

change as described in Items I, II, and III below, which Items have been prepared by self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule.

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

The Exchange proposes to reinstate and increase options transaction charges in select products. The Exchange proposes to increase the fees charged to (1) customers for transactions in index options from \$0.10 to \$0.15; and (2) member firms and non-member broker dealers for transactions in index options from \$0.11 to \$0.15. In addition, the Exchange is proposing to reinstate a customer transaction charge for equity options on the S&P 100 iShares. The transaction charge will be \$0.15 per contract side.

### **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 it received on the proposed rule change. The text of these statements may be examined at the places specified at the places specified in Item IV below. The Amex 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

Transaction charges are imposed on options trades executed on the Exchange. The charges vary depending on whether the transaction involves an equity or index option and whether the transaction is executed for a specialist's account, a registered options trader account, a member firm's proprietary account, a non-member broker-dealer, or a customer account. The Amex also imposes a charge for clearance of options trades and an options floor brokerage charge, which also depends upon the product and the type of account for which the trade is executed. In April 2000, the Exchange eliminated transaction, floor brokerage, and clearance charges for customer equity option trades. At that time, fees charged to customers for transactions in index

options remained unchanged at \$0.10 per contract.

The Exchange is now proposing to increase the fees charged to (1) customers for transactions in index options from \$0.10 to \$0.15; and (2) member firms and non-member broker dealers for transactions in index options from \$0.11 to \$0.15. In addition, the Exchange is proposing to reinstate a customer transaction charge for equity options on the S&P 100 iShares. The transaction charge will be \$0.15 per contract side. The Exchange believes that these increases are necessary due to the increasing costs incurred in developing and implementing new technology for the fast and efficient trading of options.

##### (2) Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act<sup>2</sup> in general and furthers the objectives of section 6(b)(4) of the Act<sup>3</sup> in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

#### *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.

#### *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**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### **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 File No. SR-Amex-2001-98 and should be submitted by December 14, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-45067; File No. SR-CBOE-2001-56]

### **Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Firm Disseminated Market Quotes**

November 16, 2001.

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 October 22, 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 CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to

<sup>4</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>2</sup> 15 U.S.C. 78f(b).

<sup>3</sup> 15 U.S.C. 78f(b)(4).

grant accelerated approval to the proposed rule change.

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

The CBOE proposes to amend CBOE Rule 8.51, Firm Disseminated Market Quotes, to address customer limit orders. Below is the text of the proposed rule change. Additions are italicized.

#### Rule 9.51 Firm Disseminated Market Quotes

- (a)–(b) no change  
(c) Firm Quote Size  
(1) no change

(2) The firm quote requirement size for non-broker-dealer orders shall be the size that the Exchange periodically publishes along with the quotes disseminated to vendors. In the event the Exchange has not published a size along with its quotes for a particular series, then the firm quote requirement size for non-broker-dealer orders shall be that size published by the Exchange in a different manner (e.g., on its website). The Exchange also will publish separately the firm quote requirement size for broker-dealer orders. In the case of broker-dealer orders, if the size for a particular series disseminated along with the quotes is less than the size published for broker-dealer orders, then the firm quote requirement for broker-dealer orders shall be the size published along with the quotes.

(a) *When the disseminated quote represents a customer limit order in EBook, the firm quote requirement for non-broker-dealer orders shall be the greater of the size of the customer limit order or a size predetermined by the appropriate FPC. When the disseminated quote represents both a customer limit order in EBook and the trading crowd's quote, the firm quote requirement for non-broker-dealer orders shall be the aggregate size of the customer limit order and the size that the Exchange periodically publishes for that particular series.*

\* \* \* \* \*

### 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

On November 17, 2001, the Commission amended rule 11Ac1–1 under the Act ("Quote Rule")<sup>3</sup> to require options exchanges to publish firm quotes. The amended Quote Rule requires options exchanges to either: (1) comply with the Quote Rule as it applies in the equity markets and collect from their members and make available to vendors the size associated with each quotation; or (2) establish by rule and periodically publish the quotation size for which their members' quotations are firm. On March 30, 2001, the Exchange submitted a proposal to amend CBOE rule 8.51, *Firm Disseminated Market quotes*, to conform to the requirements of the Quote Rule. The Commission approved this proposal initially on a pilot basis on April 2, 2001<sup>4</sup> and, subsequently, on a permanent basis on June 2, 2001.<sup>5</sup> This filing amends CBOE rule 8.51 to codify the Exchange's firm quote treatment of customer limit orders.

CBOE does not currently have the systems capability to decrement actual quotation size to reflect executions except when the quotation size represents an order in EBook. For this reason, when Autoquote or a manual quote establishes the best price on the Exchange, the Exchange's firm quote requirement for non-broker-dealer orders is the size that the Exchange periodically publishes on its website and along with the bid-ask quotes disseminated to vendors.<sup>6</sup>

When a customer limit order in EBook establishes the best bid or offer, however, CBOE complies with the Quote Rule in a different manner.<sup>7</sup> As

<sup>3</sup> 17 CFR 240.11Ac1–1. See Exchange Act Release No. 43591 (Nov. 17, 2000), 65 FR 75439 (Dec. 1, 2000).

<sup>4</sup> See Exchange Act Release No. 44145 (April 2, 2001), 66 FR 18662 (April 10, 2001) (approving SR–CBOE–2001–15 on a pilot basis).

<sup>5</sup> See Exchange Act Release No. 44383 (June 2, 2001), 66 FR 30959 (June 8, 2001) (approving SR–CBOE–2001–15 on a permanent basis).

<sup>6</sup> See CBOE rule 8.51(c)(2).

