

website through the NRC home page (<http://www.nrc.gov>). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415-5905; e-mail [CAG@NRC.GOV](mailto:CAG@NRC.GOV). For information about the draft guide and the related documents, contact Mr. R.L. Sullivan at (301) 415-1123; e-mail [RXS3@NRC.GOV](mailto:RXS3@NRC.GOV).

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by fax to (301) 415-2289, or by e-mail to [<DISTRIBUTION@NRC.GOV>](mailto:<DISTRIBUTION@NRC.GOV>). Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a)).

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 14th day of March 2000.

**Charles E. Ader,**

*Director, Program Management, Policy, Development & Analysis Staff, Office of Nuclear Regulatory Research.*

[FR Doc. 00-7101 Filed 3-21-00; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42527; File No. SR-CBOE-00-05]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Option Trading Permit Auction Procedures

March 14, 2000.

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 March 2, 2000, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change interested persons and to 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 Exchange is proposing to amend the procedure through which it auctions Option Trading Permits ("Permits") from the Permit lease pool. 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 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 Items II 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

Holders of Option Trading Permits have specified limited trading rights set forth in CBOE Rule 3.27. Section (a)(3) of Rule 3.27 provides for the creation of a Permit lease pool to be administered by the Exchange. The procedures for the administration of this lease pool were previously filed with and approved by the Commission.<sup>3</sup> Under these

procedures, the Exchange conducts an auction every six months during which members and non-members who have qualified for membership may submit bids equal to the monthly rent that the bidder is willing to pay for a month-to-month Permit lease. Upon the close of the bidding period, Permits in the lease pool are awarded to the highest bidders in a number equal to the total number of Permits in the lease pool at that time.<sup>4</sup>

Last year, certain amendments to these procedures were filed with and approved by the Commission.<sup>5</sup> The most important of these amendments established a procedure for Permit bidding that is known as a "Dutch auction." Under the Dutch auction procedure, each successful bidder pays the price of the lowest successful bid. Following each Dutch auction, the Exchange continues to accept bids, with a minimum bid established at the price set in the most recent Dutch auction. Permit lease payments received by the Exchange are distributed to certain previous holders of NYSE option trading rights, as provided in Rule 3.27(a)(3). The Exchange adopted the Dutch auction to promote fairer and more equitable lease payments by having everyone in the auction pay the same price.

The first Dutch auction under these new procedures was held on September 29, 1999. The auction was publicized through various means, and the submitted bids ranged from \$50 to \$5,000 per month, with all but six of the bids being for at least \$1,300 per month. However, due to an unexpectedly low number of bidders (only 28 bids were received for the 28 available Permits), the \$50 per month bid was successful. Under the existing Dutch auction rules, this resulted in a \$50 monthly lease rate for all 28 successful bidders. This undervalued the trading rights conferred by the Permits, based upon the fact that the median of the bids received last September 29 was \$2,750, and the average of all the bids was \$2,525.

To address this situation, the Exchange proposes to amend the Permit Dutch auction process by establishing a minimum bid level in all Dutch auctions at \$1,000. The Exchange believes that this level is below the fair value of the Permits, as reflected by the median and average of the bids just

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

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

<sup>3</sup> The procedures for the administration of the Permit lease pool were filed with the Commission in SR-CBOE-97-14. This filing provided for the issuance of Permits in connection with the transfer of the options business of the New York Stock Exchange, Inc. ("NYSE") to CBOE and defined the rights and obligations associated with Permits. See Securities Exchange Act Release No. 38541 (April 23, 1997), 62 FR 23516 (April 30, 1997). The CBOE later amended the procedures for administering the Permit lease pool in SR-CBOE-97-47, which

amended the manner in which the CBOE assesses the fee that is charged when a person submits a bid to receive a Permit. See Securities Exchange Act Release No. 39179 (October 1, 1997), 62 FR 52602 (October 8, 1997).

<sup>4</sup> *Id.*

<sup>5</sup> See Securities Exchange Act Release No. 41912 (September 24, 1999), 64 FR 53757 (October 4, 1999).

noted, and that this minimum bid amount is needed to ensure that the price determined by the Dutch auction is fair and equitable.

## 2. Statutory Basis

The Exchange believes that the revised Dutch auction procedure for the Permit lease pool will more effectively ensure that the amounts paid for Permits by each successful bidder are fair and equitable. As such, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4)<sup>6</sup> of the Act 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 will impose any inappropriate 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 either solicited or received.

## III. 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, N.W., Washington, DC 20549-0609. Copies of the submissions, 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-00-05 and should be submitted by April 12, 2000.

<sup>6</sup> 15 U.S.C. 78f(b)(4).

## IV. Commission's Findings and Other Granting Accelerated Approval of Proposed Rule Change

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, and in particular, with the requirements of Section 6(b)(4),<sup>7</sup> because the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges.

CBOE Rule 3.27 provides for a Permit lease pool to distribute Permits originating from the transfer of the options business of the NYSE to CBOE. Lease payments on the Permits are paid to persons identified by the NYSE. Under the existing Dutch auction rules, there is no limit on the monthly bid for a Permit. Consequently, a low bid can, and did, succeed as the lease amount for all Permits, even if the average of the bids is significantly higher (indicating a higher market value for the Permits). The proposed rule change establishes a minimum bid level of \$1,000 for the Permits. The Commission finds that establishing this minimum bid is a reasonable and appropriate measure to attempt to prevent undervaluing the trading rights conferred by the Permits.

CBOE has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**. Specifically, the Exchange requests that the Commission accelerate the operative date of the proposed rule change so the Exchange can employ the revised Dutch auction procedures in the next scheduled auction, that of March 15, 2000. The Exchange believes that accelerating approval of the proposed rule change will enable the Exchange to implement a procedure that more fairly and equitably allocates the cost of the lease pool Permits for the benefit of the lease payment recipient.<sup>8</sup> The Commission believes that permitting the Exchange to use the revised procedures in the next Dutch auction would ensure that the Permits were not significantly undervalued at another auction. Accordingly, the Commission finds good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act,<sup>9</sup> to approve the proposed rule change prior to the thirtieth day after the date of

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> Telephone conversation between Chris Hill, Attorney, CBOE, and Heather Traeger, Attorney, Division of Market Regulations, SEC, on March 7, 2000.

<sup>9</sup> 15 U.S.C. 78f(b)(5) and 78s(b)(2).

publication of the notice of filing thereof in the **Federal Register**.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-CBOE-00-05) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-7068 Filed 3-21-00; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42533; File No. SR-MSRB-00-04]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rule G-37 on Political Contributions and Prohibitions on Municipal Securities Business**

March 15, 2000.

On March 2, 2000, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change, 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> The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The purpose of the proposed rule change is to provide interpretive guidance concerning Rule G-37, on political contributions and prohibitions on municipal securities business. The Board has designated this proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Board under Section 19(b)(3)(A) of the Act,<sup>3</sup> which renders the proposed rule change effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

<sup>11</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).