

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: Carol Brock, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; 202/336-8563.

SUMMARY OF FORM UNDER REVIEW:

Type of Request: Reinstatement, with change, of a previously approved collection for which approval is expiring.

Title: Finance Application.

Form Number: OPIC-115.

Frequency of Use: Once per project.

Type of Respondents: Business or other institutions, individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 3 hours per project.

Number of Responses: 300 per year.

Federal Cost: \$14,796 per year.

Authority for Information Collection: Sections 231 and 234 (b) and (c) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The application is the principal document used by OPIC to determine the investor's and project's eligibility, assess the environmental impact and developmental effects of the project, measure the economic effects for the United States and the host country economy, and collection information for underwriting analysis.

Dated: February 8, 2001.

Rumu Sarkar,

Assistant General Counsel, Administrative Affairs, Department of Legal Affairs.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43932; File No. SR-CBOE-00-21]

Self-Regulatory Organizations; Order Approving Proposed Rule Change, and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to Proposed Rule Change, by the Chicago Board Options Exchange, Inc. To Amend its Rule Governing the Operation of Its Automatic Book Priority System To Permit Split-Price Executions

DATE: February 6, 2001.

I. Introduction

On May 24, 2000, the Chicago Board Options Exchange, Inc. ("CBOE" or

"Exchange"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its rules governing the operation of its Retail Automatic Execution System ("RAES") to provide for split-price executions under the Automatic Book Priority ("ABP") system. On June 22, 2000, CBOE filed Amendment No. 1 to the proposed rule change.³ The proposed rule change was published in the **Federal Register** on October 19, 2000.⁴ No comments were received on the proposal. On November 30, 2000, CBOE filed Amendment No. 2 to the proposed rule change.⁵ This order approves the proposed rule change, as amended. In addition, the Commission is publishing this notice to solicit comments on Amendment No. 2 to the proposed rule change, and is simultaneously approving Amendment No. 2 on an accelerated basis.

II. Description of the Proposed Rule Change

A. Text of the Proposed Rule Change

The CBOE proposes to amend its rules governing the operation of its Retail Automatic Execution System ("RAES") to provide for split-price executions under the ABP system. Below is the text of the proposed rule change. Proposed new language is *italicized* and proposed deletions are in [brackets].⁶

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¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, CBOE amended the text of the proposed rule change and included a discussion of the indicator to be used when a book order is establishing CBOE's best bid or offer. See letter from Angelo Evangelou, Attorney, CBOE, to Joseph Corcoran, Attorney, Division of Market Regulation, Commission, dated June 20, 2000 ("Amendment No. 1").

⁴ Securities Exchange Act Release No. 43430 (October 11, 2000), 65 FR 62776 (October 19, 2000) ("Notice").

⁵ In Amendment No. 2, CBOE amended the text of the proposed change to CBOE Rule 6.8, Interpretation and Policy .04, to correspond with the proposed changes to the remainder of the rule by obligating the trading crowd to execute orders rejected from RAES up to, and not in addition to, the Book Price Commitment Quantity. See letter from Angelo Evangelou, Attorney, CBOE, to Andrew Shipe, Attorney, Division of Market Regulation, Commission, dated November 29, 2000 ("Amendment No. 2").

⁶ The text of the proposed rule change was previously published in the Notice. This publication of rule text corrects technical errors in the Notice relating to numbering, and reflects certain unrelated changes made to the CBOE Rule since the filing of the proposed rule change with the Commission. In addition, rule text has been revised to correct a typographical error in the original text. See telephone conversation between Angelo Evangelou, Attorney, CBOE, and Andrew Shipe,

Rule 6.8. RAES Operations

This Rule governs RAES operations in all classes of options, except to the extent otherwise expressly provided in this or other Rules in respect of specified classes of options.

(a)(i) Firms on the Exchange's Order Routing System ("ORS") will automatically be on the Exchange's Retail Automatic Execution System ("RAES") for purposes of routing small public customer market or marketable limit orders into the RAES system. Those orders which are eligible for routing to RAES may be subject to such contingencies as the appropriate Floor Procedure Committee ("FPC") shall approve. Public customer orders are orders for accounts other than accounts in which a member, non-member participant in a joint-venture with a member, or any non-member broker-dealer (including a foreign broker-dealer as defined in Rule 1.1 (xx)) has an interest. The appropriate Floor Procedure Committee ("FPC") shall determine the size of orders eligible for entry into RAES in accordance with paragraph (e) of this Rule. For purposes of determining what a small customer order is, a customer's order cannot be split up such that its parts are eligible for entry into RAES. Firms on ORS have the ability to go on and off ORS at will. Firms not on ORS that wish to participate will be given access to RAES from terminals at their booths on the floor.

