

**RETENTION AND DISPOSAL:**

Records are maintained for as long as an individual is a member of the Fitness Center plus six months.

**SYSTEM MANAGER(S) AND ADDRESS:**

Associate Executive Director, Office of Administrative and Personnel Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O-1, Alexandria, VA 22312-2413.

**NOTIFICATION PROCEDURE:**

All requests to determine whether this system of records contains a record pertaining to the requesting individual or entity may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O-5, Alexandria, VA 22312-2413.

**RECORDS ACCESS PROCEDURES:**

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O-5, Alexandria, VA 22312-2413.

**CONTESTING RECORD PROCEDURES:**

See record access procedures. above.

**RECORD SOURCE CATEGORIES:**

All information is provided by Fitness Center members.

**EXEMPTION CLAIMED FOR THE SYSTEM:**

None.

Dated: April 14, 1999.

By the Commission.

**Jonathan G. Katz,**

*Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-41289; File No. SR-CBOE-99-12]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Market-Maker Surcharge**

April 14, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 there under,<sup>2</sup> notice is hereby given that on March 31, 1999, 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, 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 is proposing to make changes to its fee schedule pursuant to CBOE Rule 2.40, *Market-Maker Surcharge for Brokerage*.<sup>3</sup>

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

In its filing with the Commission, the 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, 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**

Pursuant to CBOE Rule 2.40, the Equity Floor Procedure Committee approved the following fees for the following option classes:<sup>4</sup>

Option Class	Market-Maker Surcharge (per contract)	Order Book Official Brokerage Rate (per contract) <sup>4</sup>
Yahoo (YHQ) .....	\$0.10	\$0.00
Citigroup (C) .....	0.06	0.00
Amazon (ZQN) .....	0.10	0.00
Worldcom (LDQ) .....	0.10	0.00
U.S. Web (QWB) .....	0.03	0.00
Mindspring .....	0.03	0.00
(MQD).		
Doubleclick .....	0.04	0.00
(QTD).		

These fees will be effective as of April 1, 1999, and will remain in effect until such time as the Equity Floor Procedure Committee or the Board determines to change these fees and files the appropriate rule change with the Commission.

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

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

**2. Statutory Basis**

The Exchange believes the proposed rule change is consistent with Section

<sup>3</sup> See Securities Exchange Act Release No. 41121 (February 26, 1999), 64 FR 11523 (March 9, 1999)(order approving CBOE Rule 2.40).

<sup>4</sup> The surcharge will be used to reimburse the Exchange for the reduction in the Order Book

Official brokerage rate form \$0.20 in the relevant options classes. Any remaining funds will be paid to Stationary Floor Brokers as provided in exchange Rule 2.40.

6(b)(4) <sup>5</sup> of the Act because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments on the proposed rule change were neither solicited nor received.

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

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)(ii) <sup>6</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>7</sup> 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 furtherance of the purpose of the Act.<sup>8</sup>

### **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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. 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 Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-99-12 and should be submitted by May 13, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 99-10018 Filed 4-21-99; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-41286; File No. SR-CSE-99-02]

### **Self-Regulatory Organizations; Cincinnati Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to a Specialist Revenue Sharing Program**

April 14, 1999.

#### **I. Introduction**

On February 18, 1999, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 establish a specialist revenue sharing program.

The proposed rule change was published for comment in the **Federal Register** on March 1, 1999.<sup>3</sup> No comments were received on the proposal.<sup>4</sup> This order approves the proposal.

#### **II. Description of the Proposal**

The Exchange proposes to amend Exchange Rule 11.10 to provide an incentive for growth in specialist activity by implementing a quarterly revenue sharing program and to eliminate the current two-million-share average daily cap on preference charges.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> Securities Exchange Act Release No. 41082 (February 22, 1999) 64 FR 10035 (File No. SR-CSE-99-02).

<sup>4</sup> On March 30, 1999, Sam Scott Miller, Orrick, Herrington & Sutcliffe, on behalf of Charles Schwab & Co. ("Schwab") sent a letter advising the Commission that Schwab would submit comments on the proposed rule change in mid-April. On April 2, 1999, Mr. Miller informed Kathy England, Assistant Director, Division of Market Regulation, Commission, by telephone that Schwab would not comment on CSE's proposal.

Under the proposal, the Exchange would share with specialist firms all or a portion of the CSE's Specialist Operating Revenue ("SOR"), after operating expenses and working capital needs have been met. Under the definition contained in proposed Exchange Rule 11.10(j), SOR consists of transaction fees, book fees, technology fees, and market data revenue which is attributable to specialist firm activity. Further, all regulatory monies and investment income are excluded from SOR.

Under the proposal, the Exchange's Board of Trustees will determine on an ongoing basis the appropriate amount of SOR to be shared with specialist firms. The Exchange represents that its Board of Trustees has initially determined to share 100% of the first \$750,000 in quarterly SOR and 50% of all quarterly SOR over \$750,000, after actual expenses have been paid and the budgeted working capital goal of the Exchange has been set aside.

The proposed rule change provides that each specialist firm will receive a percentage of the SOR to be shared which is equal to that specialist firm's percentage contribution to SOR. Accordingly, the specialist firms will share the SOR on a pro rata basis. Although Tape B revenue is included in SOR, it will be excluded from each specialist firm's percentage contribution calculation.<sup>5</sup> The Exchange represents that in no event will the amount of revenue shared with specialist firms exceed SOR.

### **III Discussion**

After careful review, 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 <sup>6</sup> and, in particular, with the Section 6(b)(5) requirements that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.<sup>7</sup>

The Commission notes that, in recent years, several markets have instituted various forms of incentive programs for their members, in attempts to attract

<sup>5</sup> CSE's current transaction charge on Tape B activity is already zero and CSE already has in place a program which shares up to 40% of Tape B revenue with its specialist firms. See Securities Exchange Act Release No. 39395 (December 3, 1997) 62 FR 65113 (December 10, 1997).

<sup>6</sup> In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

<sup>8</sup> In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).