

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-66213; File No. SR-CBOE-2012-009)

January 23, 2012

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Appointments in Hybrid 3.0 Classes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 17, 2012, the Chicago Board Options Exchange, Incorporated ( “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 Exchange has designated the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend its rules relating to Lead Market-Maker (“LMM”) and Supplemental Market-Maker (“SMM”) appointments in Hybrid 3.0 classes.<sup>5</sup> The text of the

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> “Hybrid Trading System” refers to the Exchange’s trading platform that allows Market-Makers to submit electronic quotes in their appointed classes. “Hybrid 3.0 Platform” is an electronic trading platform on the Hybrid Trading System that allows one or more quoters to submit electronic quotes which represent the aggregate Market-Maker quoting interest in a series for the trading crowd. Classes authorized by the Exchange for trading on the Hybrid Trading System are referred to as “Hybrid classes.” Classes authorized by the Exchange for trading on the Hybrid 3.0 Platform are referred to as “Hybrid 3.0 classes.” References to “Hybrid,” “Hybrid System,” or “Hybrid Trading System” in the

proposed rule change is available on the Exchange's website ([www.cboe.org/Legal](http://www.cboe.org/Legal)), at the Exchange's Office of the Secretary and at the Commission.

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 those 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 parts of such statements.

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

1. Purpose

The Exchange is proposing to amend its rules to permit the appointment of one or more LMMs or SMMs to participate in modified opening rotations and/or other opening rotations in Hybrid 3.0 classes.

By way of background, Hybrid 3.0 is an electronic trading platform on CBOE's Hybrid System that allows one or more quoters to submit electronic quotes which represent the aggregate Market-Maker quoting interest in a series for the trading crowd. Under Rule 8.15, Lead Market-Makers and Supplemental Market-Makers in Hybrid 3.0 Classes, if a Designated Primary Market-Maker ("DPM") has not been appointed for a given Hybrid 3.0 class, the Exchange may appoint one or more LMMs and SMMs to perform this quoting function.<sup>6</sup> As

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Exchange's Rules include all platforms unless otherwise provided by rule. See Rule 1.1(aaa).

<sup>6</sup> For example, currently the only class traded on the Hybrid 3.0 Platform is the S&P 500 Index option class, symbol SPX. For this class, currently the Exchange has approved four Market-Maker organizations to function as LMMs in SPX on a rotating basis.

part of their obligations, appointed LMMs and SMMs in Hybrid 3.0 classes determine the formula for generating automatically updated market quotations during the trading day and provide opening quotes during the opening rotation process.

In order to facilitate a fair and orderly market during opening rotations, the Exchange is proposing to amend the appointment procedures to permit the Exchange to appoint one or more LMMs and SMMs to participate in the modified opening rotation described in Interpretation .01 to Rule 6.2B, Hybrid Opening System (“HOSS”),<sup>7</sup> to participate in other opening rotations using HOSS described more generally in Rule 6.2B,<sup>8</sup> and/or determine the formula for generating

Under the current rotation procedures, the Exchange has determined to appoint two LMMs per expiration month to perform this quoting function. Currently the Exchange does not utilize any SMMs.

<sup>7</sup> The modified HOSS opening rotation procedure is used on settlement days of volatility index options and futures contracts for which the index options used to calculate the volatility index are Hybrid 3.0 classes. Currently, the SPX option class is the only Hybrid 3.0 option class in which the modified HOSS opening procedure is utilized. Specifically, the modified HOSS opening procedure is utilized in certain SPX option series on settlement days for CBOE Volatility Index (VIX) options and futures contracts.

The settlement date for volatility index options and futures contracts is on the Wednesday that is thirty days prior to the third Friday of the calendar month immediately following the month in which the applicable volatility index options or futures contract expires. If the third Friday of the month subsequent to expiration of the applicable volatility index futures or options contract is a CBOE holiday, the final settlement date for the respective contract shall be thirty days prior to the CBOE business day immediately preceding that Friday. On these settlement dates, Rule 6.2B.01 provides for a modified HOSS opening procedure only in those index option series (i) that are Hybrid 3.0 classes and (ii) whose prices are used to calculate a volatility index on which an option or future is traded. (The modified HOSS opening procedure may be suspended by two Floor Officials in the event of unusual market conditions.)

