

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79899; File No. SR-CBOE-2016-080)

January 30, 2017

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend CBOE Rule 6.53C

I. Introduction

On November 17, 2016, Chicago Board Options Exchange, Incorporated (“CBOE” or the “Exchange”) 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 Rule 6.53C, Interpretation and Policy .10, to provide for the electronic trading of complex orders consisting of series authorized for trading on the Hybrid 3.0 Platform and series authorized for trading on the Hybrid Trading System (“Hybrid” or “Hybrid Trading System”). The proposed rule change was published for comment in the Federal Register on December 2, 2016.³ The Commission received no comment letters regarding the proposed rule change. On December 30, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ On January 12, 2017, the Commission extended the time for

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 79406 (November 28, 2016), 81 FR 87102 (“Notice”).

⁴ As discussed more fully below, Amendment No. 1 revises the proposal to describe the treatment of an SPX/SPXW order resting on the complex order book (“COB”) that becomes marketable against orders residing in the EBook for the individual legs of the order; indicate when an incoming SPX/SPXW order will be subject to a complex order auction (“COA”); indicate that non-customer SPX/SPXW orders that are marketable upon receipt will not be COA-eligible; describe the treatment of SPX/SPXW orders during extended trading hours; and indicate that CBOE will announce the implementation date of the proposal via Regulatory Circular at least seven days prior to the

Commission consideration of the proposal until March 2, 2017.⁵ This order provides notice of filing of Amendment No. 1 and approves the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change

Currently, there are two trading platforms operating on CBOE's trade engine, CBOE Command: (i) Hybrid; and (ii) the Hybrid 3.0 Platform.⁶ For each Hybrid 3.0 class, CBOE may

implementation date. To promote transparency of its proposed amendment, when CBOE filed Amendment No. 1 with the Commission, it also submitted Amendment No. 1 as a comment letter to the file, which the Commission posted on its website and placed in the public comment file for CBOE-2016-080 (available at <https://www.sec.gov/comments/sr-cboe-2016-080/cboe2016080-1454634-130131.pdf>). CBOE also posted a copy of its Amendment No. 1 on its website (http://www.cboe.com/framed/PDFframed.aspx?content=/publish/RuleFilingsSEC/SR-CBOE-2016-080.a1.pdf§ion=SEC_ABOUT_CBOE_BOD&title=Proposal+Regarding+Complex+Orders+Consisting+of+SPX+Options+Series+and+SPXW+Options+Series) when it filed Amendment No. 1 with the Commission.

⁵ See Securities Exchange Act Release No. 79783 (January 12, 2017), 82 FR 6673 (January 19, 2017).

⁶ See Notice, 81 FR at 87103. As described more fully in the Notice, CBOE introduced Hybrid, an electronic trading platform integrated with CBOE's floor-based open-outcry auction market, in 2003. See Securities Exchange Act Release No. 47959 (May 30, 2003), 68 FR 34441 (June 9, 2003) (order approving File No. SR-CBOE-2002-05). CBOE subsequently implemented an enhanced version of Hybrid, known as Hybrid 2.0, which allows remote quoting in option classes. See Securities Exchange Act Release No. 50003 (July 12, 2004), 69 FR 43028 (July 19, 2004) (order approving File No. SR-CBOE-2004-24). CBOE later implemented the Hybrid 3.0 Platform, a trading platform on Hybrid that allows one or more quoters to submit electronic quotes that represent the aggregate Market Maker quotation interest in a series for the trading crowd. See Securities Exchange Act Release No. 55874 (June 7, 2007), 72 FR 32688 (June 13, 2007) (order approving File No. SR-CBOE-2006-101). In 2008, CBOE removed the distinction between Hybrid and Hybrid 2.0 classes and deleted references to the Hybrid 2.0 platform because CBOE migrated all option classes, other than classes traded on the Hybrid 3.0 Platform, from Hybrid to Hybrid 2.0. See Securities Exchange Act Release No. 58153 (July 14, 2008), 73 FR 41386 (July 18, 2008) (notice of filing and immediate effectiveness of File No. SR-CBOE-2008-067). Following the removal of the Hybrid 2.0 distinction, all options classes, other than those trading on the Hybrid 3.0 Platform, have been referred to as Hybrid classes trading on the Hybrid Trading System.

