

In the absence of documentary evidence to support the existence of a valid marriage between a spouse or widow(er) annuity applicant and a railroad employee, the RRB needs to obtain information to determine if a valid marriage existed. The RRB utilizes Forms G-124, Statement of Marital Relationship; G-124a, Statement Regarding Marriage; G-237, Statement Regarding Marital Status; G-238, Statement of Residence; and G-238a, Statement Regarding Divorce or Annulment to secure the needed information. One response is requested of each respondent. Completion is required to obtain benefits. The RRB proposes minor non-burden impacting cosmetic, editorial and formatting changes to all of the forms in the collection.

### Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form Nos.	Annual re-sponses	Time (min)	Burden (hrs)
G-124 (In person) .....	125	15	31
G-124 (By mail) .....	75	20	25
G-124a .....	300	10	50
G-237 (In person) .....	75	15	19
G-237 (By mail) .....	75	20	25
G-238 (In person) .....	150	3	8
G-238 (By mail) .....	150	5	13
G-238a .....	150	10	25
Total .....	1,100		196

**FOR FURTHER INFORMATION CONTACT:** To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611-2092. Written comments should be received within 60 days of this notice.

**Chuck Mierzwa,**

*Clearance Officer.*

[FR Doc. 99-20097 Filed 8-4-99; 8:45 am]

BILLING CODE 7905-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41668; File No. 4-208]

### Intermarket Trading System; Order Approving Fourteenth Amendment to the Restated ITS Plan Linking the Pacific Exchange's Application of the OptiMark System to the Intermarket Trading System

July 29, 1999.

#### I. Introduction and Summary

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")<sup>1</sup> and Rule aaAa3-2 thereunder,<sup>2</sup> on March 29, 1999, the Intermarket Trading System ("ITS") submitted to the Securities and Exchange Commission ("Commission") an amendment ("Fourteenth Amendment") to the Restated ITS Plan ("Plan")<sup>3</sup> ITS is a communications and order routing network linking eight national securities exchanges and the electronic over-the-counter market operated by the NASD. ITS was designed to facilitate intermarket trading in exchange-listed equity securities based on current quotation information emanating from the linked markets. The purpose of the Fourteenth Amendment is to link the PCX Application of the OptiMark system ("PCX Application") to ITS.

On April 12, 1999, the proposed plan amendment was published for comment and made summarily effective on a temporary basis.<sup>4</sup> No comments were received on the proposal. For the reasons discussed below, the Commission is approving the proposal on a permanent basis.

#### II. Background to the Amendment

On January 26, 1999, the Commission granted the ITS participants a temporary exemption from the ITS Plan provision requiring a Plan amendment to reflect the PCX Application's interface with ITS.<sup>5</sup> The Commission granted this

exemption to the participants, in part, because the PCX Application was scheduled to begin operating on January 29, and there was insufficient time to obtain authorization from each of the authorizing bodies of the participants before the date.<sup>6</sup> The PCX Application began operating pursuant to the temporary exemption on January 29, 1999. The exemption expired on April 2, 1999, but was extended until publication of the notice.<sup>7</sup> The Commission made the proposed amendment summarily effective on a temporary basis not to extend beyond August 10, 1999.<sup>8</sup>

#### III. Description

The purpose of the Fourteenth Amendment is to link the PCX Application to ITS.<sup>9</sup> The PCX Application is a facility of the PCX that receives orders generated by the OptiMark System—an electronic matching system that, on a periodic "call" basis, processes certain qualifying expressions of trading interest (called "profiles"). Profiles may include those created from the published quotations disseminated by the other participants in ITS at the commencement of the

national market system plan from the requirements of that plan. Exchange Act Rule 11Aa3-2(f) provides:

The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.

The Division of Market Regulation has delegated authority to grant an exemption in this instance pursuant to 17 CFR 200.30-3(a)(29). See Letter from Richard R. Lindsey, Director, Division of Market Regulation, Commission, to Allan A. Bretzer, Committee Chairman, ITS Operating Committee ("ITSOC"), dated January 27, 1999.

<sup>6</sup> In general, to amend the ITS Plan, the ITS participants vote on a particular amendment and, assuming unanimous approval, each participant goes back to its respective authorizing body, such as its Board of Directors or executive Committee. Following ratification by each of the participants' authorizing bodies, the ITSOC submits a proposed amendment to the Commission, which publishes it for comment. An amendment to the ITS Plan is generally not effective until approved by the Commission. On January 21, 1999, the ITSOC unanimously voted to recommend to the participants' authorizing bodies an amendment to the Plan that would allow the PCX Application to link with ITS.

<sup>7</sup> See Letter from Belinda Blaine, Associate Director, Division of Market Regulation, Commission, to Allan A. Bretzer, Chairman, ITSOC, dated April 1, 1999.

