amending CBOE Rules 6.80 and 6.84 to add a ''trade and ship'' exception to the definition of ''Trade-Through'' and add a ''book and ship'' exception to the provision relating to locked markets, respectively. On July 26, 2005, the CBOE filed Amendment No. 1 to the proposed rule change.[4] The proposed rule change, as amended, was published for comment in the **Federal Register** on August 5, 2005.[5] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

Under the proposed rule change, an order could be traded at a price that is one minimum quoting increment inferior to the national best bid or offer (''NBBO'') if a Linkage Order[6] is sent contemporaneously to the market(s) disseminating the NBBO to satisfy all interest at the NBBO price. The proposed rule change also would provide that an order may be booked that would otherwise lock another market if a Linkage Order is sent contemporaneously to such other market to satisfy all interest at the lock price and only the remaining portion of the order is booked. The CBOE proposes that, under trade and ship, any execution received from the market disseminating the NBBO must (pursuant to agency obligations) be reassigned to the customer order that is underlying the Linkage Order that was sent to trade with the market disseminating the NBBO.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of section 6 of the Act[7] and the rules and regulations thereunder applicable to a national securities exchange.[8] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[9] 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 a national market system, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change should help to implement the Linkage Plan by facilitating the ability of CBOE's members to execute their customer orders in a timely manner and potentially could decrease the incidence of Trade-Throughs and locked markets.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–CBOE–2005–51) as amended, is approved.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 05–18623 Filed 9–19–05; 8:45 am]

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Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

[4] In Amendment No. 1, the CBOE revised the rule text to use terms consistent with CBOE's current rules and made certain clarifying changes to the purpose section.

[5] *See* Securities Exchange Act Release No. 52173 (July 29, 2005), 70 FR 45452.

[6] *See* CBOE Rule 6.80(12).

[7] 15 U.S.C. 78f.

[8] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52424; File No. SR–CBOE–2005–68]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Relating to the Definition of Firm Customer Quote Size in the Linkage Plan

September 14, 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 August 29, 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 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 governing the operation of the intermarket option linkage (''Linkage'') to conform with a proposed amendment[3] to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (''Linkage Plan'').[4] The Exchange is proposing: (i) To amend the definition of ''Firm Customer Quote Size'' (''FCQS'')[5] to provide automatic executions for Linkage Principal Acting as Agent Orders (''P/A Orders'')[6] up to the full size of the Exchange's disseminated quotation; and (ii) to eliminate a 15-second waiting period between the sending of P/A Orders.

The text of the proposed rule change is available on CBOE's Web site (*www.cboe.com*), at the CBOE's Office of the Secretary, and at the Commission's public reference room.

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 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 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

The purpose of the proposed rule change is to modernize the definition of FCQS in CBOE rules related to the operation of the Linkage rules. At the time the Linkage commenced, options quote sizes were not disseminated through the Options Price Reporting Authority and most participants in the Linkage Plan employed automatic execution systems that guaranteed automatic fills on orders under a certain contract size (which was generally a static number). As such, the FCQS was

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 52401 (September 9, 2005) (File No. 4–429) (''Amendment No. 16'').

[4] On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket option market linkage proposed by the American Stock Exchange, LLC, CBOE, and International Securities Exchange, Inc. *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, upon separate requests by the Philadelphia Stock Exchange, Inc., Pacific Exchange, Inc. and Boston Stock Exchange, Inc. the Commission issued orders to permit these exchanges to participate in the Linkage Plan. *See* Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70850 (November 28, 2000), 43574 (November 16, 2000), 65 FR 70851 (November 28, 2000) and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

[5] *See* Exchange Rule 6.80(9).

[6] *See* Section 2(16)(a) of the Linkage Plan and Exchange Rule 6.80(12)(i).

calculated based on the number of contracts the sending and receiving Linkage Plan participants (''Participants'') guaranteed they would automatically execute. Now that all Participants disseminate dynamic quotes with size, the Participants believe that it is appropriate to calculate the FCQS based on the size of the disseminated quotation of the Participant receiving the P/A Order. Accordingly, the Exchange proposes to amend CBOE Rule 6.80 to effect this change.[7]

The other purpose of the proposed rule change is to eliminate a 15-second wait period for sending a secondary P/A Order currently provided in Exchange Rule 6.81(b)(2). Exchange Rule 6.81(b)(2) governs the manner in which a P/A Order larger than the FCQS can be broken into smaller P/A Orders. Currently, Exchange Rule 6.81(b)(2) provides that an initial P/A Order can be sent to the Participant disseminating the National Best Bid or Offer for the FCQS, and if that Participant continues to disseminate the same price after 15 seconds from the execution of the initial P/A Order, a subsequent P/A Order can be sent for at least the lesser of (i) the size of the disseminated quote; (ii) 100 contracts; or (iii) the remainder of the customer order underlying the P/A Orders. The Exchange proposes to eliminate the 15-second waiting period because the dynamic quotes with size now employed by the Participants obviate the need for a manual quote refresh period for P/A Orders. This proposed rule change would conform the CBOE rules to the pending Amendment No. 16 to the Linkage Plan.[8]

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act[9] in general, and furthers the objectives of section 6(b)(5) of the Act[10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

[7] The Commission added to this sentence pursuant to a telephone conversation with CBOE, as noted herein. Telephone call between Tim Fox, Special Counsel, Commission, and Patrick Sexton, Assistant General Counsel, CBOE on September 12, 2005.

[8] *See Supra* note 3.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

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

The CBOE does not believe that the proposed rule change would 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

Written comments were neither solicited nor received.

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 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–2005–68 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–2005–68. 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 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 also will be available for inspection and copying at the principal office of the Exchange. 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 publicly available. All submissions should refer to File Number SR–CBOE–2005–68 and should be submitted on or before October 11, 2005.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 05–18670 Filed 9–19–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52423; File No. SR–CBOE–2005–76]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Duration of CBOE Rule 6.45A(b) Pertaining to Orders Represented in Open Outcry

September 14, 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 September 13, 2005, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).