

Location

Antarctic Peninsula regions, including Anvers Island, the South Shetlands and South Orkney Islands.

Dates

November 1, 1996–December 31, 1996.

Nadene G. Kennedy,

Permit Office, Office of Polar Programs.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-37078; File No. SR-CBOE-96-19]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Eligibility Requirements for Participation on the RAES System in SPX Options

April 5, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on March 18, 1996, 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 self-regulatory organization. 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 one of the four Rule 24.16 requirements market makers in Standard & Poor's 500 Stock Index ("SPX") options must meet to qualify for participation in the Retail Automatic Execution System ("RAES"). Pursuant to the change, SPX market makers who execute at least 50%, instead of 75% (as CBOE Rule 24.16 currently states), of their market maker contracts for the preceding month in SPX options may participate on RAES.

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 self-regulatory organization 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 self-regulatory organization has prepared summaries, set forth in Section (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

The purpose of the proposed rule change is to amend one of the four Rule 24.16 requirements SPX market makers must meet to qualify for participation in RAES. RAES is the Exchange's automatic execution system for small (generally fewer than 10 contracts) public customer market or marketable limit orders. 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 into the system. A buy order will pay the offer; a sell order will sell at the bid. An eligible SPX market maker who is signed onto the system at the time the order is received will be designated to trade with the public customer order at the assigned price.

Rule 24.16(a)(iv), RAES Eligibility in SPX, states that for a market maker to qualify to participate in SPX RAES that market maker must: (A) be approved under Exchange rules as a market maker with a letter of guarantee, (B) maintain his principal business on the CBOE as a market maker, (C) execute at least seventy-five percent of his market maker contracts for the preceding month in SPX options ("75% SPX requirement"), and (D) execute at least seventy-five percent of his market maker trades for the preceding month in SPX options in person. These requirements generally ensure that those market makers who are satisfying the public customer orders at the prevailing bid or offer are the same market makers who have made a commitment to make markets on a regular basis at the SPX post.

The Exchange has learned, however, that a number of market makers who regularly make markets in SPX fail to execute seventy-five percent of their market maker contracts for the preceding month in SPX options. In many cases, these market makers fail to meet the 75% SPX qualification because they execute a large percentage of contracts in S&P 100 ("OEX") options on the floor of the Exchange in order to hedge their SPX positions. Because SPX and OEX options are legitimate hedge vehicles for each other, the Exchange

does not believe a market maker who makes markets regularly in SPX options, but who employs these hedge strategies, should be prevented from contributing to the Exchange's efforts to execute small public customer RAES orders. Consequently, the Exchange proposes that the 75% SPX requirement be reduced to a 50% requirement.

The proposed change will increase the number of market makers available to execute the public customer RAES orders, at the same time ensuring that the orders are filled by market makers who are best equipped to handle these orders. In fact, the 50% requirement would ensure that a market maker who was assigned a RAES trade had transacted at least as many market maker contracts in SPX options as that market maker had transacted in all other products on the CBOE floor combined. The Exchange's proposed change to increase participation on SPX RAES should work in conjunction with existing Rule 24.16(b) to ensure broad participation. Paragraph (b) of the Rule states that any market maker who has logged onto RAES at any time during an expiration month must continue to do so each time he is present in the trading crowd until the next expiration. Therefore, the proposed rule change will ensure that a larger number of market makers generally will be available to participate on RAES and paragraph (b) should ensure that those market makers will be available on any particular day.

CBOE believes that the proposed rule change will increase the number of market makers available to execute public customer RAES orders in SPX. Hence, the Exchange believes the rule proposal is consistent with and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

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

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

¹ 15 U.S.C. § 78s(b)(1) (1988).

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 self-regulatory organization 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-CBOE-96-19 and should be submitted by May 6, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37083; File No. SR-PSE-96-08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Amendments to Exchange Constitution Article III, Section 2(c)

April 8, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on March 28, 1996, the Pacific Stock Exchange, Inc. ("PSE" 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 self-regulatory organization. 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 proposed rule change consists of amendments to Article III, Section 2(c) of the PSE Constitution. The proposed amendments to Article III, Section 2(c) are as follows [New text is italicized; deleted text is bracketed]:

Sec. 2(c). [No two or more Governors for a common or overlapping term may be associated either as partners, officers, directors, stockholders or otherwise in the same member firm or in a partnership or corporation which is affiliated with the same member firm. A Governor or nominee for Governor shall be considered to be associated with another member of the Board of Governors as a stockholder in the same member firm or in a partnership or corporation which is affiliated with the same member firm if:]

[(i) He or any member, allied member or associated person in his member firm or its subsidiaries or affiliates is an officer or director (or person occupying a similar status or performing similar functions) in a member firm or its subsidiaries or affiliates with which another member of the Board of Governors is associated; or]

[(ii) He or his member firm, its subsidiaries or affiliates or any member, allied member or associated person therein owns, directly or indirectly, more than 1% of the outstanding publicly traded stock of a member firm, its subsidiaries or affiliates with which another member of the Board of Governors is associated.]

Care shall be taken to have the various interests of the membership

represented on the Board of Governors. If the Board determines that an affiliation or association between Governors of the Board creates a conflict of interests, one Governor shall resign from the Board, or be removed by the Board if no resignation is received.

No person, other than one elected to the Board as a representative of the public, may serve as Governor for more than two successive three-year terms.

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 self-regulatory organization 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 self-regulatory organization has prepared summaries, set forth in Section 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

Prior to 1973, the Exchange had no rule in place regarding conflicts of interests. That year, a much simplified version of the current rule was added to the Constitution, which read as follows:

"No two or more Governors for a common or overlapping term may be associated either as partners, stockholders or otherwise in the same member firm or in a partnership or corporation which is affiliated with the same member firm."

In 1983, the rule expanded the definition of associates to include officers and directors,² and attempted to define more clearly an "indirect association" between Governors, by using two specific tests.³ Those tests are described in the current rule.⁴ However, the experience of PSE management and the PSE Board of Governors in interpreting and applying the current rule has been that the language is too cumbersome and specific to achieve the intended purpose of eliminating conflicts. Being restricted by the specific language of the current rule leaves the

² See Securities Exchange Act Release No. 19406 (Feb. 17, 1983), 48 FR 8385 (Feb. 28, 1996) (order approving File No. SR-PSE-82-16).

³ See PSE Const., Art. III, Sec. 2(c).

⁴ *Id.*

² 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. § 78s(b)(1).