

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53922; File No. SR-CBOE-2006-52)

June 1, 2006

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Extending the Exchange's Preferred Market-Maker Pilot Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 22, 2006, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("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 and is approving the proposal on an accelerated basis, for a pilot period through June 2, 2007.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to extend the Preferred Market-Maker Pilot Program for one year, until June 2, 2007. The text of the proposed rule change is set forth below. Brackets indicate deletions; underlining indicates new text.

* * * * *

Chicago Board Options Exchange, Incorporated

Rules

* * * * *

Rule 8.13 Preferred Market-Maker Program

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(a) Generally. The Exchange may allow, on a class-by-class basis, for the receipt of marketable orders, through the Exchange's Order Routing System when the Exchange's disseminated quote is the NBBO, that carry a designation from the member transmitting the order that specifies a Market-Maker in that class as the "Preferred Market-Maker" for that order. A qualifying recipient of a Preferred Market-Maker order shall be afforded a participation entitlement as set forth in subparagraph (c) below. The Preferred Market-Maker Program shall be in effect until June 2, 2007^[6] on a pilot basis.

(b) – (c) No change.

* * * * *

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

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

1. Purpose

In June 2005, CBOE obtained approval of a filing adopting a Preferred DPM Program.³ This allowed order providers to send orders to the Exchange designating a Preferred DPM from

³ See Securities Exchange Act Release No. 51779 (June 2, 2005), 70 FR 33564 (June 8, 2005) (approving SR-CBOE-2004-71).

among the DPM complex. If the Preferred DPM was quoting at the NBBO at the time the order was received by CBOE, the Preferred DPM was entitled to the entire DPM participation entitlement. The Exchange subsequently modified the applicable participation entitlement percentages under the program⁴ and, then expanded the scope of the program to apply to qualifying Market-Makers (as opposed to just DPMs).⁵ At that time, the program was renamed the Preferred Market-Maker Program.

CBOE Rule 8.13 establishes a Preferred Market-Maker Program on a pilot basis. The pilot is due to expire on June 2, 2006. CBOE proposes extending the pilot program an additional year, until June 2, 2007. According to CBOE, since the pilot program was put into operation it has been positively received by the options trading community. CBOE believes that there has not been any adverse or unanticipated negative impact on the market by the presence of the Preferred Market-Maker Program. Further, CBOE believes that the pilot program helps generate greater order flow for the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act⁷ in particular, in that it should promote just and equitable principles of trade, serve to remove impediments to and

⁴ See Securities Exchange Act Release Nos. 51824 (June 10, 2005), 70 FR 35476 (June 20, 2005) (approving SR-CBOE-2005-45); and 52021 (July 13, 2005), 70 FR 41462 (July 19, 2005) (approving SR-CBOE-2005-50).

⁵ See Securities Exchange Act Release No. 52506 (September 23, 2005), 70 FR 57340 (September 30, 2005) (approving SR-CBOE-2005-58).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not 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

The Exchange has not solicited, and does not intend to solicit comments on the proposed rule change.

III. 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 and whether the pilot time frame is appropriate. 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-2006-52 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-CBOE-2006-52. 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 Web site (<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 inspection and copying in the Commission's Public Reference Room. 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-2006-52 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Exchange has asked the Commission to approve the proposed rule change on an accelerated basis for an additional year so that the pilot program may continue uninterrupted. After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act⁸ and the rules and regulations thereunder applicable to a national securities exchange⁹, and, in particular, the requirements of

⁸ 15 U.S.C. 78f.

⁹ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Section 6(b)(5) of the Act.¹⁰ Section 6(b)(5) 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. The Commission notes that the current pilot was approved on a one-year basis to give the Commission an opportunity to evaluate the impact of the pilot program on the options markets to determine whether it would be beneficial to customers and to the options markets as a whole before approving any request for permanent approval of the pilot program. The Commission believes that a one-year extension of the pilot period would provide the Commission with additional time to continue evaluate the Exchange's Preferred Market-Maker Program.

The Exchange has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the Federal Register. The Commission believes that granting accelerated approval of the proposed rule change would allow the pilot program to continue without disruption while the Commission and the Exchange continue to review the pilot program's impact on the options market. Accordingly, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹¹ for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the Federal Register.

¹⁰ 15.U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78s(b)(2).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (SR-CBOE-2006-52), which institutes the pilot program through June 2, 2007, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Nancy M. Morris
Secretary

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).