making[27] on the Exchange.[28] Accordingly, equity specialists may not act as specialists or ROTs in options overlying the stocks in which they are registered, and options specialists and ROTs may not act as specialists in the securities underlying the options in which they are registered. Furthermore, Amex may not move the location of stock and options trading posts such that related stocks and options are traded at the same or adjacent locations on the floor.[29]

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[30] that the proposed rule change (SR–Amex–2004–25), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50962; File No. SR–CBOE–2004–88]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No.1 Thereto Relating to the Customer Large Trade Discount Program

January 5, 2005.

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 December 21, 2004, 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 CBOE. On January 3, 2005, CBOE amended the proposed rule change (''Amendment No. 1'').[3] The proposed rule change, as amended, has been filed by CBOE as a non-controversial filing pursuant to Rule 19b–4(f)(6) under the Act.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested parties.

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

CBOE proposes to amend its Fee Schedule to make permanent its Customer Large Trade Discount Program (''Program'') and to lower the contract volume cap beyond which customer transaction fees for its Dow Jones index options would not be assessed. The text of the proposed rule change, as amended, is available at the Office of the Secretary, CBOE and at the Commission.

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 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

In July 2003, the Exchange established a six-month pilot program providing a customer large trade discount in the form of a cap on the quantity of customer contracts that are assessed transaction fees for most CBOE index options.[5] The Program has been extended twice and is now due to expire on December 31, 2004.[6] The Exchange proposes to make the Program permanent. According to CBOE, the results of the Program during the pilot period reflect significant savings for CBOE customers as well as a significant increase in the quantity of large orders in the subject options classes executed on the Exchange.

The Exchange also proposes lowering the contract volume fee cap for options on the Dow Jones Industrial Average (including options on the Diamonds) to 5,000 from 7,500, to encourage larger orders be sent to the Exchange in these products. Otherwise, all other terms of the Program would remain unchanged. The Exchange intends to implement the lower contract volume fee cap for the Dow Jones index options on January 1, 2005.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act,[7] in general, and furthers the objectives of section 6(b)(4) of the Act[8] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities.

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

CBOE does not believe that the proposed rule change, as amended, would impose any burden on competition that is 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

The foregoing proposed rule change, as amended, has become effective pursuant to section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder[10] because the proposed 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 of filing, or such

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[27] ''Integrated market making'' refers to the trading of securities and related derivative products by the same specialist or specialist firm. *See id.* at 48233, note 10.

[28] The Commission notes that, currently, specified exchange-traded funds and trust issued receipts and their related options may be traded on the Amex by the same Exchange specialist or specialist firm without informational or physical barriers or other restrictions. *See id.* at 48236.

[29] *See* Securities Exchange Act Release No. 26147 (October 3, 1988), 53 FR 39956 (October 7, 1988).

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, CBOE amended the proposed rule change to revise Note 2 to the Exchange's Fee Schedule to delete the reference to the dates that the pilot program with respect to the Customer Large Discount Trade Program was in effect.

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 48223 (July 24, 2003), 68 FR 44978 (July 31, 2003) (SR–CBOE–2003–26).

[6] *See* Securities Exchange Act Release No. 49118 (January 22, 2004), 69 FR 4335 (January 29, 2004) (SR–CBOE–2003–60), and Securities Exchange Act Release No. 50175 (August 10, 2004), 69 FR 51129 (August 17, 2004) (SR–CBOE–2004–38).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

shorter time as the Commission may designate if consistent with the protection of investors and the public interest pursuant to section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change as required by Rule 19b–4(f)(6).[13]

The Exchange has requested that the Commission waive the 30-day operative delay.[14] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative delay will allow customers to continue to benefit from the large trade discount in the form of a cap on the quantity of customer contracts that are assessed transaction fees for most CBOE index options, which otherwise would expire on December 31, 2004. For this reason, the Commission designates the proposed rule change, as amended, to be effective upon filing with the Commission.[15]

At any time within 60 days of the filing of the 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 the furtherance of the purposes of the Act.[16]

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–2004–88 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–2004–88. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office 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–2004–88 and should be submitted on or before February 2, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

J. Lynn Taylor,

Assistant Secretary.

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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] Id.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes of only accelerating the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[16] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under section 19(b)(3)(C) of the Act, the Commission considers that period to commence on January 3, 2005, the date the Exchange filed Amendment No. 1 to the proposed rule change. *See* 15 U.S.C. 78s(b)(3)(C).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50967; File No. SR–CBOE–2004–72]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Chicago Board Options Exchange, Incorporated Relating to the SizeQuote Mechanism

January 5, 2005.

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 November 10, 2004, 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 CBOE. On December 22, 2004, the CBOE filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The CBOE proposes to adopt a SizeQuote Mechanism for the execution of large-sized orders in open outcry. The text of the proposed rule change is below. Proposed new language is in *italics*.

* * * * *

Rule 6.74 ''Crossing Orders''

(a)–(e) No change.

(f) Open Outcry ''SizeQuote'' Mechanism

(i) SizeQuotes Generally: The SizeQuote Mechanism is a process by which a floor broker (''FB'') may execute and facilitate large-sized orders in open outcry. Floor brokers must be willing to facilitate the entire size of the order for which they request SizeQuotes (the ''SizeQuote Order''). The appropriate Market Performance Committee shall determine the classes in which the SizeQuote Mechanism shall apply. The SizeQuote Mechanism will operate as a pilot program which expires [insert date one year from date of approval].

(A) Eligible Order Size: The appropriate MPC shall establish the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaces the original filing in its entirety. *See* e-mail message from Stephen Youhn, Assistant Secretary, CBOE, to Yvonne Fraticelli, Special Counsel, Division of Market Regulation, Commission, on January 5, 2005.