

maintain more accurate and detailed records of their trading activity.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and is not designed to permit unfair discrimination between customers, brokers, or dealers, or to regulate by virtue of any authority matters not related to the administration of the Exchange.

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

The BSE does not believe that the proposed rule change will 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

The BSE 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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule

change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

The BSE has asked the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay to allow the Exchange to immediately apply the new Account Identification Codes. The Commission waives the five-day pre-filing notice requirement. In addition, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change will provide the Exchange's members and customers with the ability to more appropriately identify the types of trading activity in which they engage and more accurately reflect their specific type of trading in the records of their orders.<sup>10</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears 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.<sup>11</sup>

## 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](mailto:rule-comments@sec.gov). Please include File No. SR-BSE-2005-23 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 No. SR-BSE-2005-23. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

<sup>10</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>11</sup> See *supra* note 3.

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 will also be available for inspection and copying at the principal office of the BSE. 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 No. SR-BSE-2005-23 and should be submitted on or before August 4, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

J. Lynn Taylor,

Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51992; File No. SR-CBOE-2005-24]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change Relating to the Assignment of RAES Orders to Logged-In Market-Makers Participating on RAES

July 7, 2005.

## I. Introduction

On March 15, 2005, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")<sup>1</sup> and Rule 19b-4

<sup>12</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

thereunder,<sup>2</sup> to add an alternative to the current procedures that apply to the assignment of orders on the Exchange's Retail Automatic Execution System ("RAES") to CBOE market-makers logged on to participate in RAES. The proposed rule change was published for comment in the **Federal Register** on May 18, 2005.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

## II. Description of the Proposal

CBOE Rule 6.8 governs the execution of orders on RAES. CBOE Rule 6.8.06 sets forth alternatives available to the appropriate Floor Procedure Committee to implement the procedures for the assignment of RAES-eligible orders to CBOE market-makers logged onto RAES for execution. One alternative set forth in current Rule 6.8.06(c), the "100 Spoke RAES Wheel," assigns RAES orders to logged-in market-makers based on the percentage of their in-person agency contracts traded in that class (excluding RAES contracts traded) compared to all of the market-maker in-person agency contracts traded (excluding RAES contracts) during the review period. The proposed rule change sets forth a new alternative, available only in index option classes, that offers a wheel with 1000 spokes and assignment procedures that are similar to the assignment procedures applicable to the 100 Spoke RAES Wheel.

Under the proposed 1000 Spoke RAES Wheel, the appropriate Floor Procedure Committee will determine on a class-by-class basis whether the assignment of RAES orders to logged-in market-makers is based on the percentage of a market-maker's contracts traded in that index option class (excluding RAES contracts traded) compared to all market-maker contracts traded (excluding RAES contracts) during the review period, or the percentage of the market-maker's in-person agency contracts traded in that class (excluding RAES contracts traded) compared to all market-maker in-person agency contracts traded (excluding RAES contracts) during the review period. As is the case with the 100 Spoke RAES Wheel, the procedure for the 1000 Spoke RAES Wheel would provide that on each revolution of the wheel, each participating market-maker who is logged in RAES at the time will be assigned a number of contracts that approximates the percentage of

contracts on RAES that the market-maker traded in-person in that index option class during the review period, subject to the restrictions set forth in current Rule 6.8.06(c).

The effect of utilizing the 1000 Spoke RAES Wheel instead of the 100 Spoke RAES Wheel is that the number of contracts allocated to a market-maker will increase by a factor of 10 for every revolution of the RAES wheel. This procedure is designed to reduce the rounding effects that result under the 100 Spoke RAES Wheel (the RAES system configuration rounds contracts to the nearest whole number).

## III. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b) of the Exchange Act<sup>4</sup> and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,<sup>6</sup> which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

The Commission believes that the proposal to add the alternative of the 1000 Spoke RAES Wheel would provide the Exchange with a greater degree of flexibility in allocating index option contracts that are executed automatically through RAES. The Exchange initially developed the 100 Spoke RAES Wheel as a means to allocate contracts executed through RAES according to the liquidity each market-maker provided on the floor. The Exchange asserted in its proposal, however, that the Floor Procedure Committees for index options have not employed the 100 Spoke RAES Wheel alternative because of the effects of rounding of that allocation method in larger trading crowds. The Commission believes that, with the 1000 Spoke RAES Wheel alternative, market-makers in index options would have a greater incentive to compete effectively for orders, and this, in turn, should benefit investors and promote the public interest.

The Commission notes that implementation of the 1000 Spoke

RAES Wheel, as with the 100 Spoke RAES Wheel, will have no effect on the prices offered to customers. Under CBOE Rule 6.8(d)(i), RAES automatically provides to each retail customer order an execution price, generally determined by the prevailing market quote at the time of the order's entry into the system. The 1000 Spoke RAES Wheel simply provides for another method of contract allocation in the case of index option contracts automatically executed through RAES.

## IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Exchange Act,<sup>7</sup> that the proposed rule change (SR-CBOE-2005-24) be, and it hereby is, approved.

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

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51997; File No. SR-CHX-2004-17]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Amend Article XX, Rule 37(a)(3) of Its Rules To Eliminate Its Requirement That Specialists Guarantee Execution of Limit Orders When Certain Conditions Occur in Another Market

July 8, 2005.

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 June 21, 2004, the Chicago Stock Exchange, Inc. ("CHX" 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 CHX. On July 5, 2005, the Exchange filed an amendment to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit

<sup>1</sup> 15 U.S.C. 78s(b)(2).

<sup>2</sup> 17 CFR 200.30-3(a)(12).

<sup>3</sup> 15 U.S.C. 78s(b)(1).

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

<sup>5</sup> See Amendment No. 1 dated July 5, 2005, replacing the original filing in its entirety. In Amendment No. 1, the Exchange modified the text of the proposed rule change and the discussion in response to comments by the Commission staff.

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

<sup>3</sup> See Securities Exchange Act Release No. 51684 (May 11, 2005), 70 FR 28588.

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).