

Exchange staff to produce documents not in the investigative file, nor does a Respondent have the right to require Exchange employees to appear as witnesses at a hearing.

The proposed rule change provides that if the Exchange, a member or a person associated with a member will not voluntarily produce non-privileged documents or hearing witnesses the Respondent has requested, the Respondent may submit a written request to the Panel asking the Panel to enter an order compelling the production of such non-privileged documents or compelling the testimony of the member, associated person, or a person within the Exchange's control.

To obtain such an order from the hearing Panel, a Respondent would need to demonstrate that the witnesses and documents requested are relevant and material to the Respondent's case. Before the hearing Panel enters its order, Exchange staff would have the opportunity to argue why no such order should be issued. In making their decision whether to issue the requested order, the hearing Panel would have to weigh the probative value of the evidence against considerations such as undue delay, waste of time, confusion, unfair prejudice or needless presentation of cumulative evidence. The hearing Panel could require the Respondent who requested the order to pay the witness's travel expenses or other costs of complying with the order.

#### *Witness List*

Rule 17.6(b) presently provides that not less than five business days in advance of a hearing, each party will furnish the Panel and the other parties copies of all documentary evidence such party intends to present at a hearing. The proposed rule change would also require that parties to provide a list of witnesses they intend to present at a hearing. The Exchange believes this additional requirement will make the hearing run more efficiently as both sides will know in advance which witnesses will testify and be available for cross examination.

## 2. Statutory Basis

The proposed rule change is consistent with and furthers the objectives of Section 6(b)(7) of the Act by providing fair procedures for hearings in disciplinary cases brought against members and persons associated with members.

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

The Exchange believes the proposed rule change will impose no burden on competition.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested copies 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 at the Commissions Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-96-45 and should be submitted by August 28, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 96-20084 Filed 8-5-96; 8:45 am]

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<sup>4</sup> 17 CFR 200.30-3(a)(12).

[Release No. 34-37505; File No. SR-CBOE-96-53]

## **Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by Chicago Board Options Exchange, Incorporated To Extend for an Additional Fifteen Day Period a Pilot Operation of a System for Monitoring News Announcements Made After the Close of Trading in the Primary Market for the Underlying Stock**

July 31, 1996.

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> notice is hereby given that on July 30, 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 and II 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 and to grant accelerated approval of the proposed rule change.

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

The Exchange proposes to extend for an additional 15 day period a pilot test of a system that, shortly before the close of trading each day, monitors news announcements pertaining to underlying securities, and automatically suspends the Exchange's automatic execution system in respect of options on those securities that are the subject of such announcements. 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.

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

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

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The Exchange proposes to extend for an additional 15 day period a pilot program to test an automated system that monitors news wires received at the Exchange shortly before the close of trading each day, and suspends the Exchange's automatic order execution system in a class of equity options whenever there is a news announcement pertaining to the security underlying options of that class.<sup>3</sup> The Exchange notes that the purpose of the pilot is to permit the Exchange to evaluate a system designed to respond to the problem presented when issuers of stocks underlying options make significant news announcements during the ten minutes after the close of trading in stocks when options continue to trade (i.e., 3:00 to 3:10 central time). The system monitors news wires during this period, and automatically suspends the Exchange's Retail Automatic Execution System in the event of news announcements in order to prevent automatic executions at prices that do not reflect the news. The Commission approved the Exchange's proposal to test the system on a 30-day pilot basis, to allow the Exchange to monitor the effects of its operation, and then make a decision whether to request approval on a permanent basis. The Exchange agreed to submit a report to the Commission analyzing the pilot in connection with any request for permanent approval.

CBOE commenced the pilot in 45 stocks on July 1, 1996, and gradually extended it to additional classes until, on July 17, 1996, the system was in effect for all classes of equity options traded on the Exchange. The Exchange believes the results are promising, but does not believe it has had sufficient experience with the operation of the system on a floor-wide basis to assess whether to request permanent approval of the system. The Exchange is preparing the report that will assist it, and the Commission, in evaluating the operation of the system during the pilot. In order to provide some additional time to evaluate the operation of the system and to prepare its report, the Exchange is requesting approval to operate the pilot for an additional 15-day period. At the end of that period, CBOE will make a decision whether to request permanent approval. If the Exchange requests permanent approval, it will do

so by submitting a proposed rule change pursuant to Section 19(b)(2) of the Act. The filing will be accompanied by a report of the Exchange's experience with the pilot, and may include a request to extend the pilot while the request for permanent approval is under consideration.

CBOE believes that the 15-day extension of the pilot requested herein is consistent with the objectives of Section 6(b)(5) of the Act, in that it will enable the Exchange and the Commission to evaluate a system designed to assure that option orders are executed at fair prices in the event of significant news announcements, which is in the interest of promoting just and equitable principles of trade and protecting 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*

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act. 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 the requirements of Section 6(b)(5) thereunder.