<sup>8</sup> Pursuant to Exchange Act Rule 11Aa3-2(c)(4), the Commission may summarily put into effect on a temporary basis a Plan amendment.

<sup>9</sup> The Fourteenth Amendment is identical to the amendment approved by the ITSOC on January 21, 1999.

<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 240.11Aa3-2.

<sup>3</sup> The ITS Plan is a National Market System plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3-2 thereunder. See Exchange Act Release No. 19456 (January 27, 1983), 48 FR 4938 (February 3, 1999).

Participants to the Plan include the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Inc., the Cincinnati Stock Exchange, Inc., the National Association of Securities Dealers, Inc. ("NASD"), the New York Stock Exchange, Inc., the Pacific Exchange, Inc. ("PCX"), and the Philadelphia Stock Exchange, Inc.

<sup>4</sup> See Exchange Act Release No. 41246 (April 2, 1999), 64 FR 17700 (April 12, 1999).

<sup>5</sup> The Commission has authority under Exchange Act Rule 11Aa3-2(f) to exempt participants in a

OptiMark System call reflecting the best bid and offer prices and associated sizes ("CQS profiles").<sup>10</sup> The orders received by the PCX Application are processed by the PCX to permit: (a) in the case of those orders reflecting a match between non-CQS profiles, appropriate execution on the PCX and reporting thereafter in accordance with the applicable PCX rules; and (b) in the case of those orders reflecting a match between an non-CQS profile and a CQS profile: (i) processing pursuant to Section 6(a)(ii)(A), or (ii) transmission to ITS pursuant to Section 6(a)(ii)(B) of the ITS Plan,<sup>11</sup> whichever is applicable.

The Fourteenth Amendment adds subsections (33(A)) and (33(B)) to Section 1 of the ITS Plan to define and include the terms "PCX Application" and "PCX application Module." The proposal also amends existing definitions set forth in subsections (11), (23), (34(A)) and (34(B)) to recognize the use of the PCX Application and the PCX Application Module.

The proposed amendment adds to Section 6(a)(ii) a description of the operation of the PCX Application and how PCX accesses other participants' markets through ITS. The amendment also authorizes PCX to computer-generate ITS commitments.

In addition, the proposed amendment adds Section 8(h), which sets forth the parameters of the PCX Application's automated linkage to ITS. This section establishes the "PCX Application Formula" ("Formula"), which sets a ceiling on the volume of trade-at commitments<sup>12</sup> generated by the PCX Application, relative to the total volume of transactions resulting from the PCX Application. Specifically, the Formula has as its numerator the number of shares computer-generated by the PCX Application as ITS trade-at commitments that are executed in other ITS participant markets, and as its denominator the same shares as in the numerator plus all shares executed on the PCX received from the PCX Application and reported to the Consolidated Tape Association. The Formula results in the PCX Application Percentage. Section (h) provides that PCX may computer-generate trade-at commitments if the PCX Application Percentage does not exceed the agreed

upon ceiling as calculated over rolling calendar quarters, as defined in the Plan.<sup>13</sup> The ceiling starts at 15% and will be reduced to 10% when the NYSE and PCX jointly request that the percentage be reduced. Section (h) provides that if the PCX Application Percentage exceeds the ceiling, then PCX must cease computer-generating trade-at commitments for a three-month period. During the first 24 calendar months following implementation of the PCX Application, however, the PCX retains the right to notify the ITSOC in writing, as specified in the new Section (h)(iv), that it will implement system adjustments to the PCX Application in an effort to ensure future compliance with the PCX Application ceiling. In the event of such notification, the PCX has, at a minimum, nine calendar months from the date of such notice (or such longer period as may be approved by all members of the ITSOC upon a showing of reasonable cause), to implement its proposed system adjustments. During this nine month period, the restrictions do not apply. Notwithstanding other provisions, if, for any rolling calendar quarter, the PCX Application Percentage exceeds 30%, the PCX must cease computer-generating trade-at commitments for three calendar months beginning the first business day of the second month following the end of such rolling calendar quarter.

Finally, Section 8(h)(vi) provides that the PCX will furnish the ITSOC with a report each month showing the number of shares for each component of the PCX Application Formula, as well as the number of executed shares resulting from "trade-through" commitments.<sup>14</sup>

#### IV. Discussion

The Commission finds that the proposed Fourteenth Amendment is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national market system plan, and, in particular, with the requirements of Section 11A.<sup>15</sup> The Commission believes the proposal is consistent with the requirements of Sections 11A(a)(1)(C)(i), (ii) and (iv),

and (D),<sup>16</sup> which provide for the economically efficient execution of securities transactions and fair competition among the ITS participants and their markets. These sections also promote means to ensure that brokers execute investors' orders in the best market, and all markets for qualified securities are linked through communications and data processing facilities that foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, and contribute to the best execution of such orders. The Commission also finds that the amendment is consistent with Rule 11Aa3-2(c)(2),<sup>17</sup> which requires the Commission to determine that the amendment is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

The Commission notes that the PCX Application has been linked to ITS since January 29, 1999, under the same terms now being approved.<sup>18</sup> The Commission further notes that the amendment now being approved was agreed to by the ITS participants after extensive discussions.<sup>19</sup> Furthermore, no comments were received on the proposed amendment.