(ii) When RAES receives an order, the system automatically will attach to the order its execution price, determined by the prevailing market quote at the time of the order's entry to the system, except as otherwise provided in *paragraph (b) of this Rule in instances where the best bid or offer on the Exchange's book constitutes the prevailing market best bid or offer, and as otherwise provided in Interpretation and Policy .02* under this Rule 6.8 in respect of multiply-traded options. A buy order will pay the offer, a sell order will sell at the bid. A Market-Maker logged on to participate in RAES (a "Participating Market-maker") will be designated as contra-broker on the trade. A trade executed on RAES at an erroneous quote should be treated as a trade reported at an erroneous price and adjusted to reflect the accurate market after receiving a Floor Official's approval.

(b) *When the best bid or offer on the Exchange's book constitutes the best bid or offer on the Exchange and is for a size less than the RAES order eligibility size for that class, such fact shall be*

Attorney, Division of Market Regulation, Commission, January 8, 2001.

denoted in the Exchange's disseminated quote by a "Book Indicator". It is possible that the best bid or offer on the Exchange's book constitutes the prevailing market bid or offer [may be equal to the best bid or offer on the Exchange's book]. In those instances, a RAES order will be executed against the order in the book. In the event the order in the book is for a smaller number of contracts than the RAES order, the balance of the RAES order will be assigned to participating market-makers at the same price at which the initial portion [rest] of the order was executed up to an amount prescribed by the appropriate Floor Procedure Committee on a class-by-class basis (the "Book Price Commitment Quantity"). Any remaining balance thereafter shall be (i) routed to the crowd PAR terminal if Autoquote is not in effect for that series; (ii) assigned to participating market-makers at the Autoquote price if Autoquote constitutes the new prevailing market bid or offer; or (iii) executed against any order in the book that constitutes the new prevailing market bid or offer with the balance of the RAES order being assigned to participating market-makers at that price up to the Book Price Commitment Quantity. Any additional remaining balance of a RAES order shall be handled in accordance with (ii) or (iii) of this paragraph.

(c)-(g) Unchanged.

* * * Interpretations and Policies:

.01-.03 Unchanged.

.04 In those option classes where the Automated Book Priority ("ABP") system is not operational or has not yet been implemented, if a RAES order would be executed at the price of one or more booked orders, the order will be rerouted on ORS to either the DPM or to another location pursuant to the firm's routing parameters. Under ordinary circumstances, in those option classes where the Automated Book Priority system is not operational or has not yet been implemented, when one or more RAES eligible orders in a class of options is re-routed on ORS as described (but not in cases when the orders are routed to the firm's booth), the crowd will be obligated to sell (buy) the rerouted order (or the first order in any group of rerouted orders at the same price) up to the number of contracts represented by the booked order(s) and, in the event a balance remains on the rerouted order (or the first order in any group of rerouted orders at the same price) up to the Book Price Commitment Quantity (as defined in paragraph (b) of this Rule) where applicable, [equal to applicable maximum size of RAES eligible orders for that class of options]

at the offer (bid) which existed at the time of the order's entry into the RAES system. Because the first such rerouted order will be entitled to a price that existed when the order was initially entered into the RAES system, it is imperative that such an order be represented by the floor brokers as quickly as possible. Orders re-routed to the firm's booth and orders rerouted to the trading station that are not entitled to the above protection will be entitled to be filled by the trading crowd at the bid or offer existing when the Floor Broker represents the order in open outcry in the crowd, pursuant to Rule 8.51.

.05-.08 Unchanged.

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B. Description of the Proposed Rule Change

Under current CBOE Rule 6.8, the ABP system allows an order entered into RAES to trade directly with an order on the Exchange's customer limit order book where the best bid or offer on the Exchange's book is equal to the prevailing market bid or offer. If any portion of the RAES order remains to be filled thereafter, the entire balance of the RAES order is assigned to participating market-makers at the price at which the initial portion of the order was executed against the book, regardless of the next prevailing best bid or offer on the Exchange. According to the Exchange, market-makers participating on RAES may find themselves holding positions at prices substantially different from those they quoted, and subject to unanticipated market risk.

To address this situation, the Exchange proposes to modify Rule 6.8 so that such RAES order balances would be executed against participating market-makers at the book price only up to an amount pre-determined by the appropriate Floor Procedure Committee ("FPC") for the subject option class. The pre-determined amount, to be called the "Book Commitment Quantity," would be set by the FPC from zero contracts up to the maximum RAES eligible order size for that option class. The Exchange anticipates that the FPC will mandate a generally uniform Book Price Commitment Quantity among option classes, which would become widely known to CBOE customers and other market participants. The Exchange also intends to issue a regulatory circular regarding Book Price Commitment Quantity parameters established by the FPC. The FPC would have to conduct a

meeting to adjust the Book Price Commitment Quantity.⁷

If, after execution up to the Book Price Commitment Quantity, any portion of the RAES order is still unexecuted, that remaining balance would be: (i) Routed to the Public Automated Routing ("PAR") system if Autoquote is not in effect for that series; (ii) assigned to participating market-makers at the Autoquote price if Autoquote represents the best bid or offer; or (iii) executed against an order in the book if such order equals or represents the best bid or offer, with any further balance of the RAES order again being assigned to participating market-makers at the new book price up to the Book Price Commitment Quantity. As long as an order in the book equals or represents the next best bid or offer (and Autoquote is in effect for the subject series), any remaining balance of a RAES order would be handled pursuant to (ii) or (iii) above.⁸

CBOE further proposes to affix a "Book Indicator" to its disseminated quotation when an order in the book represents the best bid or offer on the Exchange. This indicator will alert brokers and the public that the bid, offer, or both are being generated by orders in the book, not by market maker quotes.⁹ However, the indicator would not be disseminated if the booked order is for a size greater than the RAES order eligibility size because a split-price execution would not occur in such instance.