The Commission believes that the Exchange's proposal provides a reasonable means to complete its evaluation of a system to address pending news announcements after the close of trading in the primary market for the underlying securities. The Commission notes that the Exchange has not reported any significant problems with the operation of the system to date, and that a 15-day extension of the pilot to complete its evaluation of the system is appropriate.

As noted in the News Monitoring Pilot Approval Order, CBOE intends to evaluate the pilot in several respects to determine if it wants to implement the

system on a permanent basis.<sup>4</sup> The Exchange will provide the Commission with the analysis of the pilot.

The Commission finds good cause for approving this proposed rule change on an accelerated basis prior to the thirtieth day after the date of publication of notice thereof in the Federal Register. Specifically, the Commission believes that accelerated approval of the proposal is appropriate because it is to be implemented for an additional limited 15-day period which will provide CBOE with the time to complete its evaluation regarding the effectiveness of the system.

Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve the proposed rule change, as amended, or an accelerated basis.

*IV. Solicitation of Comments*

Interested persons are invited to submit written data, views and arguments concerning the foregoing proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 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, NW., Washington, DC 20549. Copies of 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-96-53 and should be submitted by August 28, 1996.

*V. Conclusion*

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-CBOE-96-53), is hereby approved for an additional 15-day pilot period expiring on August 14, 1996, on an accelerated basis.

<sup>4</sup> The additional 15-day period commences on July 31, 1996 and expires at 3:10 p.m. central time on August 14, 1996. Any request for an extension of the pilot period or request for permanent approval of the system would have to be submitted to the Commission pursuant to Section 19(b)(2) of the Act.

<sup>3</sup> See Securities Exchange Act Release No. 37380 (June 28, 1996) (SR-CBOE-96-37) ("News Monitoring Pilot Approval Order").

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 96-20085 Filed 8-6-96; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Docket OST-95-965; Order 96-8-3]

#### Application of Air 4000, Inc., for Issuance of Certificate Authority

**AGENCY:** Department of Transportation.

**ACTION:** Notice of order to show cause.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Air 4000, Inc., fit, willing, and able, and (2) awarding it a certificate of public convenience and necessity to engage in scheduled interstate passenger air transportation.

**DATES:** Persons wishing to file objections should do so no later than August 19, 1996.

**ADDRESSES:** Objections and answers to objections should be filed in Docket OST-95-965 and addressed to the Documentary Services Division (C-55, Room PL-401), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590 and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Mr. James A. Lawyer, Air Carrier Fitness Division (X-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590, (202) 366-1064.

Dated: August 2, 1996.

Charles A. Hunnicutt,  
*Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 96-20146 Filed 8-6-96; 8:45 am]

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### Federal Aviation Administration

#### Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Chicago Midway Airport, Chicago, IL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chicago Midway Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before September 6, 1996.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Room 201, Des Plaines, IL 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Hugh P. Murphy, Acting Commissioner of the City of Chicago Department of Aviation at the following address: O'Hare International Airport, P.O. Box 66142, Chicago, IL 60666.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under section 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Mr. Louis H. Yates, Manager, Chicago Airports District Office, 2300 East Devon Avenue, Room 201, Des Plaines, IL 60018, (847) 294-7335. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chicago Midway Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On July 22, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Chicago Department of Aviation was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 25, 1996.

The following is a brief overview of the application.

*PFC application number:* 96-05-C-MDW.

*Level of the PFC:* \$3.00.

*Actual charge effective date:* September 1, 1993.

*Revised estimated charge expiration date:* November 1, 2020.

*Total estimated PFC revenue:* \$202,567,506.

*Brief description of proposed projects:* Projects to Use PFC—West Ramp Service Road; Taxiway 13C/31C; Taxiway 4L/22R; Runway 4R/22L Reconstruction. Projects to Impose and Use PFC—School Soundproofing; Residential insulation; Miscellaneous Parcel Acquisition; Airfield Lighting Vault and Emergency Power Generator Relocation; Miscellaneous Equipment Acquisition.

*Class or classes of air carriers which the public agency has requested not be required to collect PFCs:* Air Taxi.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER**

#### INFORMATION CONTACT.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Chicago Department of Aviation.

Issued in Des Plaines, Illinois on July 31, 1996.

Benito De Leon,

*Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.*

[FR Doc. 96-20154 Filed 8-6-96; 8:45 am]

BILLING CODE 4910-13-M

#### Notice of Intent To Rule on Request To Amend an Approved Application To Impose a Passenger Facility Charge (PFC) at Dayton International Airport and Use PFC Revenue at Dayton International Airport and Dayton-Wright Brothers Airport, Dayton, OH

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent to rule on a request to amend an approved PFC application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the request to amend the approved application to impose a PFC at Dayton International Airport and use the PFC revenue at Dayton International and Dayton-Wright Brothers Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before September 6, 1996.

**ADDRESSES:** Comments on this request may be mailed or delivered in triplicate to the FAA at the following address:

<sup>5</sup> 17 CFR 200.30-3(a)(12).