

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

In 1985, the Exchange implemented the AUTO-EX system, which automatically executes public customer market and marketable limit orders in options at the best bid or offer displayed at the time the order is entitled into the Amex Order File ("AOF"). There are, however, limitations on the number of option contracts that can be entered into or executed by these systems. AOF, which handles limit orders routed to the specialist's book as well as orders routed to AUTO-EX, was recently increased to allow for the entry of orders of up to 250 option contracts.<sup>3</sup> Generally, however, AUTO-EX is only permitted to execute equity option orders and index option orders of up to seventy-five contracts.<sup>4</sup> Thus, market and marketable limit orders of more than seventy-five contracts are generally routed by AOF to the specialist's book.

The Exchange now proposes to increase to one hundred the maximum permissible number of equity and index option contracts in an order that can be executed through the AUTO-EX system. It is proposed that this increase to one hundred in permissible order size for AUTO-EX be implemented on a case-by-case basis for an individual option class or for all option classes when two floor governors or senior floor officials deem such an increase appropriate. Currently, the Amex posts applicable quote size parameters on its web page. Generally, these parameters provide that displayed quotes are for twenty contracts for equity options and for thirty contracts for index options and are set on a class-by-class basis. However, pursuant to Exchange Rule 958A, the order size for AUTO-EX will remain at ten contracts for equity and index options, or such larger size currently in effect and as indicated on

the Exchange's web page.<sup>5</sup> The Exchange represents that it has sufficient systems capacity necessary to accommodate implementation of the proposed increase.

The Exchange represents that AUTO-EX has been extremely successful in enhancing execution and operational efficiencies during emergency situations and during other, non-emergency situations for certain option classes. The Exchange believes that automatic executions of orders for up to one hundred contracts will allow for the quick, efficient execution of public customer orders.

2. Statutory Basis

The proposed rule change is consistent with section 6(b)<sup>6</sup> of the Act in general and furthers the objectives of section 6(b)(5)<sup>7</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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*

The Amex 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

<sup>5</sup> Amex Rule 958A, referred to as the "Firm Quote Rule," requires Exchange specialists to sell (buy) at least ten (10) contracts at the offer (bid) which is displayed when a buy (sell) order reaches the trading post where the option class is located for trading.

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

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

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

**IV. Solicitation of Comments**

The Commission invites interested persons 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-00-57 and should be submitted by January 3, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

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

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-43666; File No. SR-CBOE-00-34]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc., Permitting the Implementation of the Exchange's Rapid Opening System in Conducting Rotations in Options on the S&P 100 Index**

December 4, 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 October 5, 2000, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange")

<sup>8</sup> 17 CFR 200.30(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 42128 (November 10, 1999), 64 FR 63836 (November 22, 1999).

<sup>4</sup> See Securities Exchange Act Release No. 43516 (November 3, 2000), 65 FR 69079 (November 15, 2000). While the maximum permissible number of contracts in an index option order executable through AUTO-EX is generally seventy-five contracts, there are a few exceptions: The Institutional, Japan and S&P MidCap 400 Indexes allow ninety-nine contract orders. The Exchange proposes to increase the applicable parameter from ninety-nine to one hundred for the Institutional, Japan and S&P MidCap 400 indices to eliminate any potential for confusion over the permissible parameters applicable to AUTO-EX eligible orders for both equity and index options.

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 Exchange.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended.

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

The Exchange proposes to adopt Interpretation .01 to its Rapid Opening System ("ROS") rule (CBOE Rule 6.2A), amend its Lead Market-Maker ("LMM") and Supplemental Market-Maker ("SMM") (CBOE Rule 8.15), and amend Interpretation 0.02 to its index option trading rotation rule (CBOE Rule 24.13) to clarify that LMMs and SMMs may employ the Exchange's ROS in conducting rotations in options on the S&P 100 Index ("OES"). The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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 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 February 1999, the Exchange implemented a Rapid Opening System ("ROS") that has facilitated the expedited openings of options classes on the Exchange.<sup>4</sup> since that time, ROS

has been used in a number of equity option trading crowds to open options classes within seconds of the opening of the underlying security. The Exchange believes that by entering into open trading more quickly using ROS, customer orders have been addressed in open trading in a timelier manner.

Openings in OEX, however, have been conducted for many years by the use of LMMs, who are appointed pursuant to the terms of CBOE Rule 8.15, and who open the various series of OEX pursuant to the terms of Interpretation .02 to CBOE Rule 24.13.<sup>5</sup> The LMM system was put in place to allow for speedier openings in the OEX crowd and to make particular market-makers responsible for opening quotes. While the LMM system has been successful in speeding up the opening process in the OEX trading crowd, the openings still may not be completed for a number of minutes, particularly on days of extreme market conditions. Consequently, the CBOE Index Floor Procedure Committee, pursuant to its authority under CBOE Rule 24.13 to direct the manner of the opening rotations, has determined to require the LMMs to employ ROS to open OEX.<sup>6</sup> The CBOE Index Floor Procedure Committee expects to see the same benefits that have been experienced in the equity option trading crowds that have been using ROS for the past on and a half years, namely, entry into open trading within seconds of the opening bell.

When the Exchange adopted ROS, it intended for the system to be used at any trading location on the floor, whether in an equity option trading crowd or an index option trading crowd. The rules governing ROS did not specifically address to what extent ROS was to be used in connection with the LMM system that was operating in the OEX trading crowd. The CBOE,

however, represents that the ROS system was not meant to supplant the LMM system, which has added accountability to the openings in OEX. The CBOE believes that, at the option of the appropriate CBOE Floor Procedure Committee, ROS would be used as a tool by the LMM to facilitate openings. With the proposed rule change, the CBOE will thus clarify that the LMMs may use ROS to conduct the opening rotation in OEX. To the extent that market-makers want to participate in the opening of a series in which they do not hold LMM or SMM appointments, they will continue to be able to transmit written non-cancelable proprietary and market-makers orders to the LMM in the appropriate zone ten minutes prior to the opening of trading, pursuant to the terms of Interpretation .02 to CBOE Rule 24.13.

