

significantly. The 250 point and 400 point triggers, which represented 12% and 19% of the DJIA when implemented, now represent 4.5% and 7% of the DJIA. The self-regulatory organizations and members of the industry have continued to study the circuit breaker rules and to consider the possible effects of triggering the current circuit breakers in light of the rise in the DJIA since their implementation.

While the Exchanges evaluate the need to change their circuit breaker trigger levels, the Commission believes, in the near term, it is reasonable for the Exchanges to shorten the length of trading halts. The Exchanges believe and the Commission agrees that, with advances in technology and increases in the operational capacity of the markets, the current length of the trading halts may not be necessary for market participants to become aware of and respond to significant price movements. The shorter time periods proposed by the Exchanges for halting all trades should be sufficient to allow market participants to evaluate and act on changing market conditions without unduly constraining market activities.

Moreover, the Commission believes that shortening the length of trading halts does not need to be delayed pending the resolution of other circuit breaker issues. While an examination of the broader issues of raising the circuit breaker triggers may be warranted, the trading halt periods should be shortened irrespective of the level of the trigger points. Nevertheless, the Commission encourages the Exchanges and members of the industry to continue to evaluate the trigger levels for trading halts in light of the changing circumstances of the market since 1988.

The Exchanges further propose to amend their rules to eliminate the provisions for conducting an abbreviated trading session either to permit trading to reopen before the scheduled closing or to establish new last sales prices if the 250-point trigger is reached within one hour of the scheduled close of trading for the day, or if the 400-point trigger is reached within two hours of the scheduled close of trading for the day.

With the Exchanges' current proposals, the circuit breaker rules would conform with those filed by the NYSE and the Amex.¹³ Circuit breaker rules are a coordinated effort by the equities and futures markets to halt trading in all stocks stock options, stock index options, stock index futures, and

options on stock index futures when the DJIA reaches certain established trigger values. The Commission believes that the proposed amendments by the Exchanges would serve to maintain the coordinated approach that now exists for trading halts that are applicable during large, rapid market declines, and are therefore consistent with Section 6 of the Act¹⁴ in that they are designed to remove impediments to, and perfect the mechanism of, a free and open market, and to protect investors and the public interest.

The BSE also is proposing to renumber Section 34, Chapter II of its rules as Section 34A, and to add a new section, Section 34B. This addition would codify the BSE's practice pertaining to index arbitrage orders during periods of significant market declines and advances. The current practice of the BSE is that on any day when the DJIA has advances by 50 points or more from its closing value on the previous day, it requires all index arbitrage orders to buy any component stock of the S&P 500 Stock Price Index¹⁵ to be entered with the instruction "buy minus." If on that same day the DJIA subsequently reaches a value that is 25 points or less above the closing value on the previous trading day, this requirement would no longer apply.

Section 34B also would codify a similar practice of the BSE when the DJIA has declined by 50 points or more from its closing value on the previous trading day. Then, all index arbitrage orders to sell must be entered with the instruction "sell plus;" and if on that day the DJIA subsequently reaches a value that is 25 points or less below the closing value on the previous trading day, the requirement does not apply.

The addition of Section 34B now brings the BSE in line with the other exchanges that have already codified this practice, and will prevent orders that are prohibited in the primary market during a period of market stress from finding a safe harbor on the Exchange. Section 34B would also make the index arbitrage language contained in the Exchange's procedures for Competing Specialist in Chapter XV, Section 18, No. 14 redundant; therefore, the Commission also approves the deletion of this now redundant language.

The Commission believes that the BSE's proposal to renumber Section 34 as 34A, and add new Section 34B is consistent with the requirements of

Section 6(b)(5) of the Act¹⁶ and the rules and regulations thereunder applicable to a national securities exchange in that they are designed to remove impediments to, and perfect the mechanism of, a free and open market, and to protect investors and the public interest.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of the proposals in the Federal Register. The Commission believes that the circuit breaker mechanisms should be coordinated across the U.S. equity, futures and options markets to be effective in time of market volatility. In light of the Commission's approval today of analogous proposals by the NYSE and Amex, it is important that the Exchanges' circuit breaker procedures be approved simultaneously to preserve market uniformity. Based on the above, the Commission, therefore, finds that there is good cause, consistent with Section 6(b)(5) of the Act,¹⁷ to accelerate approval of the amended proposed rule changes.¹⁸

The Exchanges' proposals, as well as the new NYSE and Amex circuit breaker proposals,¹⁹ will become effective on July 22, 1996.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁰ that proposed rule changes (SR-BSE-96-4, SR-CBOE-9627, SR-CHX-96-20, and SR-Phlx-96-12) are approved and effective on July 22, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,²¹

Margaret H. McFarland,

Deputy Secretary.

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¹⁶ 15 U.S.C. § 78f(b).

