

10. Participants who wish to request a hearing on the Postal Service's Request in this docket to conduct a market test shall submit such a request, together with statements in conformance with 39 CFR 3001.173(e), no later than August 11, 2004.

11. The Postal Service shall provide responses to any written discovery requests submitted before August 11, 2004, within 10 days.

12. The Secretary shall cause this Notice and Order to be published in the **Federal Register**.

Issued: July 22, 2004.

By the Commission.

Garry J. Sikora,

Acting Secretary.

[FR Doc. 04-17094 Filed 7-28-04; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting; Notification of Item Added to Meeting Agenda

DATE OF MEETING: July 19, 2004.

STATUS: Closed.

PREVIOUS ANNOUNCEMENT: 69 FR 41860, July 12, 2004.

Addition: Postal Rate Commission Opinion and Recommended Decision in Docket No. MC2004-1, Experimental Periodicals Co-Palletization Dropship Discounts for High Editorial Publications.

At its closed meeting on July 19, 2004, the Board of Governors of the United States Postal Service voted unanimously to add this item to the agenda of its closed meeting and that no earlier announcement was possible. The General Counsel of the United States Postal Service certified that in her opinion discussion of this item could be properly closed to public observation.

CONTACT PERSON FOR MORE INFORMATION:

William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260-1000.

William T. Johnstone,

Secretary.

[FR Doc. 04-17447 Filed 7-27-04; 3:54 pm]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50067; File No. SR-OPRA-2004-03]

Options Price Reporting Authority; Order Approving an Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information To Revise Guideline 1 of the Capacity Guidelines To Confirm That it Is Within the Authority of the Independent System Capacity Advisor To Make Determinations Concerning the Establishment, Modification or Removal of Output Throttles From the OPRA System

July 22, 2004.

On May 7, 2004, the Options Price Reporting Authority ("OPRA") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 11A of the Securities Exchange Act of 1934 ("Act")¹ and Rule 11Aa3-2 thereunder,² an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan" or "Plan").³ The proposed amendment would revise Guideline 1 of the Capacity Guidelines to confirm that it is within the authority of the Independent System Capacity Advisor ("ISCA") under the OPRA Plan to make determinations concerning the establishment, modification or removal of any throttle on the output of the OPRA System. Notice of the proposal was published in the **Federal Register** on June 23, 2004.⁴ The Commission received no comment letters on the proposed OPRA Plan amendment. This order approves the proposal.

Guideline 1 of the Capacity Guidelines in the OPRA Plan sets forth the "Function and Authority of the ISCA." The purpose of the proposed amendment to Guideline 1 is to include in the Capacity Guidelines an express statement that the authority of the ISCA would include the authority to establish

¹ 15 U.S.C. 78k-1.

² 17 CFR 240.11Aa3-2.

³ OPRA is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3-2 thereunder. See Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981).

The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The six participants to the OPRA Plan are the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the International Securities Exchange, Inc., the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

⁴ See Securities Exchange Act Release No. 49871 (June 16, 2004), 69 FR 35082.

a throttle limiting the output of the System to less than the total capacity available in the System, and to modify or remove any such throttles that may be established from time to time.⁵ OPRA believes that throttling System output to less than total System capacity could sometimes be an appropriate way to limit the maximum message-handling capacity that vendors and subscribers would be required to have.

After careful review, the Commission finds that the proposed OPRA Plan amendment is consistent with the requirements of the Act and the rules and regulations thereunder.⁶ The Commission believes that the proposed OPRA Plan amendment is consistent with Section 11A of the Act⁷ and Rule 11Aa3-2 thereunder⁸ in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system.

Specifically, given the recent establishment of the ISCA and its responsibilities in planning and implementing System modifications, the Commission finds that it is appropriate for OPRA to clarify in the Plan the ISCA's authority to make decisions with respect to System output throttles. The Commission believes that providing the ISCA with this authority should ensure that these decisions are not influenced by competitive considerations among the parties to the OPRA Plan.

It is therefore ordered, pursuant to section 11A of the Act,⁹ and Rule 11Aa3-2 thereunder,¹⁰ that the proposed OPRA Plan amendment (SR-OPRA-2004-03) be, and it hereby is, approved.