##### **2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>7</sup> in general and further the objectives of section 6(b)(5);<sup>8</sup> in particular in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

#### **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 that is not necessary or appropriate in furtherance of purposes of the Act.

#### **C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others**

The CBOE 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**

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange and, therefore, has become effective pursuant to section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(1)<sup>10</sup> thereunder. 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

(September 29, 2000), 65 FR 60706 (October 12, 2000).

<sup>5</sup> The rules governing opening rotations in OEX were approved by the Commission on March 31, 1988. See Securities and Exchange Act Release No. 25545 (March 31, 1988), 53 FR 11720 (April 8, 1988).

<sup>6</sup> Previously, only those open classes that employed the Exchange's AutoQuote system were able to use ROS. See Securities Exchange Act Release No. 41033 (February 9, 1999), 64 FR 8156 (February 18, 1999). The OEX does not employ the Exchange's AutoQuote; however, the CBOE represents that ROS can now accommodate inputs from systems other than the Exchange's AutoQuote. Telephone conversation between Timothy Thompson, Assistant General Counsel and Vice President, CBOE, and Susie Cho, Attorney, Division, SEC, September 11, 2000. For purposes of CBOE Rule 6.2A, the term "AutoQuote" means either the Exchange's AutoQuote system or a proprietary autoquote system operated by a member of the trading crowd. See Securities Exchange Act Release No. 43667 (December 4, 2000).

<sup>3</sup> The CBOE filed its proposed rule change on August 3, 2000. On October 5, 2000, however, the CBOE filed Amendment No. 1, which clarified that the proposed rule change will be effective only as long as ROS is approved for use by the Commission. See Letter from Timothy Thompson, Assistant General Counsel and Vice President, CBOE, to Susie Cho, Attorney, Division of Market Regulation ("Division"), Commission (October 5, 2000).

<sup>4</sup> The ROS pilot program was first approved by the Commission in February 1999. See Securities Exchange Act Release No. 41033 (February 9, 1999), 64 FR 8156 (February 18, 1999). The ROS pilot has been extended through September 2001. See Securities Exchange Act Release No. 43395

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(1).

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, as amended, 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 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 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-00-34 and should be submitted by January 3, 2001.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43667; File No. SR-CBOE-00-63]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Permitting the Use of the Exchange's AutoQuote System or a Proprietary Autoquote System in the Operation of the Exchange's Rapid Opening System

December 4, 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 December 1, 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, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change.

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

The Exchange proposes to adopt Interpretation .02 of its Rapid Opening System ("ROS") rule (CBOE Rule 6.2A)<sup>3</sup> to clarify that for purposes of the rule, "AutoQuote" means either the Exchange's AutoQuote system or a proprietary autoquote system operated by a member of the trading crowd where the particular ROS class is traded. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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 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 February 1999, the Exchange implemented a Rapid Opening System ("ROS") that has facilitated the expedited openings of options classes on the Exchange.<sup>4</sup> Since that time, ROS

has been used in a number of equity option trading crowds to open options classes within seconds of the opening of the underlying security. The Exchange believes that by entering into open trading more quickly using ROS, customer orders have been addressed in open trading in a timelier manner.

ROS determines a single opening price for each series by applying an algorithm that takes into account the AutoQuote values fed into ROS as well as those orders contained in the customer limit order book (and that are otherwise represented in the crowd pursuant to the ROS rule). The algorithm is generally designed to maximize the number of customer orders able to be traded at or between the bid-ask values submitted from AutoQuote. When the Exchange first implemented ROS, the system was designed to operate only with the Exchange's AutoQuote system. The Exchange noted, however, that "[l]ater versions of ROS may accommodate inputs from systems other than AutoQuote."<sup>5</sup> The CBOE now represents that ROS is able to accept inputs from various proprietary quote systems that are operated on the floor of the Exchange.<sup>6</sup> The Exchange is thus proposing to add Interpretation .02 to CBOE Rule 6.2A to make it clear that, for purposes of the Rule, the term "AutoQuote" means either the Exchange's AutoQuote system or a proprietary autoquote system operated by a member of the trading crowd.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>7</sup> in general and furthers the objectives of section 6(b)(5)<sup>8</sup> in particular in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

##### 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 that is not necessary or appropriate in furtherance of purposes of the Act.

<sup>5</sup> *Id.*

<sup>6</sup> In lieu of using the Exchange's own AutoQuote system, some DPMs and trading crowds employ proprietary autoquote systems which serve the same function that operate in much the same manner as the Exchange's own system. These systems generally employ the same general mathematical formulas for determining the quotes although with certain proprietary refinements.

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<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> The rule text for the CBOE's proposed rule change was identified as "Interpretation .01" to Rule 6.2A instead of "Interpretation .02" and has been corrected in this notice. Interpretation 0.01 to Rule 6.2A was added in Securities Exchange Act Release No. 43666 (December 4, 2000). Telephone conversation between Timothy Thompson, Assistant General Counsel and Vice President, CBOE, and Susie Cho, Attorney, Division, SEC, December 4, 2000.

<sup>4</sup> The ROS pilot program was first approved by the Commission in February 1999. See Securities Exchange Act Release No. 41033 (February 9, 1999), 64 FR 8156 (February 18, 1999). The ROS pilot has been extended through September 2001. See Securities Exchange Act Release No. 43395 (September 29, 2000), 65 FR 60706 (October 12, 2000).