¹⁷ *Id.*

¹⁸ The Commission finds good cause to approve the BSE's changes to its Section 34 because they merely clarify current BSE practice.

¹⁹ See *supra* note 13.

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 17 CFR 200.30-3(a)(12).

¹³ See Securities Exchange Act Release Nos. 37457 (July 19, 1996) (NYSE); 37458 (July 19, 1996) (Amex).

¹⁴ 15 U.S.C. 78f(b).

¹⁵ "Standard & Poor's 500 Stock Price Index" is a service mark of Standard & Poor's Corporation."

[Release No. 34-37464; File No. SR-CBOE-96-50]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Enforcement of OEX RAES Participation Requirements

July 22, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 17, 1996, 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. 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

The CBOE proposes to establish an interim enforcement procedure for the Exchange's new log-on requirement for market-makers participating in the CBOE's Retail Automatic Execution System ("RAES") for transactions in Standard & Poor's 100 Index ("OEX") options.

The text of the proposed rule change 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

The purpose of the proposed rule change is to establish an interim enforcement mechanism for the Exchange's new log-on requirement for market-makers participating in RAES for transactions in OEX options. The new log-on requirement requires individual market-makers who are eligible to

participate on OEX RAES to log onto OEX RAES any time they are present in the OEX trading crowd until the expiration occurring in that expiration month if they have logged onto OEX RAES at any earlier time in that expiration month.¹ Previously, Rule 24.17(a) only required individual market-makers to log onto OEX RAES on the business day prior to expiration to the extent the market-maker was present in the OEX trading crowd on that day.² The recent rule change also moved jurisdiction for the rule from the OEX Floor Procedure Committee to the OEX Market Performance Committee ("OEXMPC"). This change was made so that the OEXMPC could focus its efforts on the market performance issues of the OEX trading post, such as market-maker participation in RAES, thus allowing the OEX Floor Procedure Committee to focus on other issues.

The change to require an individual market-maker to log onto OEX RAES each time the market-maker is in the trading crowd during an expiration month is intended to ensure continued adequate RAES participation by market-makers in every type of market situation. In addition, the OEXMPC plans to take other actions to secure continued market-maker participation in RAES including using the discretion currently permitted under the rule (i) to refer market-makers who repeatedly violate the log-on and/or log-off requirement for disciplinary action under Chapter XVII of Exchange rules and (ii) to suspend members from participation on RAES when the OEXMPC determines such action is necessary.

In order to facilitate the individual market-makers in their compliance with the new requirement and in order to facilitate the efforts of the OEXMPC at implementing the new procedures, the OEXMPC is recommending to implement a few enforcement procedures for the recent rule change. First, all prior log-on and log-off failures through July 19 of this year for all market-makers, including those participating in joint accounts and those participating as nominees of members organizations, will not be considered in determining the fee amount under paragraph (f)(i) of Rule 24.17. The Exchange believes this change is justified by the heightened emphasis

that will be placed on compliance with the rule on a prospective basis. Second, for the first two log-on or log-off failures of a particular market-maker in the August expiration month, *i.e.*, the period from July 22 through August 16, warning letters will be issued in lieu of assessing a fee. After August 16 or upon the third log-on or log-off failure, whichever comes first, fees will be assessed according to the schedule set forth in paragraph (f)(i) of Rule 24.17. A market-maker who has failed to log-on or to log-off three times in the August expiration period will be considered to have only one violation for the calendar year for the purpose of calculating the fee amount. Fee assessments may be appealed under Chapter XIX of the Exchange's rules.

The Exchange represents to the Commission that it will submit a report to the Commission regarding the enforcement of the log-on and log-off requirements on OEX RAES during the August expiration month. The report will detail how many market-makers received one warning letter, how many received two warning letters, and how many received fees.

By adopting enforcement procedures to facilitate market-makers in complying with new procedures and to facilitate the OEXMPC in enforcing the new OEX RAES procedures the Exchange believes that the proposed rule change is consistent with Section 6 of the Act in general and with Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in facilitating and clearing transactions in securities, and to protect investors and the public interest.

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

CBOE does not believe that the proposed rule change will impose any burden on competition.

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

Because the foregoing rule change constitutes a stated interpretation with respect to the meaning, administration, or enforcement of an existing rule, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4 thereunder. At any time within 60 days

¹ See Securities Exchange Act Release No. 37313 (June 14, 1996), 61 FR 32470 (June 24, 1996).

² The CBOE notes that market-makers participating on RAES in joint accounts or as nominees of a member organization were already required to be logged onto OEX RAES each time they were in the trading crowd before the recent rule change.

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 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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, N.W., Washington D.C. Copies of all such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR-CBOE-96-50 and should be submitted by August 16, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-19033 Filed 7-25-96; 8:45 am]

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[Release No. 34-37457; File No. SR-NYSE-96-09]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change Relating to Amendments to Rule 80B (Trading Halts Due to Extraordinary Market Volatility)

July 19, 1996.

