

Dated: August 16, 1999.

Kenneth M. Becker,
Executive Director.

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**SECURITIES AND EXCHANGE
COMMISSION**

[Release No. 34-41742; File No. SR-CBOE-99-35]

**Self-Regulatory Organizations; Notice
of Filing of Proposed Rule Change by
the Chicago Board Options Exchange,
Inc. Relating to Crossing Index
Options Orders**

August 13, 1999.

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 June 29, 1999, the Chicago Board Options Exchange, Inc. ("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 Exchange. 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 amend its rule governing the crossing of index option orders of 500 contracts or more by brokers, to give the firm from which an order originates a participation right in trades that are proposed to be crossed in certain circumstances. The text of the proposed rule change is set forth below. Additions are italicized.

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**Chicago Board Options Exchange, Inc.
Rules**

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**Chapter VI—Doing Business on the
Exchange Floor**

Section D: Floor Brokers

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"Crossing" Orders

RULE 6.74.

(a)-(c) ³ No change.

(e)(i) Notwithstanding the provisions of paragraphs (a) and (b) of this Rule, when a Floor Broker holds an index option order for 500 or more contracts ("original order"), the Floor Broker is entitled to cross 20% of the order with a facilitation order of the originating firm (as defined in paragraph (d)) after requesting bids and offers for such option series, if the order is traded between the best bid and offer given by the crowd in response to the broker's initial request for a market.

(ii) In determining whether an order satisfies the 500 contract requirement, any multi-part or spread order must contain one leg alone which is for 500 contracts or more.

(iii) If the originating firm is also the Designated Primary Market-Maker ("DPM") for the particular class of options to which the order relates, then the DPM is not entitled to the DPM guaranteed participation rate.

(iv) The appropriate Floor Procedure Committee may exempt a particular option class from the application of this paragraph.

*** * * Interpretations and Policies**

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 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 CBOE proposes to add a new paragraph (e) to CBOE Rule 6.74, "Crossing" Orders, to give a firm that is holding an index option order for a public customer the right to participate on the order through a facilitation order in certain circumstances.⁴ To take

advantage of the new provision, the particular index option order must be for 500 or more contracts. For a multi-part or spread order, at least one leg of the order alone must be for 500 contracts or more.

Paragraph (a) of CBOE Rule 6.74 sets forth the procedures to be followed currently by a floor broker to cross customer orders. Paragraph (b) of CBOE Rule 6.74 sets forth the procedures to be followed by a floor broker to facilitate a customer order. In both cases, market-makers in the trading crowd currently are given the opportunity to accept a floor broker's better bid or offer for orders that he intends to cross or facilitate before the floor broker can cross or facilitate the orders himself. Under current rules, therefore, if the market-makers are willing to take the entire order the floor broker will not be able to cross or facilitate any part of the order.

Generally, new paragraph (e) will provide that, in those circumstances where a floor broker has an index option order for a public customer for 500 contracts or more that he is holding to execute ("original order"), that floor broker will have priority to cross 20% of that original order against a firm proprietary order of the originating firm (i.e., facilitation order), if the cross is done at a price between the best bid and offer quoted by the crowd (i.e., at a price that improves the market provided by the market-makers) in response to the broker's initial request for a market. This is comparable to the 25% participation right given under certain circumstances to a firm bringing a FLEX option order to the floor pursuant to CBOE Rule 24A.5(e)(iii).

In the event that the originating firm is also the Designated Primary Market-Maker ("DPM") for that option class and the floor broker takes advantage of the participation right provided by proposed new paragraph (e) of CBOE Rule 6.74, then the DPM shall not also be entitled to the guaranteed participation rate provided by paragraph (c)(7) of CBOE Rule 8.80 for that particular trade.

The Rule will also provide that the appropriate Floor Procedure Committee may exempt a particular option class from the application of this paragraph. The Exchange believes that the effect of this liberalization of its crossing rule will be to provide market-makers with an additional incentive to quote tighter markets in response to a request for quotes, and, at the same time, it will encourage member firms to bring their

(07) (a proposed rule change to permit "cross-only" contingency orders).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Paragraph (d) of Rule 6.74 was proposed to be added in SR-CBOE-99-10, which is currently pending before the Commission. See Securities Exchange Act Release No. 41609 (July 8, 1999), 64 FR 38494 (July 16, 1999).

⁴ The Exchange has proposed to add a paragraph (d) to Rule 6.74, to provide for a participation right for crossing equity option orders, in SR-CBOE-99-10. That filing is pending before the Commission. See Securities Exchange Act Release No. 41609 (July 8, 1999), 64 FR 38494 (July 16, 1999). See also Securities Exchange Act Release No. 41610 (July 8, 1999), 64 FR 38495 (July 16, 1999) (SR-CBOR-99-

order flow to the CBOE. The Rule will also provide floor brokers with an incentive to trade at a price between the quoted bid and ask. The benefits of the tighter markets will inure to the customers. In addition, by establishing a minimum participation right, the CBOE expects that the Rule will provide firms with the ability to participate on these trades in a more efficient manner than is available today.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5)⁵ of the Act in that it is designed to remove impediments to a free and open market and protects investors and the public interest.

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

The CBOE does not believe that the proposed rule 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

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 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, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. 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 the filing will also be available for inspection and copying at the principal offices of the CBOE. All submissions should refer to File No. SR-CBOE-99-35 and should be submitted by September 10, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41737; File No. SR-Phlx-99-25]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Allow the Options Committee to Adopt Policies Affecting Location of Members in the Trading Crowd on a Crowd-by-Crowd Basis

August 12, 1999.

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 July 21, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 Phlx proposes to adopt Commentary .17 to Phlx Rule 1014, Obligations and Restrictions Applicable to Specialists and Registered Options Traders, allowing the Options

Committee to adopt policies affecting the location of members in the trading crowd on a crowd-by-crowd basis in order to ensure fair and orderly markets. The text of the proposed Rule is provided below. The new language is italicized.

Obligations and Restrictions Applicable to Specialists and Registered Options Traders Rule 1014

Commentary .01-.16. No change.

Commentary .17.

In the interest of fair and orderly markets, the Options Committee may adopt policies affecting the location of members in the trading crowd on a crowd-by-crowd basis.

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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 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

According to the Exchange's By-laws, the Options Committee has the authority to make or recommend the adoption of, and administer such rules as it may deem necessary for the convenient and orderly transaction of business upon the equity and index options trading floor.³ The proposal will give the Options Committee express authority to adopt policies and implement those policies on an expedient basis to ensure convenient and orderly transaction of business upon the equity and index options trading floor. The Exchange also believes that this proposal provides the Options Committee and the trading crowd with flexibility to change member location policies in trading crowds to adapt to changing technological advances, which may call for locating members in specific areas or rethinking traditional arrangements.

The proposed rule will allow the Options Committee to adopt policies

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Phlx By-law Article 10-19.

⁵ 15 U.S.C. 78f(b)(5).