determine to authorize a group of series of the class for trading on Hybrid.⁷ CBOE may establish Hybrid trading parameters for such a group on a group basis to the extent that CBOE's rules otherwise allow CBOE to establish such trading parameters on a class basis.⁸ Currently, options on the Standard & Poor's 500 Index ("S&P 500"), trading under the symbol SPX, are the only Hybrid 3.0 Platform class.⁹ CBOE has authorized a group of series within the S&P 500 options class, trading under the symbol SPXW, to trade on Hybrid.¹⁰ The SPX options series, which trade on the Hybrid 3.0 Platform, are a.m.-settled contracts with standard third Friday expirations.¹¹ The SPXW options series, which trade on Hybrid, are p.m.-settled contracts with non-standard expirations.¹²

Currently, when CBOE receives a complex order consisting of both SPX and SPXW options series (an "SPX/SPXW order") during regular trading hours, the order is routed to a PAR workstation pursuant to CBOE Rule 6.12(a)(1) to provide an opportunity for the order to trade in open outcry.¹³ If CBOE receives an SPX/SPXW order during extended trading hours, the order is rejected back to the sender.¹⁴ CBOE handles SPX/SPXW orders in this manner because its system currently cannot accept complex orders consisting of series that trade on different trading platforms.¹⁵ CBOE is updating its system to accept SPX/SPXW orders so they will be able to

⁷ See CBOE Rule 8.14, Interpretation and Policy .01.

⁸ See CBOE Rule 8.14, Interpretation and Policy .01(c).

⁹ See CBOE Rule 8.3(c)(iii).

¹⁰ See Notice, 81 FR at 87103.

¹¹ See id. at 87103-87104.

¹² See id. at 87104.

¹³ See id.

¹⁴ See id. See also CBOE Rule 6.1A(b) and RG15-013.

¹⁵ See Notice, 81 FR at 87104.

trade with other SPX/SPXW orders electronically during regular trading hours and extended trading hours.¹⁶ As described in more detail below, the proposal amends CBOE's rules to specify the manner in which SPX/SPXW orders, and any other complex orders consisting of series that trade on Hybrid and on the Hybrid 3.0 Platform, will be executed electronically.¹⁷

CBOE Rule 6.53C, Interpretation and Policy .10 provides rules governing the execution of complex orders in Hybrid 3.0 classes trading on the Hybrid 3.0 Platform. CBOE proposes to amend CBOE Rule 6.53C, Interpretation and Policy .10 to provide that if CBOE authorizes a group of series of a Hybrid 3.0 class for trading on Hybrid pursuant to CBOE Rule 8.14, Interpretation and Policy .01, CBOE Rule 6.53C, Interpretation and Policy .10 will apply to a complex order with at least one leg in a series from the group authorized for trading on the Hybrid 3.0 Platform, including if the order has another leg(s) in a series from the group authorized for trading on Hybrid. In addition, CBOE proposes to amend CBOE Rule 6.53C, Interpretation and Policy .10(a) to indicate that a marketable complex order that consists solely of a group of series that is authorized for trading on the Hybrid 3.0 Platform will execute automatically against individual orders residing in the EBook, provided the complex order can be executed in full (or in a permissible ratio) by orders in the EBook and the orders in the EBook are priced equal to or better than the individual quotes residing in the EBook. A marketable complex order that consists of a group of series that is authorized for trading on the Hybrid 3.0 Platform and a group of series authorized for trading on Hybrid will not automatically execute

¹⁶ See id.

