

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69158; File No. SR-CBOE-2013-034)

March 18, 2013

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Market-Maker Continuous Quoting Obligations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 8, 2013, Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 Exchange] [sic] proposes to delay the implementation date of changes to Market-Makers’ continuous quoting obligations. There is no proposed rule language.

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 Exchange 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 Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

1. Purpose

On July 5, 2012, the Exchange submitted a rule change filing, which became effective on that date, to amend Rule 1.1(ccc), "Continuous Electronic Quotes," to reduce to 90% the percentage of time for which a Market-Maker is required to provide continuous electronic quotes in an appointed option class on a given trading day. That filing also included a proposed rule change to amend Rules 8.13, 8.15A, 8.85, and 8.93 to increase to the lesser of 99% or 100% minus one call-put pair the percentage of series in each class in which Preferred Market-Makers, Lead Market-Makers, Designated Primary Market-Makers, and Electronic Designated Primary Market-Makers, respectively (collectively, "Market-Makers"), must provide continuous electronic quotes.³ The proposed rule changes in that filing were set to become operative on August 4, 2012.

The Exchange submitted another rule change filing on August 3, 2012, which became effective and operative upon filing, to delay implementation of these quoting obligation changes to provide Market-Makers with additional time to make necessary system changes to comply with the new quoting obligations. The filing indicated that the Exchange would announce the implementation date of the proposed rule change in a Regulatory Circular to be published no later than 90 days following the effective date of that rule change, which implementation date would be no later than 150 days following the effective date.⁴

³ Securities Exchange Act Release No. 34-67410 (July 11, 2012), 77 FR 42040 (July 17, 2012) (SR-CBOE-2012-064).

⁴ Securities Exchange Act Release No. 34-67644 (August 13, 2012), 77 FR 49846 (August 17, 2012) (SR-CBOE-2012-077).

Similarly, the Exchange submitted a rule change filing on November 1, 2012, which became effective and operative upon filing, to further delay implementation of these quoting obligation changes to provide Market-Makers with additional time to make necessary system changes to comply with the new quoting obligations. The filing indicated that the Exchange would announce the implementation date of the proposed rule change in a Regulatory Circular to be published no later than 120 days following the effective date of that rule change, which implementation date would be no later than 180 days following the effective date.⁵

Since the filing of that last rule change to delay the implementation date of the changes to quoting obligations, the Exchange has filed two additional rule changes that modify the continuous quoting obligations of Market-Makers. First, the Exchange filed a rule change proposing to exclude series that have a time to expiration of nine months or more from Preferred Market Maker's continuous quoting obligation (LEAPS).⁶ That rule change was effective on filing but has not yet been implemented by the Exchange. Second, the Exchange filed a rule change proposing to exclude intra-day add-on [sic] on the day during which such series are added for trading from Market-Makers' quoting obligations.⁷ That rule change is pending approval by the Commission. Both of those rule filings provided that the Exchange will implement those rule changes in conjunction with the implementation of the rule changes in filing SR-CBOE-2012-064 and would announce an implementation date for all of the Market-Maker quoting obligation changes via Regulatory Circular.

⁵ Securities and Exchange Act Release No. 68218 (November 13, 2012), 77 FR 69667 (November 20, 2012) (SR-CBOE-2012-106).

⁶ Securities and Exchange Act Release No. 68691 (January 18, 2013), 78 FR 5548 [sic] (January 25, 2013) (SRCBOE-2013-008).

⁷ Securities and Exchange Act Release No. 68944 (February 15, 2013), 78 FR 12377 (February 22, 2013) (SR-CBOE-2013-019).

The purpose of this rule change filing is to again delay implementation of the quoting obligation changes in filing SR-CBOE-2012-064 so that the Exchange may implement the changes in that filing at the same time as the changes in filings SR-CBOE-2013-008 and SR-CBOE-2013-01 [sic], which implementation date would be after receiving Commission approval of the rule change related to intra-day add-on series. The Exchange believes that implementing these various quoting obligations at the same time would benefit Market-Makers, because it would allow them to make all necessary adjustments to their systems at one time as opposed to continuously, which would otherwise occur with a piecemeal implementation of these rule changes.

The Exchange will announce the implementation date of the proposed rule change in rule filing SR-CBOE-2012-064 (and the other rule changes discussed above) in a Regulatory Circular to be published no later than 120 days following the effective date of this rule filing. The implementation date will be no later than 180 days following the effective date.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁸ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁰ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that delaying the implementation date of these changes to Market-Makers' continuous quoting obligations so that the Exchange may implement them at the same time as other changes to the quoting obligations will allow Market-Makers to adjust their systems at one time rather than multiple times to be consistent with the new quoting obligations. This will provide efficiencies that will benefit investors and the public interest and encourage more efficient order entry practices by Market-Makers. The Exchange believes that this will also promote compliance by Market-Makers with the new quoting obligations, which fosters cooperation between the Market-Makers and the Exchange, which monitors Market-Makers' compliance with quoting obligations. Additionally, the proposed rule change will allow the Exchange to announce an implementation schedule for all of the quoting obligations changes in a fair and orderly manner.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will cause any burden on intramarket competition because it applies to a group of similarly situated market participants – Market-Makers. The Exchange also does not believe the proposed rule change to delay implementation of the quoting obligation changes will cause any burden on intermarket competition, because the

¹⁰ Id.

result of the proposed rule change is that Market-Makers will continue to be subject to the same continuous quoting obligations for an additional period of time.

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

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

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6)(iii) thereunder.¹⁴

The Exchange has asked the Commission to waive the 30-day operative delay.¹⁵ The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposed rule change does not present any new, unique, or substantive issues, but rather is merely delaying the implementation date of an already effective rule change, and that waiver of the 30-day operative delay will allow

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6)(iii). The Exchange has requested that the Commission waive the requirement that the Exchange provide the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date on which the Exchange filed the proposed rule change pursuant to Rule 19b-4(f)(6)(iii). The Commission hereby grants this request.

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

the Exchange to announce an implementation schedule in an efficient manner. Accordingly, the Commission designates the proposal operative upon filing.¹⁶

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2013-034 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2013-034. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

¹⁶ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should

submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2013-034 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Kevin M. O'Neill
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).