SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-49518; File No. SR-CBOE-2003-23)

April 1 , 2004

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Chicago Board Options Exchange, Inc., Relating to its Autoquote Triggered Ebook Execution System

On June 2, 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"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change relating to its AutoQuote Triggered Ebook Execution system ("Trigger"). On September 10, 2003[3] and on December 29, 2003,[4] the Exchange amended the proposed rule change. The proposed rule change, as amended, was published for comment in the Federal Register on February 26, 2004.[5] The Commission received no comments on the proposal. This order approves the proposed rule change.

Trigger allows orders resting in the book to automatically execute in the limited situation where the bid or offer for a series of options generated by the Exchange's AutoQuote system (or any Exchange approved proprietary quote generation system used in lieu of the Exchange's Autoquote system) crosses or locks the Exchange's best bid or offer for that series as established

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

2 17 CFR 240.19b-4.

3 See letter from Steve Youhn, Senior Attorney, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated September 9, 2003.

4 See letter from Steve Youhn, Senior Attorney, CBOE, to Nancy Sanow, Assistant Director, Division, Commission, dated December 22, 2003.

5 See Securities Exchange Act Release No. 49287 (February 19, 2004), 69 FR 8995.

by a booked order. The Exchange proposes to amend CBOE Rule 6.8(d)(v) to provide that Trigger will continue to provide automatic executions of orders resting in the book[6] up to the maximum number of contracts permitted to be entered into RAES for that series ("Trigger Volume"), but that the trading crowd would have the ability, but not the obligation, to execute manually the remaining contracts in the order that exceed the Trigger Volume. Any unexecuted contracts in the booked order in excess of the Trigger Volume would remain in the book, and the bid or offer generated by Autoquote would be one tick inferior to the price of the booked order, so that the disseminated quote would not cross or lock the Autoquote bid or offer.

The Commission has reviewed carefully the Exchange's proposed rule change and finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In the Commission's view, the proposed rule change would continue to ensure that customers receive automatic executions of their booked orders up to the Trigger Volume in the event that Autoquote (Exchange or proprietary) locks or crosses the booked order's limit price. CBOE Rule 6.8(d)(v), however, no longer would assure that an order on the book would be executed in full whenever Autoquote for that series locks or crosses the quotation established by the booked order. The unexecuted portion of the order would remain on the book and the bid or offer generated by Autoquote would be one tick inferior to the price of the booked order such that the Exchange's disseminated quote would not lock or cross with the Autoquote bid or offer.

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6 Such orders would be executed against market makers participating in the Exchange's Retail Automated Execution System ("RAES"). CBOE Rule 6.8(d).

7 In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

The Commission finds that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act.[9] The Commission notes that the proposed rule change does not alter CBOE members' duty to comply with the Commission's rule relating to the firmness of quotations.[10] The trading crowd, as the responsible broker or dealer, would continue to be required to honor its disseminated quote.

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8 15 U.S.C. 78f(b).

9 15 U.S.C. 78f(b)(5). Section 6(b)(5) of the Act requires that the rules of a national securities exchange be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms 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."

10 17 CFR 240.11Ac1-1.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR-CBOE-2003-23) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland
Deputy Secretary

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11 15 U.S.C. 78s(b)(2).

12 17 CFR 200.30-3(a)(12).