

public regarding odd-lot execution procedures applicable to trading Nasdaq securities, and that the Amex submit any proposal to extend, or permanently approve, the pilot at least two months before the expiration of the six-month pilot.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal rule change, as amended, 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. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comments letters should refer to File No. SR-Amex-2003-102. This file number should be included in the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. AR-Amex-2003-102 and should be submitted by January 21, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-32184 Filed 12-30-03; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48990; File No. SR-CBOE-2003-25]

### Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment Nos. 1, 2, and 3 by the Chicago Board Options Exchange, Inc. Relating to Bid-Ask Differentials

December 23, 2003.

#### I. Introduction

On June 20, 2003, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to permit, under certain circumstances, a bid-ask differential of no more than \$0.50 for options where the bid price is less than \$2. The CBOE filed Amendments Nos. 1, 2, and 3 to the proposal on July 3, 2003,<sup>3</sup> September 10, 2003,<sup>4</sup> and October 29, 2003,<sup>5</sup> respectively.

The proposed rule change and Amendment Nos. 1, 2, and 3 were published for comment in the **Federal Register** on November 19, 2003.<sup>6</sup> The Commission received no comments regarding the proposal, as amended. This order approves the proposed rule change, as amended.

#### II. Description of the Proposal

Currently, the CBOE's rules establish a bid/ask differential of \$0.25 for options where the bid price is less than \$2.<sup>7</sup> The CBOE proposes to amend CBOE Rule 8.7, "Obligations of Market Makers," to allow the appropriate Market Performance Committee to establish bid-ask differentials that are no more than \$0.50 wide ("double-width") for options where the bid price is less than \$2 when the primary market for the underlying security: (1) Reports a trade outside of its disseminated quote, including any Liquidity Quote;<sup>8</sup> or (2)

disseminates an inverted quote (together, the "Triggering Events").

The double-width relief must terminate automatically when the Triggering Event ceases. In this regard, the CBOE states that it will program its autoquote systems to widen the quote to double the bid-ask differential automatically upon the occurrence of either of the two Triggering Events.<sup>9</sup> The quotes will remain double-width until the Triggering Event ceases, when the CBOE's systems automatically will return the quote to the normal bid-ask differential. Accordingly, if the primary market's quotes invert and the CBOE quotes double-wide, the CBOE's quotes must return to normal width when the underlying market's quotes no longer are inverted. Similarly, if the primary market prints a trade outside of its disseminated quote, the CBOE may quote double-wide until the print is no longer outside of the disseminated quote (*i.e.*, until the quotes move to encompass the previous print or the next print is inside of the disseminated quote).<sup>10</sup> A market maker will be able to utilize the double-width relief only if the market maker has an automated quotation system that returns the market maker's quotes to normal width upon the termination of the Triggering Event.<sup>11</sup> Double-width relief will not be available to market makers who must rely on manual input to restore quote values to normal width.<sup>12</sup>

#### III. Discussion

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 and, in particular, with the requirements of section 6(b)(5) of the Act,<sup>13</sup> which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.<sup>14</sup>

"Liquidity Offer" which reflect aggregated NYSE trading interest at a specific price interval below the best bid (in the case of a Liquidity Bid) or at a specific price interval above the best offer (in the case of a Liquidity Offer). See Securities Exchange Act Release No. 47614 (April 2, 2003), 68 FR 17140 (April 8, 2003) (File No. SR-NYSE-2002-55).

<sup>9</sup> See Amendment No. 1, *supra* note 3.

<sup>10</sup> See Amendment No. 3, *supra* note 5.

<sup>11</sup> See Amendment No. 3, *supra* note 5.

<sup>12</sup> See Amendment No. 3, *supra* note 5.

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> In approving this proposal, the Commission has considered the proposed rule's impact on

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See letter from Steve Youhn, CBOE, to Deborah Flynn, Division of Market Regulation ("Division"), Commission, dated July 2, 2003, and accompanying Form 19b-4 ("Amendment No. 1").

<sup>4</sup> See letter from Steve Youhn, CBOE, to Deborah Flynn, Division, Commission, dated September 9, 2003 ("Amendment No. 2").

<sup>5</sup> See letter from Steve Youhn, CBOE, to Deborah Flynn, Division, Commission, dated October 28, 2003 ("Amendment No. 3").

<sup>6</sup> See Securities Exchange Act Release No. 48771 (November 12, 2003), 68 FR 65330.

<sup>7</sup> See CBOE Rule 8.7(b)(iv).

<sup>8</sup> The Rules of the NYSE permit the dissemination, in selected securities, of a "Liquidity Bid" and a

<sup>16</sup> 17 CFR 200.30-3(a)(12).