

the employee's railroad service had been covered by that Act.

The RRB currently obtains the required information by the use of forms G-319 (Statement Regarding Family and Earnings for Special Guaranty Computation) and G-320 (Statement by Employee Annuitant Regarding Student Age 18-19). One form is completed by each respondent.

The RRB proposes significant burden impacting changes to Form G-319 and

Form G-320. The major changes proposed are primarily to gather information needed due to the Railroad Retirement and Survivors Improvement Act which created a new category of employees whose families might qualify for the Special Guaranty Computation if the employee has less than 120 months of railroad service, but at least 60 months of railroad service after 1995, and to expand the use of Form G-320 to include student attendance

monitoring. Proposed Form G-319 will be renamed, "Statement Regarding Family and Earnings for the Special Guaranty Computation". Proposed Form G-320 will be renamed "Student Questionnaire for the Special Guaranty Computation". Transmittal letters containing completion instructions have been developed for both of the proposed forms.

The estimated annual respondent burden is as follows:

Form #(s)	Annual responses	Time (min)	Burden (hrs)
G-319 <i>Employee completed:</i>			
With assistance	100	26	43
Without assistance	5	55	5
G-319 <i>Spouse completed:</i>			
With assistance	100	30	50
Without assistance	5	60	5
G-320:			
Age 18 at Special Guaranty	95	15	24
Begin Date or Special Guaranty. Age 18 Attainments.			
G-320:			
Student Monitoring done in Sept., March, and at end of school year	170	15	42
Total	475	169

Additional Information or Comments: To request more information or to obtain a copy of the information collection justifications, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363 or send an e-mail request to Charles.Mierzwa@RRB.GOV. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611-2092 or send an e-mail to Ronald.Hodapp@RRB.GOV. Comments should be received within 60 days of this notice.

Charles Mierzwa,
Clearance Officer.
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51938; File No. SR-CBOE-2005-40]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Hybrid Opening System

June 29, 2005.

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 May 16, 2005, 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, II, and III below, which Items have been prepared by the CBOE. The CBOE submitted Amendment No. 1 on June 24, 2005.³ 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 Exchange proposes to amend its rules relating to the Hybrid Opening System ("HOSS") procedures. The text of the proposed rule change is set forth below. Additions are in italics. Deletions are in brackets.

CHAPTER VI

Doing Business on the Exchange Floor
Rule 6.2B. Hybrid Opening System ("HOSS")

Rule 6.2B. (a) No change.
(b) After the Opening Notice is sent, the System will calculate and provide

¹ 15 U.S.C. 78s(b)(1).
² 17 CFR 240.19b-4.
³ Amendment No. 1 revised the rule text to reflect language recently approved in another filing.

the Expected Opening Price ("EOP") and expected opening size ("EOS") given the current resting orders during the EOP Period ("EOP Period"). The appropriate FPC will establish the duration of the EOP Period on a class basis at between five and sixty seconds. The EOP, which will be calculated and disseminated to market participants every few seconds, is the price at which the greatest number of orders in the Book are expected to trade. After the Opening Notice is sent, quotes and orders may be submitted without restriction. An EOP may only be calculated if: (i) there are market orders in the Book, or the Book is crossed (highest bid is higher than the lowest offer) or locked (highest bid equals lowest offer), and (ii) *at least one* [the DPM's] quote [(or if there is no DPM appointed to the class, at least one quote from either a Market Maker or LMM with an appointment in the class)] is present and complies with the legal width quote requirements of Rule 8.7(b)(iv).

(c)-(d) No Change.
(e) The System will not open a series if one of the following conditions is met:

(i) [In classes in which a DPM has been appointed, there] *There is no quote present in the series that complies with the legal width quote requirements of Rule 8.7(b)(iv)* [from the DPM for the series. In classes in which no DPM has been appointed, there is no quote from

at least one market-maker or LMM with an appointment in the class];

(ii) The opening price is not within an acceptable range (as determined by the appropriate FPC and announced to the membership via Regulatory Circular) compared to the [highest] lowest quote offer and the [lowest] highest quote bid [(e.g., the upper boundary of the acceptable range may be 125% of the highest quote offer and the lower boundary may be 75% of the lowest quote bid)]; or

(iii) No Change.

(f)–(i) No Change.

* * * * *

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

In its filing with the Commission, CBOE 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 aspects 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 its rules relating to HOSS procedures. HOSS is the Exchange's automated system for initiating trading at the beginning of each trading day. For each class of options contracts approved for trading, the appointed designated primary market maker ("DPM") conducts an opening rotation, which must be held promptly following the opening of the underlying security in the primary market. For purposes of HOSS, an underlying security shall be deemed to have opened in the primary market if such market has (i) reported a transaction in the underlying security, or (ii) disseminated opening quotations for the underlying security and not given an indication of a delayed opening, whichever occurs first.

Currently, CBOE rules do not allow a Hybrid option series to be opened unless the DPM for that option class has submitted a quote that complies with the legal quote width requirements of CBOE Rule 8.7(b)(v),⁴ regardless of whether other market participants have

timely submitted legal opening quotes.⁵ In an effort to better ensure that all options series are promptly opened on CBOE, the Exchange is proposing to allow HOSS to open an option series as long as any market participant,⁶ not just the DPM, has submitted an opening quote that complies with the legal width quote requirements. It should be noted that, under the proposal, even though HOSS can open a series without a DPM's quote, DPMs, as well as electronic DPMs ("e-DPMs"), remain obligated under CBOE rules to timely submit opening quotes.⁷

Finally, this rule change proposes to clarify one of the conditions necessary for opening a series. Current CBOE Rule 6.2B(e)(ii) provides that, in order for the Hybrid System to open a series, the opening price must be within an acceptable range (as determined from time to time by the appropriate Exchange floor procedure committee) compared with the highest quote offer and the lowest quote bid. The Exchange proposes to change the method for determining the acceptable range to use the highest bid and the lowest offer, which could provide for an even tighter opening price range. In addition, the example provided in the same rule would be eliminated.

