

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54792; File No. SR-CBOE-2006-96)

November 20, 2006

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Regarding Allocation of Stocks to CBSX DPMs

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 November 20, 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, II, and III below, which Items have been substantially prepared by the Exchange. 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 Substance of the Proposed Rule Change

The Exchange submits this rule change filing to modify its rules relating to the allocation of stocks for the Exchange’s proposed stock-trading facility, CBSX. The text of the proposed rule change is set forth below. Additions are underlined; deletions are in [brackets].

Chicago Board Options Exchange, Incorporated

Rules

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RULE 53.54. [Conditions on the] Allocation of Securities to [STOC] CBSX DPMs

(a) CBSX [The STOC DPM Committee] may establish [(i) restrictions applicable to all STOC DPMs on the concentration of securities allocable to a single STOC DPM and to affiliated

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

STOC DPMs and (ii)] minimum eligibility standards applicable to all [STOC] CBSX DPMs which must be satisfied in order for a [STOC] CBSX DPM to receive allocations of securities, including but not limited to standards relating to adequacy of capital and number of personnel.

(b) CBSX shall determine, for each security in which CBSX begins trading, which CBSX DPM should be allocated such security. Factors to be considered in making such determinations may include, but are not limited to, any one or more of the following: performance, volume, capacity, market performance commitments, operational factors, efficiency, competitiveness, expressed preferences of issuers, and the best interest of CBSX. Alternatively, in instances where multiple securities are being allocated at one time, CBSX may allocate such securities utilizing a draft where the draft selection order for the eligible CBSX DPMs is determined randomly by CBSX.

(c) Prior to the commencement of trading on CBSX, all securities that will initially trade on CBSX (pursuant to a rollout schedule determined by CBSX) shall be allocated as follows:

(1) CBSX will randomly set a draft rotation for all CBSX DPMs.

(2) The top 500 securities (based on a twelve-month average daily volume) will be selected by the DPMs (one by one) in the established rotation order.

(3) Any additional securities selected by CBSX to initially trade on CBSX shall be allocated equally among the CBSX DPMs in a random fashion by CBSX.

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

In its filing with the Commission, CBOE 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 IV

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 September 2006, the Commission approved Exchange Chapters 50-55 governing the trading of non-option securities on the Exchange.³ The Exchange, via a separate rule filing, will be proposing to further modify Chapters 50-55 in connection with the establishment of the CBOE Stock Exchange ("CBSX"). CBSX will be a facility of the Exchange and will serve as the Exchange's vehicle for trading non-option securities. CBSX would be a separate legal entity (a Delaware Limited Liability Company) that is owned by the Exchange and several strategic partners. The Exchange is also submitting rule filings proposing to establish CBSX as a facility of the Exchange and proposing to allow CBSX to appoint CBSX DPMs. The purpose of this filing is to adopt rules that would allow for the allocation of stocks to CBSX DPMs (the Exchange expects that the filing allowing appointment of CBSX DPMs will become effective prior to approval of this filing). Any such appointments and allocations would be contingent on Commission approval of rules governing CBSX DPM trading procedures and obligations.

Initial CBSX DPM stock allocations would be handled pursuant to proposed modified CBOE Rule 53.54. For the initial launch, and potentially in instances where CBSX seeks to commence trading a number of new securities at one time, CBSX would conduct a "draft" for

³ See Securities Exchange Act Release No. 54422 (September 11, 2006), 71 FR 54537 (September 15, 2006) (approving SR-CBOE-2004-21). See also Securities Exchange Act Release No. 54526 (September 27, 2006), 71 FR 58646 (October 4, 2006) (approving SR-CBOE-2006-70).

eligible CBSX DPMs to select available stocks. The draft order would be determined randomly. In connection with the initial launch, the draft would only apply to the first 500 securities selected.⁴ After that point, all of the remaining securities slated for trading on CBSX would be allocated randomly by CBSX to the CBSX DPMs equally.

CBSX would utilize proposed CBOE Rule 53.54 for future stock allocations as well. In those cases, a draft could be employed or CBSX could allocate the stocks based on any one or more of the following: performance, volume, capacity, market performance commitments, operational factors, efficiency, competitiveness, expressed preferences of issuers, and the best interest of CBSX.

The ability to allocate stocks to CBSX DPMs ahead of the launch of the CBSX facility would allow the Exchange and the CBSX DPM firms to be prepared to commence trading on CBSX immediately upon approval of CBSX trading rules and pursuant to a robust rollout schedule. The Exchange seeks to launch the CBSX facility on February 5, 2007.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act⁵ in general and furthers the objectives of Section 6(b)(5) of the Act⁶ in particular in that it serves to remove impediments to and perfect the mechanism of a free and open market because it will help the Exchange manage the initial launch of trading on CBSX.

⁴ Telephone conversation between Angelo Evangelou, Assistant General Counsel, CBOE, and Nathan Saunders, Special Counsel, Division of Market Regulation, Commission, November 20, 2006.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

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

The Exchange believes that this proposed rule change would 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 neither solicited nor received comments with respect to the proposed rule change.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

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. Please include File Number SR-CBOE-2006-96 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-2006-96. 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 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-2006-96 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Nancy M. Morris
Secretary

⁷ 17 CFR 200.30-3(a)(12).