⁵ The output throttle that is the subject of the proposed amendment would serve to limit the total output of the OPRA System. It would be different from the OPRA System's "dynamic throttle," which allows any unused System capacity to be temporarily and dynamically allocated to a participant exchange that needs additional capacity on a short-term, interruptible basis. Telephone conversation between Michael L. Meyer, Counsel to OPRA, Schiff Hardin LLP, and Cyndi N. Rodriguez, Special Counsel, Division of Market Regulation, Commission, on June 14, 2004.

⁶ In approving this proposed OPRA Plan amendment, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78k-1.

⁸ 17 CFR 240.11Aa3-2.

⁹ 15 U.S.C. 78k-1.

¹⁰ 17 CFR 240.11Aa3-2.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 04-17293 Filed 7-28-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50063; File No. SR-CBOE-2004-49]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Allow the Exchange To List Up To Seven Expiration Months for Certain Index Options up Until the Expiration of Those Options in November 2004

July 22, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 22, 2004, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I and II below, which items have been prepared by the Exchange. The CBOE submitted the proposed rule change under section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The CBOE proposes to list up to seven expiration months, instead of the currently permitted six, for certain index options up until the expiration of those options in November 2004. The text of the proposed rule change is below. Proposed new language is *italicized*; proposed deletions are in brackets.

* * * * *

CHAPTER XXIV

Index Options

* * * * *

Terms of Index Options

Rule 24.9 (a) *General*.

(1) No change.

(2) *Expiration Months*. Index option contracts may expire at three-month intervals or in consecutive months. The Exchange may list up to six expiration months at any one time, but will not list index options that expire more than twelve months out. Notwithstanding the preceding restriction, until the expiration in *November 2004* [January 2000], the Exchange may list up to seven expiration months at any one time *for the SPX, MNX and DJX index option contracts*, provided one of those expiration months is *November 2004* [January 2000].

(3)-(5) No change.

(b)-(c) No change.

* * * *Interpretations and Policies:*

.01-.11 No change.

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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 CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange is proposing to amend paragraph (a)(2) of Rule 24.9 to allow, for a limited time, the Exchange to list up to seven expiration months in certain index options. Currently, Rule 24.9(a)(2) permits the Exchange to list only six expiration months in any index options at any one time.

Under the current application of the Rule, the Exchange generally will list three consecutive near term months and three months on a quarterly expiration cycle. The Exchange has been approached by a number of institutional customers who are interested in trading the Standard & Poor's 500 (SPX), CBOE Mini-NDX (MNX) and the Dow Jones Industrial Average (DJX) index options with an expiration of November 2004. These customers have explained to the Exchange that they believe that index options expiring at that time will

provide a useful tool to hedge positions in stocks overlying particular index options or to hedge market exposure to the equity markets generally against the uncertainty presented by the elections. By listing index options with a November 2004 expiration at this point, the Exchange will provide these customers with the opportunity to hedge their positions in an orderly fashion well in advance of the elections. The Exchange notes that the Chicago Mercantile Exchange has announced that it will add November 2004 expirations for certain index futures products that are generally considered financial instruments with which CBOE index options compete for customer interest.

The Exchange recognizes that this request to expand the allowable expiration months for index options is a unique situation, and so the Exchange only intends to seek the ability to list seven expiration months until the November 2004 options expire. The Exchange notes that a seventh expiration month was permitted for index options for January 2000 in connection with Y2K.⁵

The Exchange represents that it has the system capacity to adequately handle the series that would be permitted to be added by this proposal. The Exchange provided to the Commission information in a confidential submission that supports its system capacity representations.

2. Statutory Basis

Because the temporary increase in the number of expiration months for index options would satisfy significant customer demand to address a unique hedging need, and because the series could be added without presenting capacity problems, the Exchange believes this rule change is consistent with and furthers the objectives of section 6(b)(5) of the Act in that it would remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

⁵ See Securities Exchange Act Release No. 41252 (April 5, 1999), 64 FR 17702 (April 12, 1999) (order approving File No. SR-CBOE-99-09) (allowed the Exchange to list up to seven expiration months for certain index options up until the expiration of those options in January 2000, to provide customers with a useful tool to hedge positions in stocks overlying particular index options or to hedge market exposure to the equity markets generally against the uncertainty presented by potential Year 2000 computer problems).

¹¹ 17 CFR 200.30-3(29).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).