2. Statutory Basis

By allowing more participants' quotes to be included in the opening process, the Exchange is increasing the likelihood that any particular option series will open, and, as such, the Exchange believes this proposed rule change, as amended, is consistent with Section 6(b) of the Act⁸ in general, and further the objectives of Section 6(b)(5) in particular,⁹ in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

⁵ Other factors must also be satisfied. The opening price for the series must be within an acceptable range and the opening trade cannot create a market order imbalance. See CBOE Rule 6.2B(e)(ii) and (iii).

⁶ This includes a quote from a DPM, e-DPM, market maker, or a remote market maker. See CBOE Rule 6.45A.

⁷ See Securities Exchange Act Release No. 51670 (May 9, 2005), 70 FR 28338 (May 18, 2005) (order approving SR-CBOE-2005-027, which requires e-DPMs to submit opening quotes in 100% of the series in all of their respective allocated option classes).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change, as amended, does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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 CBOE consents, the Commission will:

(A) By order approve such proposed rule change, or

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

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. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form <http://www.sec.gov/rules/sro.shtml>; or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2005-40 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission/ Station Place, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-CBOE-2005-40. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent

⁴ See CBOE Rules 6.2B(b) and (e).

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 Section. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2005-40 and should be submitted by July 29, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5-3594 Filed 7-7-05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51944; File No. SR-CHX-2005-19

Self Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Rule Interpretation Relating to Trading of Nasdaq National Market Securities in Subpenny Increments

June 30, 2005.

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 June 27, 2005, the Chicago Stock Exchange, Incorporated ("CHX" 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 CHX. The Exchange has filed this proposal pursuant to 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 CHX has proposed to extend, until the effective date of new Rule 612 of Regulation NMS,⁵ a pilot rule interpretation (Article XXX, Rule 2, Interpretation and Policy .06 "Trading in Nasdaq/NM Securities in Subpenny Increments") which requires a CHX specialist (including a market maker who holds customer limit orders) to better the price of a customer limit order in his book which is priced at the national best bid or offer ("NBBO") by at least one penny if the specialist determines to trade with an incoming market or marketable limit order. The pilot, which was approved in conjunction with exemptive relief granted by the Commission to allow for trading in Nasdaq National Market securities in subpenny increments, expires on June 30, 2005. The Exchange proposes that the pilot remain in effect until the effective date of Rule 612.

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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item III below. The CHX 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 Changes

1. Purpose

On April 6, 2001, the Commission approved, on a pilot basis through July 9, 2001, a pilot rule interpretation (Article XXX, Rule 2, Interpretation and Policy .06 "Trading in Nasdaq/NM Securities in Subpenny Increments")⁶ that requires a CHX specialist (including a market maker who holds customer limit orders) to better the price of a customer limit order in his book which

is priced at the NBBO by at least one penny if the specialist determines to trade with an incoming market or marketable limit order. The pilot, which was approved in conjunction with exemptive relief granted by the Commission to allow for trading in Nasdaq National Market securities in subpenny increments, has been extended many times and now is set to expire on June 30, 2005.⁷ The Exchange is not proposing any substantive (or typographical) change to the pilot; rather, the Exchange proposes that the pilot be immediately reinstated and remain in effect through the effective date of Rule 612 of Regulation NMS.⁸

2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).⁹ The CHX believes the proposal is consistent with Section 6(b)(5) of the Act¹⁰ in that it is designed to promote just and equitable principles of trade, to remove impediments, and to perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.¹¹

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition.

⁷ See Securities Exchange Act Release Nos. 44535 (July 10, 2001), 66 FR 37251 (July 17, 2001) (extending pilot through November 5, 2001); 45062 (November 15, 2001), 66 FR 58768 (November 23, 2001) (extending pilot through January 14, 2002); 45386 (February 1, 2002), 67 FR 6062 (February 8, 2002) (extending the pilot through April 15, 2002); 45755 (April 15, 2002), 67 FR 19607 (April 22, 2002) (extending the pilot through September 30, 2002); 46587 (October 2, 2002), 67 FR 63180 (October 10, 2002) (extending the pilot through January 31, 2003); 47372 (February 14, 2003), 68 FR 8955 (February 26, 2003) (extending the pilot through May 31, 2003); 47951 (May 30, 2003), 68 FR 34448 (June 9, 2003) (extending the pilot through December 1, 2003); 48871 (December 3, 2003), 68 FR 69097 (December 11, 2003) (extending pilot through June 30, 2004); 49994 (July 9, 2004), 69 FR 42486 (July 15, 2004) (extending pilot through June 30, 2005).

⁸ See *supra* note 5.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ With the Exchange's permission, the Commission deleted irrelevant language from the notice relating to the Exchange's continuing education programs. Telephone conference between Ellen Neely, President & General Counsel, Exchange, and Raymond Lombardo, Special Counsel, Division of Market Regulation, Commission, on June 29, 2005.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 5 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) ("Reg. NMS Release"). Rule 612 will become effective on August 29, 2005.

⁶ See Securities Exchange Act Release No. 44164 (April 6, 2001), 66 FR 19263 (April 13, 2001) (SR-CHX-2001-07).