I. Introduction

On April 11, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or

"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 to amend its circuit breaker rules.

The proposed rule change was published for comment in Securities Exchange Act Release No. 37145 (Apr. 26, 1996), 61 FR 19651 (May 2, 1996). On July 9, 1996, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.³ This order approves the proposed rule change, including Amendment No. 1 on an accelerated basis.

II. Description of Proposal

Currently, NYSE Rule 80B provides that if the Dow Jones Industrial Average ("DJIA")⁴ falls 250 or more points below its previous trading day's closing value, trading in all stocks on the Exchange will halt for one hour. It further provides that, if on the same day the DJIA drops 400 or more points from its previous trading day's close, trading on the exchange will halt for two hours.

Moreover, under the current Supplementary Material .30 to NYSE Rule 80B, if the 250-point trigger is reached during the last hour, but before the last half-hour, of trading, or if the 400-point trigger is reached during the last two hours, but before the last hour, of trading, the Exchange may use abbreviated reopening procedures either to permit trading to reopen before 4:00 p.m. or to establish closing prices. The current provision further provides that if the 250-point trigger is reached during the last half-hour, or if the 400-point trigger is reached during the last hour, the Exchange shall not reopen for trading on that day.⁵

With the proposed rule change, the Exchange proposes to shorten the time periods for halting trading when the 250-point or 400-point level is triggered from one hour and two hours to one-half hour and one hour, respectively.⁶ After

consulting with its constituents, other markets, and the Commission, the Exchange believes that it is appropriate to reduce the time periods during which trading will be halted, particularly given the current level of automation support for the trading process. The Exchange believes that these revised time periods should be sufficient to provide a meaningful "time out" for participants to evaluate changing market conditions, without unduly constraining trading activity. The Exchange states that it intends to continue discussions with its constituents as to whether any revisions to these point parameters might be appropriate.

With respect to Supplementary Material .30, in its original proposal, the Exchange proposed to replace the provision with an amendment, which would provide that if the 250-point trigger is reached during the last half-hour of trading, or if the 400-point trigger is reached during the last hour of trading, the Exchange may use abbreviated reopening procedures to establish new last sale prices.⁷ Subsequently, after discussing the proposed changes to Rule 80B with constituent groups, the Investment Company Institute, and other self-regulatory organizations, the Exchange filed Amendment No. 1 to eliminate the proposed provision for the abbreviated reopening procedures to establish new last sale prices if trigger values are reached in the last one-half hour or hour of trading.⁸ Therefore, the Exchange now proposes to delete the current provision in Supplementary Material .30 without adding new language.

III. Summary of Comments

The Commission received four comment letters on the NYSE's rule proposal.⁹ Two comment letters were

telecommunications system known as Information Network for Futures, Options, and Equities ("INFOE") system as well as the Consolidated Tape to announce the precise time when the circuit breaker thresholds are reached. Telephone conversation between Brian McNamara, Vice President, Market Surveillance, NYSE, and Alton Harvey, Office Head, Division of Market Regulation, SEC, on April 24, 1996.

⁷ In conjunction with its proposal for abbreviated reopening procedures, the Exchange proposed to amend Rule 51 to provide that the 9:30 a.m. to 4:00 p.m. trading session may be extended to permit closing transactions pursuant to Rule 80B. See Securities Exchange Act Release No. 37145 (Apr. 26, 1996), 61 FR 19651 (May 2, 1996).

⁸ The Exchange also withdrew from the proposed rule change amendments to Rule 51 because the abbreviated reopening procedures are no longer being proposed in the rule filing. See Amendment No. 1, *supra* note 3.

⁹ See Letter from William R. Rothe, Chairman, and John L. Watson III, President, Security Traders Association, to Jonathan G. Katz, Secretary, SEC, dated May 10, 1996 ("STA Letter"); Letter from

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Ivette Lopez, Assistant Director, Division of Market Regulation, SEC, dated July 3, 1996 ("Amendment No. 1"). For a description of Amendment No. 1, see *infra* note 8 and accompanying text.

⁴ "Dow Jones Industrial Average" is a service mark of Dow Jones & Company, Inc.

⁵ See Securities Exchange Act Release No. 26198 (Oct. 19, 1988), 53 FR 41637 (Oct. 24, 1988). Since the initial approval of the circuit breaker rules on a pilot basis, the Commission has extended the pilot program each year. The most recent extension of the pilot program was approved on October 25, 1995, and is scheduled to expire on October 31, 1996. See Securities Exchange Act Release No. 36414 (Oct. 25, 1995), 60 FR 55630 (Nov. 1, 1995).

⁶ The Exchange has represented to the Commission that it will use the intermarket

³ 17 CFR 200.30-3(a)(12).