

being uncovered in different parts of the country. Ways to further enhance the level of communication and coordination in the enforcement context will also be covered. State and federal regulators may discuss various other enforcement-related issues of mutual interest.

#### (6) General

The participants may also discuss matters that are applicable to all, or to a number, of the areas noted above. These include EDGAR (the Commission's electronic disclosure system), rulemaking procedures, training and education of staff examiners and analysts, and information sharing.

Discussions may also cover the new 2002 version of the Uniform Securities Act ("USA 2002"), which recently has been finalized by a committee of the National Conference of Commissioners on Uniform State Laws. The USA 2002 is a model uniform state securities law statute. The new version modernizes the Uniform Securities Act of 1956 and the Revised Uniform Securities Act of 1985. The USA 2002 updates the law to reflect many changes including, for example, the National Securities Market Improvement Act of 1996<sup>35</sup>, technology advances, and internationalization of securities trading. In January, 2003, NASAA endorsed the USA 2002.

The Commission and NASAA request specific public comments and recommendations on the above-mentioned topics. Commenters should focus on the agenda but may also discuss or comment on other proposals that would enhance uniformity in the existing scheme of state and federal securities regulation, while helping to maintain high standards of investor protection.

By the Commission.

Dated: March 17, 2003.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47523; File No. SR-CBOE-2002-69]

### Self-Regulatory Organizations; Order Approving Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to Broker-Dealer Orders on RAES

March 18, 2003.

On November 26, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to allow the appropriate Floor Procedure Committee to determine, on a class and/or series basis, to prohibit access to RAES for broker-dealer orders after 3 p.m. The Exchange submitted Amendment No. 1 to the proposed rule change on January 21, 2003.<sup>3</sup>

The proposed rule change, as amended, was published for comment in the **Federal Register** on February 14, 2003.<sup>4</sup> The Commission received no comments on the proposed rule change.

The Commission has reviewed carefully the CBOE's proposed rule change and finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,<sup>5</sup> and with the requirements of section 6(b).<sup>6</sup> In particular, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,<sup>7</sup> which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that currently, the appropriate Floor Procedure Committee ("FPC") may permit broker-dealer orders on RAES during the trading day for options by class and/or

series. The CBOE is proposing to allow an FPC to determine, on a class and/or series basis, to prohibit access to RAES for broker-dealer orders after 3 p.m.

In support of this proposal, the CBOE has represented that the options pricing models used by its members to generate the autoquote on CBOE use the price of underlying securities on the appropriate securities exchange,<sup>8</sup> and explained that once the underlying stock stops trading, there is no price feed from the underlying securities to automatically update the options pricing models and the options series must be updated manually. The CBOE believes that adding broker-dealer orders to those eligible to be executed on RAES could potentially increase the number of automatically executed orders significantly. The CBOE is concerned that if broker-dealer orders are permitted on RAES during times when manual updating is required, this could create additional difficulties in updating the option pricing models in a timely manner.

CBOE has represented that that it would like to permit RAES access in more classes and/or series for broker-dealer orders if the appropriate FPC were permitted to limit the access in classes or series, where appropriate, to the time period when the exchanges for the underlying securities are open for their regular trading session, *i.e.*, until 3 p.m.

The Commission believes that the proposed rule change will permit broker-dealers to have access to RAES for the vast majority of the trading day. At the same time, the proposed rule change should minimize stress to the options pricing models when they are manually updated. The Commission further believes that the proposed rule change should provide the CBOE with sufficient flexibility to operate RAES in an efficient manner, while at the same time permitting increased competition for electronic orders and increasing liquidity in affected series or classes.

*It is therefore Ordered*, pursuant to section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-CBOE-2002-69) is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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

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

<sup>3</sup> See letter from Jaime Galvan, Attorney, CBOE, to Jennifer Colihan, Special Counsel, Division of Market Regulation, Commission, dated January 17, 2003 ("Amendment No. 1").

<sup>4</sup> See Securities Exchange Act Release No. 47332 (February 10, 2003), 68 FR 7633.

<sup>5</sup> In approving this rule proposal, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> For purposes of this discussion securities exchanges includes NASDAQ.

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>35</sup> Pub. L. 104-290, 110 Stat. 3416 (Oct. 11, 1996).