Overall, the Commission believes that linking the PCX Application to ITS has provided, and potentially will continue to provide, a new and more efficient way to match and execute trading interest. Absent this linkage, the PCX would not be able to operate the PCX Application without major changes that would cripple the PCX Application, thereby reducing market innovation and competition.

The ITS Plan states that ITS is not meant to be used to route routinely all or a substantial portion of a market's orders to another market. The Commission agrees that automated order routing of a substantial share of a

<sup>10</sup> For further discussion of the PCX Application, see Exchange Act Release No. 39086 (September 17, 1997), 62 FR 50036 (September 24, 1997) (order approving the PCX Application).

<sup>11</sup> Section 6 of the ITS Plan describes various interfaces between ITS and the participants.

<sup>12</sup> "Trade-at" commitments are those commitments sent from the PCX Application when there is no match of non-CQS profiles, or a partial execution of a non-CQS profile, with the balance filled by another participant market.

<sup>13</sup> "Rolling Calendar Quarter" means any three consecutive calendar months, with the first Rolling Calendar Quarter ending on the last business day of the first three full calendar months following the month in which the PCX Application commences operation, i.e., April 30, 1999.

<sup>14</sup> A trade-through occurs when a transaction is effected at a price below the best prevailing bid, or above the best prevailing offer. The ITS Plan requires price continuity among the various markets by ensuring that the best national bids and offers are provided opportunities to trade with other markets effecting trades outside the best national quote.

<sup>15</sup> 15 U.S.C. 78k-1.

<sup>16</sup> 15 U.S.C. 78k-1(a)(1)(C)(i), (ii) and (iv) and (D).

<sup>17</sup> 17 CFR 240.11Aa3-2(c)(2).

<sup>18</sup> The Commission notes that the PCX and NYSE reached an agreement whereby, on or about June 1, 1999, the PCX Application began sending its trade-at volume to the NYSE through SuperDot, rather than through ITS. See Letter from John C. Katovich, Senior Vice President and General Counsel, OptiMark Technologies, Inc., to Allan A. Bretzer, Chairman, ITSOC, dated May 28, 1999.

<sup>19</sup> The participants agreed upon these amendments after the Commission published a proposal to amend the ITS Plan. See Exchange Act Release No. 40204 (July 15, 1998), 63 FR 39306 (July 22, 1998). The Commission received 30 comment letters on the Proposing Release, generally favoring linking the PCX Application to ITS.

market's orders to ITS would violate the Plan and would be inconsistent with the Plan's intention.

The adoption of a formula is reasonable in this instance to address the participants' concerns. The Fourteenth Amendment should prevent the PCX Application from being used as an automated order delivery device to obtain cost-free, non-member access to other market centers, while at the same time giving OptiMark an opportunity to offer an innovative new service to investors.

## V. Conclusion

*It Is Therefore Ordered*, pursuant to Section 11A(a)(3)(B) of the Act,<sup>20</sup> that the amendment be approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>21</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 99-20176 Filed 8-4-99; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41658; File No. SR-CBOE-97-67]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 to Proposed Rule Change Revising the Exchange's Margin Rules

July 27, 1999.

## I. Introduction

On December 29, 1997, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") submitted to the Securities and Exchange Commission ("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 revise and restructure the Exchange's margin requirements for stock options, stock index options, and other securities, as currently set forth in CBOE Rule 12.3, "Margin Requirements." The proposed rule change was published for comment in the **Federal Register** on May 4, 1998.<sup>3</sup>

The Commission received 4 comment letters with respect to the proposal.<sup>4</sup>

The Exchange submitted Amendment No. 1 to the proposal on January 7, 1999,<sup>5</sup> and Amendment No. 2 on May 26, 1999.<sup>6</sup> This order approves the proposed rule change and accelerates approval of Amendment Nos. 1 and 2.