¹⁷ Although the proposal focuses on SPX/SPXW orders, the proposed rules will apply to all complex orders consisting of series that trade on Hybrid and series that trade on the Hybrid 3.0 Platform. See Notice, 81 FR at 87104. See also CBOE Rule 6.53C, Interpretation and Policy .10.

against individual orders residing in the EBook.¹⁸ CBOE states that SPX/SPXW complex orders (unlike SPX complex orders) will not automatically execute against individual orders residing in the EBook because of system limitations that would be prohibitively expensive to modify.¹⁹ SPX/SPXW orders that are marketable against individual orders residing in the EBook instead will be routed to a PAR workstation during regular trading hours and rejected during extended trading hours, consistent with the existing treatment of SPX/SPXW orders.²⁰ Except for this difference, SPX/SPXW orders will be executed in accordance with CBOE Rule 6.53C, Interpretation and Policy .10 in the same manner as complex orders consisting solely of series that are authorized for trading on the Hybrid 3.0 Platform, i.e., SPX complex orders.²¹

CBOE states that SPX/SPXW orders will trade using a price-time matching algorithm.²² During regular trading hours, CBOE will handle SPX/SPXW orders in the following manner:

- SPX/SPXW orders with more than four legs will be routed for manual handling, consistent with the manner in which CBOE handles SPX complex orders.²³
- SPX/SPXW orders for the accounts of non-customers²⁴ will not be allowed to rest in the Complex Order Book (“COB”), but will instead be routed for manual handling,

¹⁸ See CBOE Rule 6.53C, Interpretation and Policy .10(a).

¹⁹ See Notice, 81 FR at 87104.

²⁰ See id.

²¹ See id.

²² See id. See also CBOE Rules 6.45B(a) (giving CBOE the ability to determine the matching algorithm) and Rule 8.14, Interpretation and Policy .01(c).

²³ See Notice, 81 FR at 87104. The current number of legs permitted for complex orders for electronic processing is four. See CBOE Rule 6.53C(a)(1) (providing that complex orders with no more than the applicable number of legs as determined by the Exchange are eligible for processing). Pursuant to CBOE Rule 6.12(a)(1), orders initially routed for electronic processing that are not eligible for automatic execution or book entry will by default route to PAR or back to the Trading Permit Holder.

consistent with the manner in which CBOE handles SPX complex orders.²⁵ SPX/SPXW orders from all other participants will be allowed to rest in the COB.²⁶

- SPX/SPXW orders for the accounts of customers and non-customers will be permitted to participate in the COB opening process and trade against SPX/SPXW orders resting in the COB, consistent with the manner in which CBOE handles SPX complex orders.²⁷
- As discussed above, marketable SPX/SPXW orders will not be eligible to automatically execute against individual orders residing in the EBook for the legs of the order.²⁸ CBOE notes that not allowing SPX/SPXW orders to automatically execute against individual orders residing in the EBook for the legs of the SPX/SPXW order effectively means that CBOE is not changing the manner in which CBOE treats these SPX/SPXW orders.²⁹
- Marketable SPX/SPXW orders will be eligible to automatically execute against other SPX/SPXW orders resting in the COB, provided the execution is at a net price that has

²⁴ CBOE notes that, in this context, “non-customers” would include CBOE market makers, non-CBOE market makers, and proprietary firms. See Amendment No. 1.

²⁵ See Notice, 81 FR at 87104. See also CBOE Rule 6.53C(c)(i) (allowing CBOE to determine which classes and order origin types are eligible for entry into the COB) and RG15-195.

²⁶ See id.

²⁷ See Notice, 81 FR at 87104. See also CBOE Rule 6.53C.11 and RG15-195. CBOE notes that, as with SPX complex orders, customers and non-customers submitting SPX/SPXW orders during extended trading hours may use the contingency OPG to book orders that will participate in the regular trading hours opening. Any portion of an SPX/SPXW order marked OPG that is not executed during the opening will be cancelled. In addition, customers may use a non-OPG contingency to allow their SPX/SPXW orders to remain on the COB after the opening. See Amendment No. 1.

