

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 such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

#### 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. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR-Amex-95-47 and should be submitted by January 2, 1996.

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

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 95-30068 Filed 12-8-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-36546; File No. SR-CBOE-95-49]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving a Proposed Rule Change Relating to Telephone on the Floor of the Exchange

December 1, 1995.

#### I. Introduction

On August 25, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission

("Commission" or "SEC"), 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 proposal regarding the adoption of a Regulatory Circular governing the use of member-owned or Exchange-owned telephones located at the trading post where options on the Standard & Poor's 100 Stock Index ("OEX") options are traded. The proposed rule change was published for comment and appeared in the Federal Register on October 13, 1995.<sup>3</sup> No comments were received regarding the proposal.<sup>4</sup> This order approves the proposal.

#### II. Description of the Proposal

The purpose of the Regulatory Circular is to permit telephones located at the OEX trading post on the floor of the Exchange to provide members and clerks with access to outside lines for outgoing calls, subject to the conditions set forth in the Regulatory Circular. With the exception of the prohibition on the use of telephones at the OEX trading post to receive incoming calls, these conditions are the same as those the Commission previously approved governing the use of telephones at the equity option trading posts on the floor of CBOE.<sup>5</sup> Because there are no restrictions on where a member may place an outgoing call, telephones at the OEX trading post may be used to place orders in equity or futures markets.<sup>6</sup>

Exchange Rule 6.23 prohibits members from establishing or maintaining any telephone or other wire communications between their offices and the Exchange floor without prior Exchange approval, and it authorizes the Exchange to direct the discontinuance of any communication facility terminating on the Exchange floor. Pursuant to this rule, the

Exchange adopted the Regulatory Circular to permit the installation of outside telephone lines at the OEX trading post, and to adopt conditions governing their use.

The proposed rule change also imposes user fees on members who are approved to use Exchange-installed telephones located at the OEX trading post. The Exchange is adopting these fees pursuant to Exchange Rule 2.22, which permits the Exchange to impose fees on members for the use of Exchange facilities or for any services or privileges granted by the Exchange.

The conditions imposed by the Regulatory Circular on the use of telephones at the OEX trading post are as follows:

1. The telephones may not be used to receive orders, but may be used to provide quotes that have been publicly disseminated pursuant to Rule 6.43.
2. Members may give their clerks their PIN access code. Although both members and clerks may use the telephones, members will have priority. Each member will be responsible for all calls made using that member's PIN access code.
3. Headsets will not be permitted on the telephones in the post pit. Portable or cellular phones also will not be permitted.
4. Clerks will not be permitted to establish a base of operation utilizing telephones at the OEX post.
5. Members and their clerks using the telephones are required to consent to recording of conversations on telephones at the OEX post.
6. The telephones are to be used for voice service only. Data services (CPC's, fax, etc.) will remain subject to Exchange consent under a separate program.
7. Only outgoing calls may be made on the telephones; incoming calls are not permitted.

The Exchange intends to enforce these conditions as rules of the Exchange, and has advised members that violations may lead to formal disciplinary proceedings.

The Exchange's proposal is limited to outgoing calls only. The Exchange has stated that telephones at the OEX trading post should not be used to receive customer order until it has given further consideration to relevant regulatory issues, including how to provide customers with access to the trading floor on a fair and non-discriminatory basis, how to assure that persons on the floor are qualified to receive orders directly from customers,

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1994).

<sup>3</sup> See Securities Exchange Act Release No. 36331 (October 3, 1995), 60 FR 53440.

<sup>4</sup> The Exchange previously filed a proposal concerning its OEX trading post telephone policy that became effective upon filing pursuant to Section 19(b)(3)(A) of the Act. Securities Exchange Act Release No. 35725 (May 17, 1995), 60 FR 27575. The Commission received one comment letter objecting to the prohibition on the use of telephones at the OEX post to receive orders. Letter from David C. Bohan, Jenner & Block, to Jonathan G. Katz, Secretary, Commission, dated June 14, 1995. The Commission published the CBOE's current proposal for a full 21 day comment period, and has received no comments.

<sup>5</sup> See Securities Exchange Act Release No. 33701 (March 2, 1994), 59 FR 11336.

<sup>6</sup> The telephone policy also allows members to use the floor telephones to provide quotations on OEX options. In using the telephones for this purpose, members may only provide quotations that have been publicly disseminated pursuant to CBOE Rule 6.43.

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