<sup>8</sup> There are two other HOSS opening rotation procedures in Rule 6.2B: the normal HOSS opening rotation procedure referenced in Rule 6.2B and the Hybrid Agency Liaison opening rotation procedure referenced in Rule 6.2B.03 (referred to as “HAL-O”). Either the normal opening procedure or the HAL-O procedure, as determined by the Exchange, is used on all other days in those index options and on the volatility index options and futures settlement date in all contract months whose prices are not used to calculate the applicable volatility index. (The Exchange notes that, currently for SPX, the normal opening procedure referenced in Rule 6.2B is used.)

automatically updated market quotations during the trading day. Thus, as proposed, one or more LMMs and SMMs could be appointed to perform some of [sic] all of these three functions.<sup>9</sup>

The Exchange believes that having the ability to appoint LMMs and SMMs in this fashion - and thereby having the flexibility to appoint additional LMMs and SMMs for opening rotations, particularly for modified opening rotations - would help the Exchange to maintain a fair and orderly market, including in those instances on the opening where there may be significant order imbalances and/or where a quoter(s) may be experiencing system problems and back-up quotes are needed. The Exchange also believes the proposal is consistent with a provision in the Exchange Rules that had been applicable to LMM and SMM appointments in Non-Hybrid System classes. That provision permitted the Exchange to appoint one or more LMMs and SMMs to participate in modified rotations in S&P 100 Index options (symbol OEX) described in Interpretation .02 to Rule 24.13, Trading Rotations, opening rotations using the Exchange's Rapid Opening System ("ROS") described in Rule 6.2A, Rapid Opening System, and/or to determine a formula for generating automatically updated market quotations during the trading day. This provision had applied when the Exchange operated on a different trading platform (referred to as the "Non-Hybrid System"), which utilized the ROS technology for opening rotations.<sup>10</sup>

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<sup>9</sup> By comparison, for example, currently, the appointed LMMs in SPX perform all of these functions. Under the proposed rule change the Exchange may determine, for example, to appoint two LMMs to perform all three functions for a given expiration month, and may also to [sic] determine to appoint one or more additional LMMs to participate in the modified opening rotation process described in Rule 6.2B.01.

<sup>10</sup> See introductory language to Rule 8.15. Since the Exchange not [sic] longer utilizes the Non-Hybrid System and ROS (instead, options that trade on the Hybrid 3.0 Platform must use the HOSS system described in Rule 6.2B), this provision is outdated and unnecessary. See Securities Exchange Act Release No 58422 (August 25, 2008), 73 FR 51029 (August 29, 2008)(SR-CBOE-2008-089)(which, among other things, amended the title of Rule 8.15 to delete an outdated reference to "Non-Hybrid"). Therefore, in

## 2. Statutory Basis

The Exchange believes the rule proposal is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>11</sup> Specifically, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) Act<sup>12</sup> [sic] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. In particular, the Exchange believes having the ability to appoint LMMs and SMMs as proposed would help the Exchange to maintain a fair and orderly market, including in those instances on the opening where there may be significant order imbalances and/or where a quoter(s) may be experiencing system problems and back-up quotes are needed, in a manner that is consistent with a provision on [sic] the Exchange Rules that had been applicable to LMM and SMM appointments in Non-Hybrid System classes.

### 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.

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

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conjunction with this instant proposed rule change, the Exchange is also proposing to delete this outdated provision in Rule 8.15. In addition, the Exchange is proposing certain non-substantive changes to reorganize the text so that it is easier to read and understand (in particular, the phrase “with an appointment in an option class for which a DPM has not been appointed” is being deleted and the phrase “in an option class for which a DPM has not been appointed” is being inserted elsewhere within the introductory language to Rule 8.15.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

The Exchange neither solicited nor received comments on the proposal.

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because such waiver will help the Exchange to maintain a fair and orderly market. Therefore, the Commission designates the proposal operative upon filing.<sup>15</sup>

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.

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2012-009 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-2012-009. This file number should be included on the subject line if e-mail is used.

To help the Commission process and review your 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, DC 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 publicly available. All submissions should refer to File Number SR-CBOE-2012-009, 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.<sup>16</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).