

communicating of an order, its entry does not violate Exchange rules.

V. Amendment No. 2

The Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. In Amendment No. 2, the Exchange added text to the proposed commentaries to Annex Rules 1000, 1000A, and 1200 that clarifies that the proposed commentaries relate to automatic executions systems for PDRs, IFSs and TIRs, as distinguished from the Exchange's automatic execution system for options. The Commission believes that these are technical, non-substantive changes to the proposal, which further strengthen and clarify the proposed rule change and raise no new regulatory issues. The Commission believes that Amendment No. 2 does not alter the original proposal, which was subject to a full notice and comment period. Therefore, the Commission finds that granting accelerated approval to Amendment No. 2 is appropriate and consistent with section 19(b)(2) of the Act.²⁵

VI. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, 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, NW., Washington, DC 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 Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-2001-27 and should be submitted by December 17, 2001.

VII. Conclusion

For all of the aforementioned reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules

and regulations thereunder applicable to a national securities exchange.²⁶

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,²⁷ that the proposed rule change (SR-AMEX-00-27) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁸

Margaret H. McFarland,

Deputy Secretary

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45075; File No. SR-CBOE-2001-57]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Establish Fees for Excessive RFQs on Its New Screen-Based Trading System

November 19, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice hereby is given that on October 30, 2001, 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 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

CBOE is proposing to establish fees for excessive requests for quotes ("RFQs") on the Exchange's screen-based trading system. The text of the proposed rule change is available at the principal office of the Exchange and at the Commission's Public Reference Room.

²⁶ In approving this rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation, consistent with section 3(f) of the Act. 15 U.S.C. 78c(f).

²⁷ 15 U.S.C. 78s(b)(2).

²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. 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

CBOE is proposing to establish an excessive request for quote fee applicable to the Exchange's new screen-based trading system, CBOE *direct*.³ CBOE *direct* is CBOE's new options trading engine. A component of trading on CBOE *direct* is the RFQ process (although CBOE market-makers may be required to provide continuous two-sided markets in products traded on the system). RFQs generally provide a mechanism for gauging the CBOE market in a particular option series in connection with effecting a trade in such series. Accordingly, the RFQ process is not meant to serve exclusively as an unlimited price discovery mechanism. Thus, CBOE is proposing to adopt an excessive RFQ fee based on what CBOE believes to be a more than reasonable RFQ-to-total-trade ratio.

This monthly fee will equal \$1 for any RFQ submitted by a member during a given calendar month if that member's RFQ-to-trade ratio for that month is greater than 5:1 and less than or equal to 10:1. Alternatively, this monthly fee will equal \$5 for any RFQ submitted by a member during a given calendar month if that member's RFQ-to-trade ratio for that month is greater than 10:1. In this way, CBOE believes that the fee will help reduce excessive RFQs without prohibiting members from submitting excessive RFQs.

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with section 6(b) of

³ The Exchange anticipates that, initially, trading on CBOE *direct* will occur only during extended trading hours for a limited range of products. Separately, CBOE has filed a proposed rule change to adopt certain rules governing trading on CBOE *direct*. See File No. SR-CBOE-00-55.

²⁵ 15 U.S.C. 78s(b)(2).

the Act⁴ in general and section 6(b)(4)⁵ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

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

CBOE does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of 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

CBOE represents that the proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(B)(3)(A)(ii) of the Act⁶ and subparagraph (f)(2) of Rule 19b-4⁷ thereunder. At any time within 60 days of the filing of such 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.

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, NW., Washington, DC 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-2001-57 and should be submitted by December 17, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45076; File No. SR-PCX-2001-41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Fees for Continued Listings and Options Floor Access

November 19, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that on October 29, 2001, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission (the "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

Pursuant to rule 19b-4 under the Act,³ the Exchange proposes to modify its Schedule of Fees and Charges for Continued Listings and Options Floor Access.⁴

The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4.

⁴ The Exchange states that it intends to implement the proposed charges beginning November 1, 2001. Telephone Conversation between Cindy Sink, Senior Attorney, PCX, and Christopher Solgan, Law Clerk, Division of Market Regulation, Commission, on November 6, 2001.

Schedule of Fees and Charges for Exchange Services

* * * * *

PCX OPTIONS: FLOOR AND MARKET MAKER FEES

	*	*	*	*	*
Continued Listings Fee.					[\$500 per month per eligible issue] <i>Difference between \$500 and average monthly revenue for issues with less than \$500 in volume based charges (average monthly revenue based on trailing 3 months).</i>
[Badges]					[\$30 initial issuance fee \$30 per booth for booth clerks, \$60 per month for stock firm clerks, hard badge managers, and all other floor personnel, \$5 per day for temporary badge; \$30 per month maximum \$100 replacement fee].
Options Floor Access Fee.					<i>\$130 per month for all registered floor members and personnel, with a cap of \$5,000 per month per firm.</i>

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* The Exchange proposes to decrease its continued Listings Fee in conjunction with an increase of its Options Floor Access Fee to, as the Exchange believes, distribute Exchange costs more evenly between all trading participants.

1. Continued Listings Fee

The Exchange states that a \$500 Continued Listings Fee is applied monthly to options issues that generate less than \$500 in monthly volume-based charges (including transaction, data entry, and comparison charges) and is based on a three-month trailing average.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

⁷ 17 CFR 240.19b-4(f)(2).