Where ABP is not in place, CBOE Rule 6.8, Interpretation and Policy .04 currently provides that the trading crowd is obligated to execute the first order rejected from RAES at the price of the booked order that caused the rejection, or "kickout". The Exchange now proposes, in order to provide consistency with the proposed ABP rule, to amend Interpretation and Policy .04 to provide that the first order rejected from RAES (because of a kickout based on a booked order) be filled against the book, with any remainder thereafter being executed by the crowd at the book price up to the Book Price Commitment Quantity. Finally, CBOE proposes to amend Interpretation and Policy .04 to apply in

⁷ See Amendment No. 1, *supra*.

⁸ See Amendment No. 1, *supra*.

⁹ The indicator would be a "B" if the bid on the book is better than the trading crowd bid; "O" if the book offer is better than the trading crowd offer; and "C" if both were better than the trading crowd bid and offer. This indicator would be disseminated in the "Special Market Conditions" field that also includes indicators for, among other things, fast markets and trading halts. See Amendment No. 1, *Supra*.

all instances where ABP is not operational.

III. Discussion

After careful review, 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.¹⁰ In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,¹¹ which requires, among other things, that the rules of an exchange 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 to protect investors and the public interest.

Under the proposal, in those options classes where ABP is in place, if an incoming RAES order is larger than the booked order establishing the Exchange's best price, the RAES order would be executed against the booked order. The remainder of the RAES order no longer would be executed in its entirety at the book price against market-makers participating on RAES. Rather, only the amount of that order up to the Book Price Commitment Quantity would be executed in this manner. Thereafter, if any portion of the RAES order remains unfilled, the balance of the order will be executed at the next prevailing bid or offer, *i.e.*, the book price or the Autoquote price. If the Autoquote system is not in effect, the remainder of the RAES order would be routed to the crowd PAR terminal for execution, whether against the book or competing members of the trading crowd.

The Commission notes that the proposed rule change would continue to permit limit orders in the Exchange's book to trade against RAES orders. RAES orders, on the other hand, would be permitted to trade against orders in the book up to the applicable book size, and thereafter up to the new Book Price Commitment Quantity at the book price, with market-makers participating on RAES taking the opposite side of such transactions. Any portion of the RAES order remaining thereafter would be executed at the best price available, whether from the book, Autoquote, or the trading crowd. In addition, CBOE will attach a "Book Indicator" to its disseminated quote to indicate to persons entering orders on RAES that their orders may be subject to a split-

price execution. Therefore, firms sending orders to RAES should have notice that the displayed quote may not be good for the full RAES-eligible size, and instead would be executed at the prevailing quote up to the Book Price Commitment Quantity only. The Commission finds that these procedures are consistent with the Act.

The Commission further finds that the proposed revisions to Interpretation .04 of Rule 6.8 are proper. These changes are meant to parallel the above-described modifications to the ABP system in options classes where ABP has not been implemented. The Commission further believes that the CBOE's proposal to extend the application of Interpretation and Policy .04 to situations where ABP is not operational, such as in the case of a fast market or an operational failure, is also proper. The procedures to be employed, as outlined above, would thus be applied to all classes of options, whether ABP is in effect or not, thereby promoting uniformity of execution procedures in all classes of options.

Finally, the Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. In Amendment No. 2, the CBOE merely clarified the text of the proposed change to Interpretation and Policy .04, to reflect that where ABP is not in operation, the trading crowd is required to execute re-routed orders at the book price up to, and not in addition to, the Book Price Commitment Quantity. This confirms the Interpretation to the revised rule text. Therefore, the amendment did not substantively alter the proposal.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. Persons making written submissions should be 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 CBOE. All submissions should refer to File No. SR-CBOE-00-21 and should be submitted by March 7, 2001.

V. Conclusion

For the foregoing reasons, the Commission finds that CBOE's proposal to amend its rules governing the operation of its RAES system to provide for split-price executions under the Automatic Book Priority System, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (SR-CBOE-00-21), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-3683 Filed 2-13-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43931; File No. SR-Phlx-00-109]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Amending Eligibility to Impose Fees for Computer Equipment Services, Repairs or Replacements and Relocation of Computer Equipment on Foreign Currency Options Participants on the Currency Options Trading Floor, While Exempting Track Balls from Fee Schedule Coverage

February 6, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 2, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" 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. The Commission is publishing this notice to solicit comments on the

¹⁰ In approving this proposal, the Commission has considered the proposed rule's impact on efficiently, competition, and capital formation. 15 U.S.C. 78(c)(f).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.