to obtain or retain benefits. The RRB proposes non-burden impacting editorial, and clarification changes to Form G-88.

The estimated annual respondent burden is as follows:

**ESTIMATE OF ANNUAL RESPONDENT BURDEN**

Form Nos.	Annual responses	Time (min)	Burden (hrs)
G-88 .....	3,600	6	360

**Additional Information or Comments:** To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363 or send an e-mail request to [Charles.Mierzwa@RRB.GOV](mailto:Charles.Mierzwa@RRB.GOV). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 or send an e-mail to [Ronald.Hodapp@RRB.GOV](mailto:Ronald.Hodapp@RRB.GOV). Written comments should be received within 60 days of this notice.

**Charles Mierzwa,**  
Clearance Officer.  
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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), (6), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (6), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Tuesday, January 18, 2005, will be:

- Formal orders of investigations;
- 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: January 11, 2005.

**Jonathan G. Katz,**  
Secretary.  
[FR Doc. 05-875 Filed 1-11-05; 4:07 pm]  
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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-51006; File No. SR-CBOE-2005-04]

**Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Systematizing of Orders in the Standard and Poor's Depository Receipts ("SPDR") Option Class**

January 10, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 10, 2005, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. The Exchange has filed the proposal as a

**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 meeting during the week of January 17, 2005:

A Closed Meeting will be held on Tuesday, January 18, 2005 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

“non-controversial” rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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

CBOE proposes to amend its rules relating to the systematizing of orders in the Standard and Poor’s Depository Receipts (“SPDR”) option class. The text of the proposed rule change is below. Proposed new language is in *italics*.

#### CHAPTER VI

\* \* \* \* \*

#### Section B: Member Activities on the Floor

\* \* \* \* \*

#### Required Order Information

##### Rule 6.24

(a)(1)–(2) No change.

(a)(3) Orders in Certain Index Option Classes and the Standard and Poor’s Depository Receipts (“SPDR”) Option Class. The requirement to systematize orders as set forth in this Rule shall commence on March 28, 2005, in the following option classes: the S&P 500 index option class (SPX), the SPDR option class, the S&P 100 index option class (OEX), and the European-style S&P 100 index option class (XEO).

(a)(4) No change.

(b)–(c) No change.

\* \* \* Interpretations and Policies:

.01—.07 No change.

### 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 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

In connection with the development of a Consolidated Options Audit Trail System (“COATS”), CBOE recently amended CBOE Rule 6.24 to require that each order, cancellation of, or change to an order transmitted to CBOE must be “systematized”, in a format approved by the Exchange, either before it is sent to the Exchange or upon receipt on the floor of the Exchange.<sup>6</sup> An order is systematized if: (i) The order is sent electronically to the Exchange; or (ii) the order that is sent to the Exchange non-electronically (e.g., telephone orders) is input electronically into the Exchange’s systems contemporaneously upon receipt on the Exchange, and prior to representation of the order.

The requirements of CBOE Rule 6.24 to systematize orders commenced on January 10, 2005 in all option classes traded on CBOE, except for the S&P 500 index option class (SPX), the S&P 100 index option class (OEX), and the European-style S&P 100 index option class (XEO). In these option classes, the requirement to systematize orders will commence on March 28, 2005. In its rule change amending CBOE Rule 6.24, CBOE noted that the extension until March 28, 2005, for these option classes is reasonable and appropriate because the manner in which these option classes trade is significantly different than equity option classes and because of the trading environment that exists in these option classes.<sup>7</sup>

The purpose of this rule filing is to amend CBOE Rule 6.24 to state that the requirement to systematize orders in the S&P Depository Receipts Trust (“SPDR”) option class will commence on March 28, 2005, as it will for SPX, OEX and XEO options. Options on SPDRs, which is an exchange-traded fund based on the S&P 500 index, began trading on CBOE on January 10, 2005. CBOE anticipates that options on SPDRs will be traded in a manner similar to SPX options (an index option based on the S&P 500

<sup>6</sup> See Securities Exchange Act Release No. 50996 (January 7, 2005) (SR-CBOE-2004-77).

<sup>7</sup> Moreover, CBOE noted in its rule filing that it initially developed its floor broker workstation (“FBW”) to assist its members in complying with their obligations to systematize orders for COATS. However, the FBW was designed specifically for COATS compliance in equity option classes, and not for use in index option classes. Upon being advised in late December 2003 that the requirement to systematize orders also applied to non-equity option classes, the Exchange actively pursued developing an alternative technology to utilize in index option classes.

index), and therefore believes it is reasonable and appropriate to extend the requirement to systematize orders in options on SPDRs until March 28, 2005.

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>9</sup> in particular. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</sup> because it will enhance CBOE’s audit trail for orders by incorporating non-electronic orders into COATS, and will permit CBOE to reconstruct markets in a more efficient and effective manner.

#### 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 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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

Because the foregoing rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>13</sup> normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange satisfied the five-day pre-filing requirement. The Exchange further requested that the Commission

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> The CBOE asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii), and designate the proposed rule change immediately operative. The Commission notes that by waiving the operative period, the Exchange has stated that it will be able to implement trading in options on SPDRs expeditiously, which the Exchange states should serve to enhance the depth and liquidity of the SPDR market as well as the products for which SPDRs or the S&P 500 Index is the underlying benchmark. For these reasons, the Commission, consistent with the protection of investors and the public interest, has waived the 30-day operative date requirement for this proposed rule change, and has determined to designate the proposed rule change as operative on January 10, 2005, the date it was submitted to the Commission.

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.

#### 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. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2005-04 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-CBOE-2005-04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 the filing also will be available for inspection and copying at the principal offices of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2005-04 and should be submitted on or before February 4, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51003; File No. SR-CBOE-2005-01]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, Relating to Allowing Market Participants To Submit Orders for Automatic Execution

January 10, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 31, 2004, 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 and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> The Commission is publishing this notice to

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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 allow market participants to submit orders for automatic execution. 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 statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

When CBOE market participants<sup>5</sup> interact with orders in the electronic book ("the book" or "E-book"), CBOE Rule 6.45A(c) governs the allocation of such orders.<sup>6</sup> Generally, if only one market participant ("MP") interacts with the order in the book, he/she will be entitled to receive the entire order. If, however, more than one MP attempts to interact with the same order in the book, a "quote trigger" process initiates. Under the quote trigger process, the first MP to interact with the book order starts a counting period lasting N-seconds whereby each MP that submits an order within that "N-second period" becomes part of the "N-second group" and is entitled to share in the allocation of that order via the formula contained in the rule. The Exchange proposes to provide an alternative method by which MPs may interact with orders in the book.

<sup>5</sup> Per CBOE Rule 6.45A, the term market participants includes an in-crowd Market-Maker, a Market-Maker complying with the in-person requirements of CBOE Rule 8.7.03(B)(1) who submits quotes from off of the floor of the Exchange through the facilities of the Exchange, an in-crowd DPM, an e-DPM, and a floor broker representing orders in the trading crowd.

<sup>6</sup> Market participants currently interact with orders in the book in one of two ways: by submitting a quote or by submitting an order. Such orders are referred to as "I-orders."