<sup>7</sup> Book Market Indicators are disseminated to Options Price Reporting Authority ("OPRA") when the book bid, offer, or both improve, or equal the Designated Primary Market Marker/Crowd ("DPM/Crowd") quote. If the Book Bid improves or equals the DPM/Crowd market bid, then the Book Market Indicator "B" will be disseminated with the quote to OPRA. If the Book Offer improves or matches the DPM/Crowd market offer, then the Book Market Indicator "O" is disseminated with the quote. If the Book Bid and Offer improves or equals the DPM/

discussed above, CBOE systems are able to decrement disseminated size for executions when the disseminated size represents a booked order. For this reason, when a customer limit order in EBook establishes the best bid or offer, CBOE disseminates the actual size of the booked limit order. In this instance, the Exchange must be firm for the greater of its disseminated size or a number predetermined by the appropriate floor procedure committee ("FPC"). The effect of this provision is two-fold. First, it ensures that the Exchange will be firm for at least the size of the disseminated booked order. Second, it also allows the appropriate FPC to establish a higher firm quote size guarantee when a booked order is the prevailing price. For example, in conjunction with Automated Book Price Split-price, if the equity floor procedure committee establishes a book price commitment quantity of ten contracts, it could correspondingly establish the minimum firm quote size guarantee at ten contracts. Thus, the Exchange would be firm for either the size of the booked order or ten contracts, whichever is greater. In no event would the firm quote size be smaller than the actual size of the disseminated booked order. The size of the minimum firm quote guarantee would be published on the CBOE Web site.

When a customer limit order in EBook matches the best bid or offer of the trading crowd, the size disseminated to OPRA, as well as the firm quote requirement, is the aggregate of the booked order and the size that the Exchange periodically publishes. For example, if in a particular series EBook contains an order for eleven contracts and the firm quote size as published on the Exchange's Web site is 50 contracts, then the disseminated size as well as the firm quote size would be 61 contracts for that series. When trades execute against the booked order, however, the disseminated size would decrement. When executions extinguish the booked order, the firm quote requirement would be the size that the Exchange periodically publishes on its Web site and along with the bid-ask quotes disseminated to vendors.<sup>8</sup> To codify the firm quote rules pertaining to customer limit orders, the Exchange proposes to add section (c)(2)(a) to CBOE Rule 8.51.

Crowd market, then the Book Market Indicator "C" is disseminated with the quote.

<sup>8</sup> Using the above example, an execution of 12 contracts (which would extinguish the booked order of 11 contracts) would result in a new firm quote requirement, which would be the size (i.e., 50 contracts) that appears on the CBOE Web site.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of section 6 of the Act in general, and in particular, with section 6(b)(5),<sup>9</sup> in that it is designed to perfect the mechanisms of a free and open market and a national market system, protect investors and the public interest, and promote just and equitable principles of trade by increasing transparency and by providing the market place with more information upon which to base order routing decisions.

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

The CBOE does not believe that the proposed rule change will impose any 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 solicited or received with respect to the proposed rule change.

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

Pursuant to section 19(b)(2) of the Act,<sup>10</sup> the Exchange requests accelerated effectiveness of this rule filing. The Exchange believes that acceleration will enable it to continue uninterrupted its compliance with the Quote Rule. Moreover, the CBOE believes that acceleration will enable it to provide greater liquidity guarantees to customers when customer limit orders match the best bid or offer of the trading crowd. For these reasons, the Exchange believes it is both appropriate and in the public interest of investors for the Commission to accelerate the effective date of this filing.

## 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 also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-2001-56 and should be submitted by December 14, 2001.

## V. Commission Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange,<sup>11</sup> and, in particular, section 6(b)(5) of the Act<sup>12</sup> in that the proposed rule change has been designed to remove impediments to and to perfect the mechanism of a free and open market and a national market system, while also protecting investors and the public interest. Specifically, the Commission believes that by disseminating the size of customer limit orders and providing a firm quote at a guaranteed size equal to the aggregate of a customer limit order and the crowd guarantee at the same price, the proposed rule change should provide increased transparency to the benefit of market participants that trade listed options.

The Commission finds good cause, consistent with section 19(b)(2) of the Act,<sup>13</sup> for granting the Exchange's request for approval of the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that granting accelerated approval to the proposed rule change should allow the CBOE to continue its compliance with the Quote Rule without interruption or delay.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>14</sup> that the Exchange's proposed rule change (File No. SR-CBOE-2001-56) is approved on an accelerated basis.

<sup>11</sup> In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45062; File No. SR-CHX-2001-21]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Chicago Stock Exchange, Incorporated To Extend a Pilot Rule Interpretation Relating to Trading of Nasdaq/NM Securities in Subpenny Increments

November 15, 2001.

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 October 30, 2001, 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. On November 6, 2001, the Exchange filed an amendment that completely replaces and supersedes the original proposal.<sup>3</sup> The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,<sup>4</sup> and Rule 19b-4(f)(6)<sup>5</sup> thereunder, which renders the proposal effective upon filing with the Commission. 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 extend through January 14, 2002, the pilot rule interpretation relating to the trading of

<sup>15</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> See October 31, 2001 letter from Kathleen M. Boege, Associate General Counsel, CHX, to Alton S. Harvey, Division of Market Regulation ("Division"), Commission and attachments ("Amendment No. 1") See November 13, 2001 telephone conversation between Kathleen M. Boege, CHX, and Joseph Morra, Special Counsel, Division, Commission.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6). The Commission waived the 5-day pre-filing notice requirement.

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

<sup>10</sup> 15 U.S.C. 78s(b)(2).