SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56532; File No. SR-CBOE-2006-104)

September 26, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Codify the Hybrid Price Check Parameter

I. Introduction

On December 7, 2006, the Chicago Board Options Exchange, Incorporated ("CBOE" or "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 6.13, CBOE Hybrid System's Automatic Execution Feature, to codify an automated system feature that prevents executions at potentially erroneous prices ("price check parameter functionality"). On August 1, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the Federal Register on August 20, 2007.[3] The Commission received no comments regarding the proposal.

II. Description of the Proposal

The proposed rule change would amend CBOE Rule 6.13 to adopt the price check parameter functionality, which the Exchange would activate, on a series by series basis for a given option class, to prevent an automatic execution of a market order through CBOE's Hybrid System if such execution would occur outside a prescribed market width. Specifically, the functionality would be triggered to block an execution of a market order if the width between the

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 See Securities Exchange Act Release No. 56245 (August 14, 2007), 72 FR 46525.

Exchange's best bid and best offer is not within an "acceptable price range." The applicable acceptable price range for each series of an option class would be determined by the appropriate Exchange Procedure Committee and could be no less than 1.5 times the corresponding bid/ask differentials in CBOE Rule 8.7(b)(iv)(A).[4] The acceptable price range for each series of an option class would be announced to the CBOE membership via Regulatory Circular at least one day in advance.

When the price check parameter functionality is triggered for a particular market order, such market order no longer would be eligible for automatic execution and would be routed on a class by class basis to PAR (the public automated routing system) or BART (the booth automated routing terminal) or, at the order entry firm's discretion, to the order entry firm's booth printer.

The Exchange also proposed that the senior official in CBOE's Control Room or two Floor Officials could grant intra-day relief by widening the acceptable price range for one or more option series. If such intra-day relief is granted, it would be announced via verbal message to the trading crowd, printer message to member organizations on the trading floor, and electronic message to members that request to receive such messages. The granting of such intra-day relief would be for no more than the duration of the particular trading day. Any decision to extend relief beyond an intra-day basis would be announced to the membership via Regulatory Circular.

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4 CBOE Rule 8.7(b)(iv)(A) sets forth the bid/ask differentials for open outcry trading, which are as follows: No more than $0.25 between the bid and offer for each option contract for which the bid is less than $2.00; no more than $0.40 where the bid is at least $2.00 but does not exceed $5.00; no more than $0.50 where the bid is more than $5.00

III. Discussion

The Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[6] which requires that the rules of an exchange be designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest. In the Commission's view, CBOE's price check parameter functionality potentially would benefit customers whose market orders otherwise would receive an automatic execution at a price that is outside of an acceptable price range that is established by the Exchange and based on criteria set forth in CBOE Rule 6.13. Because such orders would be routed to PAR, BART, or the order-entry firm's booth, customers potentially could receive a more favorable price than the price then available through CBOE's Hybrid System.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act[7], that the

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but does not exceed $10; no more than $0.80 where the bid is more than $10 but does not exceed $20; and no more than $1.00 where the bid is more than $20.

5 In approving this proposed rule change, 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).

6 15 U.S.C. 78f(b)(5).

7 15 U.S.C. 78s(b)(2).

proposed rule change (SR-CBOE-2006-104), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Florence E. Harmon
Deputy Secretary

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8 17 CFR 200.30-3(a)(12).