

as amended. This order approves the proposed rule change, as amended, and issues notice of, and grants accelerated approval to, Amendment No. 3.

II. Description of the Proposed Rule Change

Pursuant to the Linkage Project and Facilities Management Agreement ("Agreement"),⁷ the Linkage Participants, including the Exchange, are required to file a proposed rule change with the Commission to provide the Options Clearing Corporation ("OCC") with limited liability with respect to the members' use of the Linkage. The CBOE represents that it filed this proposed rule change to fulfill its obligation under the Agreement. The CBOE proposes to adopt Interpretation .04 to CBOE Rule 6.7 to limit the liability for the OCC with respect to CBOE members' use of the Linkage.

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁸ and, in particular, the requirements of Section 6(b) of the Act⁹ and the rules and regulations thereunder. The Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act,¹⁰ which requires, among other things, that the rules of the Exchange be designed to foster cooperation and coordination with persons engaged in regulation, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission believes that this proposed rule change, as amended, should foster cooperation and should promote a relationship between the CBOE and the OCC that is conducive to the effective operation of the Linkage.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,¹¹ for approving Amendment No. 3

prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. In Amendment No. 3, the CBOE proposes to eliminate a provision from proposed Interpretation .04 to CBOE Rule 6.7 that characterized Linkage as a facility or service of the Exchange for purposes of Exchange Rule 6.7. The Commission believes that removing this provision makes the CBOE's rules consistent with the rules of some of the other Exchanges recently approved by the Commission.¹²

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 3, including whether Amendment No. 3 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 Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-2003-22 and should be submitted by November 6, 2003.

V. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change, as amended, (File No. SR-CBOE-2003-22) is approved, and Amendment No. 3 is approved on an accelerated basis.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48600, File No. SR-CBOE-2003-44]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the Chicago Board Options Exchange, Inc., To Amend a Rule Regarding Nullification and Adjustment of Transactions

October 7, 2003.

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 October 7, 2003, 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is granting accelerated approval of the proposed rule change, which will be in effect on a temporary basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its obvious error rule, CBOE Rule 6.25, on a pilot basis. Proposed new language is *italicized*.

* * * * *

Rule 6.25 Nullification and Adjustment of Electronic Transactions

(a)-(e) No Change.

Interpretations and Policies.....

.03 (a) Trades may be adjusted or nullified when the execution price of the trade is higher or lower than the Theoretical Price for the series by an amount equal to at least two times the maximum bid/ask spread allowed for the option under Rule 8.7(b)(4), so long as such amount is \$0.50 or more or \$0.25 or more for options priced under \$3. For purposes of this subparagraph, the Theoretical Price of an option is the last bid (offer) price, just prior to the trade, from the exchange providing the most volume in the option with respect to an erroneous bid (offer) entered on the Exchange. If there are no quotes for comparison purposes, then the Theoretical Price of an option is as determined by two Trading Officials. CBOE will use the volume figures for

⁷ Linkage Project and Facilities Management Agreement (January 30, 2003).

⁸ In approving this proposed rule change, as amended, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78s(b)(2).

¹² See Exchange Act Release Nos. 48530 (September 24, 2003), 68 FR 56357 (September 30, 2003) (SR-ISE-2003-15), and 48531 (September 24, 2003), 68 FR 56370 (SR-Phlx-2003-43).

¹³ *Id.*

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.