SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80738; File No. SR-CBOE-2017-029)

May 22, 2017

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change Relating to the Exposure Periods of the Automated Improvement Mechanism and the Solicitation Auction Mechanism

I. Introduction

On March 31, 2017, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend CBOE Rules 6.74A and 6.74B to reduce the exposure periods of the Exchange's Automated Improvement Mechanism ("AIM") and Solicitation Auction Mechanism ("SAM") from 1 second to a time period designated by the Exchange of no less than 100 milliseconds and no more than 1 second. The proposed rule change was published for comment in the Federal Register on April 14, 2017.[3] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

CBOE's AIM auction allows a Trading Permit Holder ("TPH") to execute electronically an order it represents as agent against principal interest or against a solicited order.[4] CBOE's SAM auction allows a TPH to execute electronically an agency order of 500 contracts or more against

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 See Securities Exchange Act Release No. 80421 (April 10, 2017), 82 FR 18048 ("Notice").

4 See CBOE Rule 6.74A.

solicited orders.[5] After an agency order is properly designated for AIM or SAM processing, the Exchange will send a Request for Responses ("RFR") to all TPHs who have elected to receive RFRs.[6] Orders entered in the AIM or SAM are currently exposed for a period of 1 second, during which time competitive responses to the auction may be submitted. The Exchange proposes to revise the RFR response periods for AIM and SAM to permit the Exchange to designate a specific time within a range of no less than 100 milliseconds and no more than 1 second.[7]

III. Discussion and Commission's Findings

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.[8] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to

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5 See CBOE Rule 6.74B.

6 The AIM RFR specifies the side and size of the order, while the SAM RFR specifies the price, side, and size of the order. See CBOE Rule 6.74A(b)(1)(B) and 6.74B(b)(1)(B).

7 Although the proposed rule change would allow the Exchange to select an exposure period from a range of 1 second to 100 milliseconds, the Exchange stated that it currently plans to decrease the time period allowed for responses to 100 milliseconds. See Notice, supra note 3, at 18050. The Exchange noted that its proposal is consistent with exposure periods permitted in similar mechanisms on other options exchanges. See id. at 18049; see also Securities Exchange Act Release Nos. 76301 (October 29, 2015), 80 FR 68347 (November 4, 2015) (SR-BX-2015-032) (establishing an exposure period for the Nasdaq BX's options price improvement mechanism ("PRISM") of no less than 100 milliseconds and no more than 1 second); 77557 (April 7, 2016), 81 FR 21935 (April 13, 2016) (SR-Phlx-2016-40) (amending the exposure period for the Nasdaq Phlx's Price Improvement XL ("PIXL") to be no less than 100 milliseconds and no more than 1 second); and 79733 (January 4, 2017), 82 FR 3055 (January 10, 2017) (SR-ISE-2016-26) (amending the exposure period for the Nasdaq ISE's Price Improvement Mechanism ("PIM") to be no less than 100 milliseconds and no more than 1 second).

8 In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

9 15 U.S.C. 78f(b)(5).

foster cooperation and coordination with persons engaged in regulating transactions in securities, 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,[10] which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that, given the electronic nature of the AIM and SAM mechanisms and the ability of TPHs to respond within the proposed exposure periods, reducing each of the exposure periods from 1 second to no less than 100 milliseconds could facilitate the prompt execution of orders, while continuing to provide market participants with an opportunity to compete to trade with the exposed order by submitting responses to the auctions. According to the Exchange, numerous TPHs have the capability to and do respond within a 100 millisecond exposure period or less on the Hybrid Trading System.[11] The Exchange notes that the response timers for its Exchange's Hybrid Agency Liaison ("HAL"), Complex Order Auction ("COA"), and Simple Auction Liaison ("SAL") mechanisms are set at 100 milliseconds or less and numerous TPHs can and do respond to HAL, SAL, and COA messages within these time frames.[12] The Exchange also notes that the AIM and SAM mechanisms operate on the Hybrid Trading System and employ the same type of mechanical messaging as the HAL, SAL, and COA mechanisms.[13]

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[10] 15 U.S.C. 78f(b)(8).

[11] See Notice, supra note 3, at 18049 n.4.

[12] See id.

[13] See id.

To substantiate that its members can receive, process, and communicate a response back to the Exchange within 100 milliseconds, the Exchange states that it surveyed its top 15 AIM and SAM responders.[14] According to the Exchange, each of the 15 TPHs it surveyed indicated that they can receive, process, and communicate a response back to the Exchange within 100 milliseconds.[15] In addition, the Exchange states that it reviewed all AIM and SAM responses that resulted in traded orders in December 2016, and its review indicated that approximately 63% of AIM responses and 63% of SAM responses resulting in price improving executions at the conclusion of the auction occurred within 100 milliseconds of the initial order.[16] Furthermore, with regard to the impact of the proposal on system capacity, the Exchange states that it has analyzed its capacity and represents that it has the necessary systems capacity to handle the potential additional traffic associated with the additional transactions that may occur with the implementation of the proposed reduction in the AIM and SAM duration to no less than 100 milliseconds.[17] The Exchange also represents that its systems will be able to sufficiently maintain an audit trail for order and trade information with the reduction in the AIM and SAM duration.[18]

Upon effectiveness of the proposed rule change, and at least six weeks prior to implementation of the proposed rule change, the Exchange will issue a circular to TPHs, informing

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14 See Notice, supra note 3, at 18050.

15 See id.

16 See id. In addition to the 63% of AIM responses and 63% of SAM responses that occur within 100 milliseconds of the initial order, approximately 20% of AIM responses and 15% of SAM responses that resulted in price improving executions at the conclusion of the auction occurred in the final 800-1000 milliseconds (i.e., within 200 milliseconds of the end of the RFR). See id. The Exchange believes that the timing of these responses indicates that TPHs have configured their trading systems to either respond immediately to an AIM or SAM auction, or to wait until the end of an auction period to reduce the risk of the market moving. See id.

17 See id.

18 See id.

them of the implementation date of the reduction of the AIM and SAM duration from 1 second to the auction time designated by the Exchange to allow TPHs to perform any necessary systems changes.[19] The Exchange also represents that it will issue a circular at least four weeks prior to any future changes, as permitted by its rules, to the auction response time.[20]

Based on the Exchange's statements, the Commission believes that market participants should continue to have opportunities to compete to trade with the exposed order by submitting responses to the auctions within an exposure period of no less than 100 milliseconds and no more than 1 second.[21] Accordingly, for the reasons discussed above, the Commission believes that the Exchange's proposal is consistent with the Act.

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[19] See id.

[20] See id.

[21] The Commission notes that the ability to designate such an exposure time period is consistent with the rules of other options exchanges. See supra note 7. See also NASDAQ Phlx Rule 1080(n)(ii)(A)(4), NASDAQ BX Options Rules Chapter VI, Section 9(ii)(A)(3), Nasdaq ISE Rule 716, Supplementary Material .04, and Nasdaq ISE Rule 723(c)(1).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (SR-CBOE-2017-029) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman
Assistant Secretary

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[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30-3(a)(12).