## II. Description of the Proposal

### A. Background

Until several years ago, the margin requirements governing listed options were set forth in Regulation T, "Credit by Brokers and Dealers."<sup>7</sup> However, Federal Reserve Board amendments to Regulation T that became effective June 1, 1997, modified or deleted certain

<sup>4</sup> See Letter from Robert C. Sheehan, President, Robert C. Sheehan and Associates, to Jonathan Katz, Secretary, Commission, dated March 26, 1999 ("Sheehan Letter"); Letter from Alvin Wilkinson to Jonathan Katz, Secretary, Commission, dated March 25, 1999 ("Wilkinson Letter"); Letter from William C. Floersch, President and CEO, O'Connor & Company, to Jonathan G. Katz, Secretary, Commission, dated April 5, 1999 ("O'Connor Letter"); and Letter from Lon Gorman, Executive Vice President, Charles Schwab & Co., to Jonathan G. Katz, Secretary, Commission, dated April 13, 1999 ("Schwab Letter").

<sup>5</sup> With respect to options that are not proposed to be marginable, Amendment No. 1 specifies that margin must be deposited and maintained equal to at least 100% of the current market value, rather than 100% of the purchase price. Amendment No. 1 also incorporates into the proposed rule text a definition of "OTC margin bond," which has been eliminated from Regulation T by the Board of Governors of the Federal Reserve System as of April 1, 1998. Finally, Amendment No. 1 deletes from the proposal the provision that would have allowed the use of unit investment trusts ("UITs") or open-end mutual funds ("mutual funds") as offsets, or cover, for short index option positions held in customer margin or cash accounts, provided that the UIT or mutual fund replicated the index underlying the option, and the Exchange had specifically approved such UIT or mutual fund. As a replacement, the Exchange proposes to allow customers to use underlying open-end index mutual funds of sufficient aggregate market value as cover for short S&P 500 call options held in customer margin or cash accounts, provided the mutual funds have been specifically designated by the Exchange. See Letter from Mary L. Bender, Senior Vice President, Division of Regulatory Services, Exchange, to Michael A. Walinskas, Associate Director, Division of Market Regulation ("Division"), Commission, dated December 23, 1998 ("Amendment No. 1").

<sup>6</sup> Amendment No. 2 revises the proposal by limiting loan value to long term stock options, stock index options, and stock index warrants. The Exchange had originally proposed to allow loan value on any long term option, regardless of the underlying instrument (e.g., foreign currency options and options on interest rate composites would be marginable). Amendment No. 2 also corrects an error in the Exchange's purpose statement regarding the net credit received for selling a box spread. See Letter from Mary L. Bender, Senior Vice President, Division of Regulatory Services, Exchange, to Michael A. Walinskas, Associate Director, Division, Commission, dated May 14, 1999 ("Amendment No. 2").

<sup>7</sup> 12 CFR 220 *et seq.* The Board of Governors of the Federal Reserve System ("Federal Reserve Board") issued Regulation T pursuant to the Act.

margin requirements regarding options transactions in favor of rules to be adopted by the options exchanges, subject to approval by the Commission.<sup>8</sup> In a CBOE rule filing approved by the Commission in 1997, the Exchange adopted certain options-related margin requirements that were dropped from Regulation T by the Federal Reserve Board.<sup>9</sup>

At the present time, the Exchange seeks to further revise its margin rules to implement enhancements long desired by Exchange members and member firms, public investors, and the Exchange staff. The Exchange believes that certain multiple options position strategies and other strategies that combine stock with option positions warrant more equitable margin requirements. The Exchange further believes that the offset in risk that results if the stock and options position are viewed collectively is not reflected in the current maintenance margin requirements. In addition, the Exchange believes it is appropriate for member firms to extend credit on certain types of long term options.

In sum, the proposed revisions to the Exchange's margin rules would: (i) Permit the extension of credit on certain long term options and certain long box spread; (ii) recognize butterfly and box spreads as strategies for purposes of margin treatment and establish appropriate margin requirements; (iii) recognize various strategies involving stocks (or other underlying instruments) paired with long options, and provide for lower maintenance margin requirements on such hedged stock positions; (iv) expand the types of short positions that would be considered "covered" in a cash account, specifically, certain short positions that are components of limited-risk spread strategies (e.g., butterfly and box spreads); (v) allow a bank-issued escrow agreement to serve as cover in lieu of cash for certain spread positions held in a cash account; (vi) consolidate in one chapter, the various margin requirements that presently are dispersed throughout the Exchange's rules; and (vii) revise and update, as necessary, other Exchange rules impacted by the proposal.

<sup>8</sup> See Board of Governors of the Federal Reserve System Docket No. R-0772 (Apr. 24, 1996), 61 FR 20386 (May 6, 1996) (permitting the adoption of margin requirements "deemed appropriate by the exchange that trades the option, subject to the approval of the Securities and Exchange Commission").

<sup>9</sup> See Securities Exchange Act Release No. 38709 (June 2, 1997), 62 FR 31643 (June 10, 1997).

<sup>20</sup> 15 U.S.C. 78k-1(a)(3)(B).

<sup>21</sup> 17 CFR 200.30-3(a)(29).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 39925 (April 27, 1998), 63 FR 24580.