

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51992; File No. SR-CBOE-2005-24)

July 7, 2005

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

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”)¹ and Rule 19b-4 thereunder,² 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, 2005.³ 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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 Act⁴ and the rules and regulations thereunder applicable to a national securities exchange.⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,⁶ 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.

⁴ 15 U.S.C. 78f(b).

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

⁶ 15 U.S.C. 78f(b)(5).

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,⁷ 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.⁸

J. Lynn Taylor
Assistant Secretary

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).