

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67152; File No. SR-CBOE-2012-013)

June 7, 2012

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change to Adopt Self-Trade Prevention Modifiers on the CBOE Stock Exchange

I. Introduction

On April 12, 2012, the Chicago Board Options Exchange, Incorporated (“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 adopt Self-Trade Prevention modifiers on the CBOE Stock Exchange (“CBSX”). The proposed rule change was published for comment in the Federal Register on May 1, 2012.³ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to adopt Cancel Newest, Cancel Oldest, and Cancel Both Self-Trade Prevention modifiers on CBSX. As proposed, a CBSX trader may elect for none, or all, of his proprietary orders and quotes to be marked with one of these types of Self-Trade Prevention modifiers.⁴ If a CBSX trader makes an election, any quote or order he submits will be prevented

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 66860 (April 25, 2012), 77 FR 25767 (“Notice”).

⁴ According to the Exchange, a CBSX trader may only elect for one of the three types of Self-Trade Prevention modifiers, as the CBSX system may only be configured to permit one such election. In addition, Self-Trade Prevention elections cannot be made on a per-order, per-quote, or security-by-security basis due to CBSX system limitations.

from executing against a resting opposite side order or quote that is labeled as originating from the same associated acronym and trading for the same account (“Same CBSX Trader”).

If a CBSX trader elects the Cancel Newest Self-Trade Prevention modifier, any incoming order or quote submitted by that CBSX trader will not execute against opposite side resting interest from the Same CBSX Trader. The incoming order or quote (or any portion thereof) will be canceled back to the originating CBSX trader if such order or quote cannot trade with another eligible order or quote originating from any origin other than the Same CBSX Trader (“Another CBSX Trader”). The incoming order or quote may only trade with an eligible order or quote originating from Another CBSX Trader if the order or quote originating from Another CBSX Trader is at as good a price as the order or quote from the Same CBSX Trader that is being “skipped over.” The resting order or quote from the Same CBSX Trader will remain on the book. In the case of an opening or re-opening, the newer of the two orders or quotes submitted by the Same CBSX Trader will be canceled. The older order or quote will be permitted to trade with eligible orders or quotes originating from Another CBSX Trader, and any remaining portion thereof will remain in the book.⁵

If a CBSX trader elects the Cancel Oldest Self-Trade Prevention modifier, any incoming order or quote submitted by that CBSX trader will not execute against opposite side resting interest from the Same CBSX Trader. When a CBSX trader submits an incoming order or quote that would trade against opposite side resting interest from the Same CBSX Trader, the opposite side resting interest will be canceled. The incoming order or quote will be eligible to trade with another eligible order or quote originating from Another CBSX Trader. If any portion of the

⁵ The Exchange notes that orders marked with Self-Trade Prevention modifiers will be treated differently during openings and re-openings because of system limitations. The CBSX system cannot process orders marked with Self-Trade Prevention modifiers in the same manner during openings and re-openings as during regular trading.

incoming order or quote does not trade with another eligible order or quote originating from Another CBSX Trader, it will be entered into the book. In the case of an opening or re-opening, the older of the two orders or quotes submitted by the Same CBSX Trader will be canceled. The newer order or quote will be permitted to trade with eligible orders or quotes originating from Another CBSX Trader, and any remaining portion thereof will be entered into the book.⁶

If a CBSX trader elects the Cancel Both Self-Trade Prevention modifier, any incoming order or quote submitted by that CBSX trader will not execute against opposite side resting interest from the Same CBSX Trader. When a CBSX trader submits an incoming order or quote that would trade against opposite side resting interest from the Same CBSX Trader, the opposite side resting interest will be canceled. The incoming order or quote (or any portion thereof) will be canceled back to the Same CBSX Trader if such order or quote (or part of such order or quote) cannot trade with another eligible order or quote originating from Another CBSX Trader. In the case of an opening or re-opening, both of the two orders or quotes will be canceled.⁷

Under the proposed Self-Trade Prevention modifier rules, orders or quotes may skip over orders or quotes from the Same CBSX Trader and trade against eligible orders or quotes with lower priority that originate from Another CBSX Trader, provided the prices are the same. Therefore, the Exchange proposes to add Interpretations and Policies .01 to Rule 52.1, Matching Algorithm/Priority, to provide that in instances in which the Self-Trade Prevention modifiers are implicated, the Self-Trade Prevention modifier rules will supersede other allocation methods only for the purpose of preventing self-trades, as described in the proposed Self-Trade Prevention modifier rule.

⁶ See id.

⁷ See id.

Finally, CBSX Rule 51.8(t) provides for a Market-Maker Trade Prevention Order which, if combined with a Self-Trade Prevention modifier, could cause a conflict in order handling. Thus, the Exchange proposes that, in circumstances where both the Market-Maker Trade Prevention Order and a Self-Trade Prevention modifier are implicated, the Self-Trade Prevention modifier shall take precedence.

Once the CBSX system is enabled to permit the use of Self-Trade Prevention modifiers, and prior to their implementation, CBSX will announce the availability of Self-Trade Prevention modifiers to CBSX traders via Regulatory Circular.

III. Discussion and Commission Findings

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 Specifically, 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 prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

Self-Trade Prevention modifiers for proprietary orders and quotes of CBSX traders are, according to the Exchange, designed to prevent a market participant from unintentionally causing a proprietary self-trade. As such, Self-Trade Prevention modifiers could provide firms with the opportunity to better manage order flow and prevent undesirable self-executions and the

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).

potential for, or appearance of, “wash sales.”¹⁰ The Exchange further notes that Self-Trade Prevention modifiers may reduce false positive results on Exchange-generated wash trading surveillance reports when orders are executed by the Same CBSX Trader, which would increase regulatory efficiency.

The proposed Self-Trade Prevention modifier rules will apply to orders and quotes because the Exchange believes the application of these rules to quotes, as well as orders, would allow the modifiers to be used in a more complete, comprehensive, and consistent manner.¹¹ The Commission finds that this is reasonable and consistent with the Act. In addition, the Exchange states that it chose to limit Self-Trade Prevention modifiers to proprietary orders and quotes.¹² This would allow agency orders for the Same CBSX Trader, which may actually be for different customers, to continue to trade with each other.

The Commission also believes that the aspect of the proposal which would add Interpretations and Policies .01 to Rule 52.1 to provide that in circumstances where Self-Trade Prevention modifiers are implicated, the Self-Trade Prevention modifier rules will supersede other allocation methods only for the purpose of preventing self-trades is consistent with the Act. In addition, the Commission believes that the proposal to amend Rule 51.8(t) to provide that in circumstances in which both the Market-Maker Trade Prevention Order and a Self-Trade Prevention modifier are implicated, the Self-Trade Prevention modifier shall take precedence is

¹⁰ CBSX traders may have multiple connections into CBSX, and orders routed by the same CBSX trader via different connections may, in certain circumstances, trade against each other. The proposed Self-Trade Prevention modifiers could provide CBSX traders the opportunity to prevent these potentially undesirable trades. See Notice, 77 FR at 25769.

¹¹ Other exchanges apply similar modifiers to orders only. See, e.g., NYSE Arca Equities Rule 7.31(qq); BATS Rule 11.9(f).

¹² Other exchanges do not specify that their modifiers are limited to proprietary orders. See id.

consistent with the Act. The Commission believes that these amendments would clarify the application of the proposed Self-Trade Prevention modifier rules to existing CBSX rules.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-CBOE-2012-013) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Kevin M. O'Neill
Deputy Secretary

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).