

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55081; File No. SR-CBOE-2007-02)

January 10, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Its Rule Pertaining to Accommodation Liquidations (Cabinet Trades)

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 January 8, 2007, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. 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 proposes to amend provisions in CBOE Rule 6.54 pertaining to accommodation liquidations (also referred to as “cabinet trades”) to provide that a Market-Maker may initiate a cabinet trade without the need to place an order with an Order Book Official (“OBO”) or a Floor Broker. The Exchange is also proposing to make clear in the rule that a Floor Broker or a Market-Maker can enter into an opening or closing cabinet transaction, but must yield priority to all

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

orders in the cabinet book. The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and www.cboe.com.

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 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

An "accommodation" or "cabinet" trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is generally conducted in accordance with Exchange Rules; Exchange Rule 6.54, Accommodation Liquidations (Cabinet Trades), sets forth specific procedures for engaging in cabinet trades. Rule 6.54 currently provides for cabinet transactions to occur via open outcry at a cabinet price of a \$1 per option contract whether or not the class trades on the Exchange's Hybrid Trading System.

The first purpose of the rule change is to amend Rule 6.54 to authorize Market-Makers to initiate cabinet trades. Thus, in addition to the existing cabinet trading procedures which permit Market-Makers to (i) place cabinet orders with an OBO⁵ or a Floor Broker for representation and execution, and (ii) respond at a cabinet price in response to a request for quote from an OBO or a Floor Broker, a Market-Maker may now himself or herself initiate a cabinet trade in the trading

⁵ A PAR Official may also perform the functions of an OBO. See Interpretation and Policy .02 to Rule 6.54.

crowd without need to first place the cabinet order with an OBO or Floor Broker. This will save the additional time and process involved in a Market-Maker needing to first place a cabinet order that he or she is initiating with an OBO or a Floor Broker, who would then in turn represent and execute the order on behalf of the Market-Maker. Thus, permitting Market-Makers to initiate cabinet orders and trades in accordance with the procedures described in Rule 6.54 will provide Market-Makers with additional flexibility and assist in the fair, orderly and efficient handling of cabinet transactions on the Exchange.⁶

The second purpose of the rule change is to amend Rule 6.54 to make clear that Floor Brokers or Market-Makers may enter into both opening and closing cabinet transactions, so long as they first yield priority to all orders in the cabinet book. Rule 6.54 currently provides that bids and offers for cabinet transactions may be placed with an OBO, provided that bids and offers for opening transactions may only be placed with an OBO to the extent that the cabinet book maintained by the OBO contains unexecuted contra closing orders with which the opening orders may be immediately matched. In addition, Rule 6.54 currently provides that Floor Brokers are permitted to represent and execute cabinet orders and also provides that bids and offers may be provided by Floor Brokers and Market-Makers in response to a request by an OBO or a Floor Broker, provided they yield priority to all orders in the OBO's cabinet book. However, the existing rule text is silent as to whether such orders represented by Floor Brokers and such bids and offers provided by Floor Brokers and Market-Makers may be for opening and closing transactions. In order to resolve any ambiguity that may exist, the rule text is being amended to

⁶ The Exchange notes that permitting a Market-Maker to initiate a cabinet trade is similar to and consistent with a recent amendment to Rule 6.54 that permitted Floor Brokers to initiate cabinet orders and trades. See Securities Exchange Act Release No. 53808 (May 16, 2006), 71 FR 29371 (May 22, 2006) (SR-CBOE-2006-33).

make clear that both opening and closing transactions by Floor Brokers and Market-Makers are permitted, so long as they first yield priority to all orders in the cabinet book.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act⁷ in general and furthers the objectives of Section 6(b)(5) of the Act⁸ in particular in that it is designed 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 to protect investors and the public interest.

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

The Exchange neither solicited nor received comments on the proposal.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act⁹ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁰ Because the foregoing proposed rule change (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.¹¹

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to waive the operative delay if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become effective prior to the 30th day after filing.

The Commission has determined to waive the 30-day delay and allow the proposed rule change to become operative immediately.¹² The Commission believes that CBOE's proposal to permit Market-Makers to initiate cabinet trades without the need to go through an OBO or Floor Broker should result in more efficient handling of cabinet transactions. In addition, explicitly permitting Floor Brokers or Market-Makers to enter into both opening and closing transactions (provided that they yield to any existing orders in the cabinet book) will eliminate ambiguity from the rule text. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

¹¹ Rule 19b-4(f)(6)(iii) requires the Exchange to give written notice to the Commission of its intent to file the proposed rule change at least five business days prior to filing. The Exchange complied with this requirement.

¹² For purposes only of waiving the operative delay of this proposal, the Commission notes that it 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. Please include File No. SR-CBOE-2007-02 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-2007-02. 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-2007-02 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

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

Florence E. Harmon
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).