²⁸ See CBOE Rule 6.53C, Interpretation and Policy .10(a).

²⁹ See Notice, 81 FR at 87104.

priority over the individual orders and quotes residing in the EBook, consistent with the manner in which CBOE handles SPX complex orders.³⁰

- Marketable SPX/SPXW orders will not be eligible to automatically execute against individual Market-Maker quotes resting in the EBook for the legs, consistent with the manner in which CBOE handles SPX complex orders.³¹
- SPX/SPXW orders resting in the COB that become marketable against Market-Maker quotes in the individual legs will be subject to a complex order auction (“COA”),³² consistent with the manner in which CBOE handles SPX complex orders.³³ Such an order (or the remaining portion of such an order) that is not executed but is still marketable will be routed for manual handling, consistent with the manner in which CBOE handles SPX complex orders.³⁴
- Pursuant to CBOE Rule 6.53C, Interpretation and Policy .10(e), CBOE will submit incoming customer SPX/SPXW orders to a COA if they are COA-eligible.³⁵ Incoming non-customer SPX/SPXW orders that are marketable upon receipt will not be COA-eligible, and will instead route for manual handling.³⁶

³⁰ See id. See also CBOE Rule 6.53C, Interpretation and Policy .10(b)

³¹ See CBOE Rule 6.53C.10 (providing that the Exchange may determine to not allow marketable complex orders entered into COB and/or COA to automatically execute against individual quotes residing in the EBook) and RG 12-025 (providing marketable SPX complex orders will not execute with individual quotes).

³² See CBOE Rule 6.53C(d)(i)(1).

³³ See Notice, 81 FR at 87104. See also CBOE Rule 6.53C, Interpretation and Policy .10(d).

³⁴ See Notice, 81 FR at 87104-87105. See also CBOE Rule 6.53C, Interpretation and Policy .10(d).

³⁵ See Amendment No. 1.

³⁶ See id.

During extended trading hours, SPX/SPXW orders for the accounts of customers and non-customers will be allowed to rest in the COB.³⁷ Any customer or non-customer SPX/SPXW order resting in the COB during extended trading hours that becomes marketable will be subject to a COA, and any portion of the order that remains unexecuted at the conclusion of the COA will be returned to the order entry firm.³⁸ During extended trading hours, an incoming customer SPX/SPXW order that is marketable upon receipt will be subject to a COA, and an incoming non-customer SPX/SPXW order that is marketable upon receipt will be cancelled.³⁹

As with all products that trade during both regular trading hours and extended trading hours, no SPX/SPXW order on the COB at the end of regular trading hours will interact with or be transferred to the COB for extended trading hours, nor will an SPX/SPXW order on the COB at the end of extended trading hours interact with or be transferred to the COB.⁴⁰

CBOE will announce the implementation date of the proposal, which will be within 120 days of the Commission's approval of the filing, via Regulatory Circular at least seven days prior to the implementation date.⁴¹ The Regulatory Circular announcing the implementation date also will describe the changes made by the proposal.⁴²

III. Discussion and Commission Findings

After careful review of the proposed rule change, as modified by Amendment No. 1, the Commission finds that the proposed rule change, as amended, is consistent with the requirements

³⁷ See Notice, 81 FR at 87105. See also RG15-013.

³⁸ See Amendment No. 1.

³⁹ See id.

⁴⁰ See id.

⁴¹ See id.

⁴² See id.

of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴³ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,⁴⁴ 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.

