

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51006; File No. SR-CBOE-2005-04)

January 10, 2005

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Systematizing of Orders in the Standard and Poor's Depository Receipts ("SPDR") Option Class

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 January 10, 2005, 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 and II below, which Items have been prepared by the CBOE. The Exchange has filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ 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 proposes to amend its rules relating to the systematizing of orders in the Standard and Poor's Depository Receipts ("SPDR") option class. The text of the proposed rule change is below. Proposed new language is in *italics*.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The CBOE asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

CHAPTER VI

Section B: Member Activities on the Floor

Required Order Information

Rule 6.24

(a)(1) – (2) No change.

(a)(3) Orders in Certain Index Option Classes and the Standard and Poor's Depository Receipts ("SPDR") Option Class. The requirement to systematize orders as set forth in this Rule shall commence on March 28, 2005, in the following option classes: the S&P 500 index option class (SPX), the SPDR option class, the S&P 100 index option class (OEX), and the European-style S&P 100 index option class (XEO).

(a)(4) No change.

(b) – (c) No change.

. . . Interpretations and Policies:

.01 - .07 No change.

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 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

In connection with the development of a Consolidated Options Audit Trail System (“COATS”), CBOE recently amended CBOE Rule 6.24 to require that each order, cancellation of, or change to an order transmitted to CBOE must be “systematized”, in a format approved by the Exchange, either before it is sent to the Exchange or upon receipt on the floor of the Exchange.⁶ An order is systematized if: (i) the order is sent electronically to the Exchange; or (ii) the order that is sent to the Exchange non-electronically (e.g., telephone orders) is input electronically into the Exchange’s systems contemporaneously upon receipt on the Exchange, and prior to representation of the order.

The requirements of CBOE Rule 6.24 to systematize orders commenced on January 10, 2005 in all option classes traded on CBOE, except for the S&P 500 index option class (SPX), the S&P 100 index option class (OEX), and the European-style S&P 100 index option class (XEO). In these option classes, the requirement to systematize orders will commence on March 28, 2005. In its rule change amending CBOE Rule 6.24, CBOE noted that the extension until March 28, 2005, for these option classes is reasonable and appropriate because the manner in which these option classes trade is significantly different than equity option classes and because of the trading environment that exists in these option classes.⁷

⁶ See Securities Exchange Act Release No. 50996 (January 7, 2005) (SR-CBOE-2004-77).

⁷ Moreover, CBOE noted in its rule filing that it initially developed its floor broker workstation (“FBW”) to assist its members in complying with their obligations to systematize orders for COATS. However, the FBW was designed specifically for COATS compliance in equity option classes, and not for use in index option classes. Upon being advised in late December 2003 that the requirement to systematize orders also applied to non-equity option classes, the Exchange actively pursued developing an alternative technology to utilize in index option classes.

The purpose of this rule filing is to amend CBOE Rule 6.24 to state that the requirement to systematize orders in the S&P Depository Receipts Trust (“SPDR”) option class will commence on March 28, 2005, as it will for SPX, OEX and XEO options. Options on SPDRs, which is an exchange-traded fund based on the S&P 500 index, began trading on CBOE on January 10, 2005. CBOE anticipates that options on SPDRs will be traded in a manner similar to SPX options (an index option based on the S&P 500 index), and therefore believes it is reasonable and appropriate to extend the requirement to systematize orders in options on SPDRs until March 28, 2005.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act⁹ in particular. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁰ because it will enhance CBOE’s audit trail for orders by incorporating non-electronic orders into COATS, and will permit CBOE to reconstruct markets in a more efficient and effective manner.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition 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 Exchange has neither solicited nor received comments on the proposed rule change.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78(f)(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing 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) does not become operative for 30 days from the date on which it was filed, 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 Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

A proposed rule change filed under Rule 19b-4(f)(6)¹³ normally does not become operative prior to 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. The Exchange satisfied the five-day pre-filing requirement. The Exchange further requested that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii), and designate the proposed rule change immediately operative. The Commission notes that by waiving the operative period, the Exchange has stated that it will be able to implement trading in options on SPDRs expeditiously, which the Exchange states should serve to enhance the depth and liquidity of the SPDR market as well as the products for which SPDRs or the S&P 500 Index is the underlying benchmark. For these reasons, the Commission, consistent with the protection of investors and the public interest, has waived the 30-day operative date requirement for this proposed rule change, and has determined to designate the proposed rule change as operative on January 10, 2005, the date it was submitted to the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission may

¹¹ 15 U.S.C. 78s(b)(3)(A)

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6).

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. 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. Please include File Number SR-CBOE-2005-04 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-CBOE-2005-04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your 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 the

filing also will be available for inspection and copying at the principal offices of the CBOE. 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 Number SR-CBOE-2005-04 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Jill M. Peterson
Assistant Secretary

¹⁴ 17 CFR 200.30-3(a)(12).