Currently, complex orders consisting of one or more series that trade on Hybrid and one or more series that trade on the Hybrid 3.0 Platform must be executed in open outcry because CBOE's system cannot accept complex orders consisting of series that trade on different trading platforms.⁴⁵ CBOE proposes to update its system to allow complex orders consisting of series that trade on Hybrid and series that trade on the Hybrid 3.0 Platform, including SPX/SPXW orders, to trade against other SPX/SPXW orders electronically during regular trading hours and extended trading hours, in addition to trading in open outcry. The Commission believes that providing for the electronic trading of complex orders consisting of series that trade on Hybrid and series that trade on the Hybrid 3.0 Platform could provide additional execution and price improvement opportunities for these complex orders. As discussed above, complex orders consisting of both Hybrid series and Hybrid 3.0 Platform series will be subject to the same trading rules as complex orders comprised solely of series that trade on the Hybrid 3.0 Platform

⁴³ 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).

⁴⁴ 15 U.S.C. 78f(b)(5).

⁴⁵ See Notice, 81 FR at 87104. If CBOE receives an SPX/SPXW order during extended trading hours, it rejects the order back to the sender. See id. See also CBOE Rule 6.1A(b) and RG15-013.

(i.e., complex orders consisting solely of SPX series), except that complex orders consisting of series that trade on Hybrid and series that trade on the Hybrid 3.0 Platform will not be able to execute electronically against orders on the EBook for the individual legs of the complex order.⁴⁶ Instead, a complex order that consists of series that trade on Hybrid and on the Hybrid 3.0 Platform that is marketable against orders on the EBook will be routed to a PAR workstation during regular trading hours or returned to the order entry firm during extended trading hours, consistent with the existing treatment of SPX/SPXW orders.⁴⁷ The Commission notes that CBOE will announce the implementation date of the proposal via Regulatory Circular at least seven days prior to the implementation date.⁴⁸

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to 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-2016-080 on the subject line.

Paper comments:

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

⁴⁶ See CBOE Rule 6.53C, Interpretation and Policy .10 and .10(a).

⁴⁷ See Notice, 81 FR at 87105.

⁴⁸ See Amendment No. 1.

All submissions should refer to File Number SR-CBOE-2016-080. 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 the 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-2016-080 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

V. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of notice of the amended proposal in the Federal Register. Amendment No. 1 modifies the proposal to provide additional details regarding the operation of the proposed rules. In particular, Amendment No. 1 identifies "non-customers" for purposes of the proposal; indicates that an SPX/SPXW order resting in the COB that become marketable will be subject to a COA, including, during extended trading

hours, a non-customer SPX/SPXW order; notes that non-customer SPX/SPXW orders that are marketable on receipt will not be COA-eligible, but instead will be routed for manual handling during regular trading hours and cancelled during extended trading hours; states that both customers and non-customers may submit SPX/SPXW orders with the contingency OPG to participate in the regular trading hours opening, and that customers may use a non-OPG contingency to allow their SPX/SPXW orders to remain on the COB after the open; notes that no SPX/SPXW order on the COB at the end of regular trading hours will not interact with, or be transferred to, the COB for extended trading hours, nor will an SPX/SPXW order on the COB at the end of extended trading hours interact with, or be transferred to, the COB for regular trading hours; and states that CBOE will announce the implementation date of the proposal via Regulatory Circular at least seven days prior to the implementation date, and that the Regulatory Circular announcing the implementation date will describe the changes made by the proposal. The Commission believes that Amendment No. 1 will benefit investors and other market participants by providing them with additional information concerning the handling of complex orders consisting of Hybrid and Hybrid 3.0 Platform series, including SPX/SPXW orders. Among other things, Amendment No. 1 identifies “non-customers” in the context of the proposal as CBOE market makers, non-CBOE market makers, and proprietary trading firms, and clarifies the treatment of non-customer SPX/SPXW orders during extended trading hours. The changes in Amendment No. 1 provide additional detail to the proposal and do not introduce material, new, or novel concepts. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁴⁹ to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

⁴⁹ 15 U.S.C. 78s(b)(2).

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁵⁰ that the proposed rule change (SR-CBOE-2016-080), as modified by Amendment No. 1, is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵¹

Eduardo A. Aleman
Assistant Secretary

⁵⁰ See id.

⁵¹ 17 CFR 200.30-3(a)(12).