

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57119; File No. CBOE-2008-01)

January 9, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Complex Orders

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 4, 2008, the Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I and II below, which Items have been prepared substantially by CBOE. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon receipt of this filing by 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 CBOE Rule 6.42, Minimum Increments for Bids and Offers, in order to clarify which option classes overlying the S&P 500 Index and S&P 100 Index are subject to the requirement that bids and offers on complex orders,<sup>5</sup> except for box/roll

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> A “complex order” means a spread, straddle, combination or ratio order as defined in CBOE Rule 6.53, a stock-option order as defined in CBOE Rule 1.1(ii), a security future-option order as defined in CBOE Rule 1.1(zz), or any other complex order as defined in Rule 6.53C. See CBOE Rule 6.42.01.

spreads, be expressed in decimal increments no smaller than \$0.05 and to provide that the appropriate Exchange Committee may determine to modify the applicable increment on a class-by-class basis. CBOE also proposes to amend CBOE Rule 6.53C, Complex Orders on the Hybrid System, to make certain clarification changes respecting the applicable minimum increment for complex orders. In addition, CBOE is proposing various non-substantive, typographical changes to the two rules. The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and [www.cboe.com/legal](http://www.cboe.com/legal).

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. CBOE 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

The purpose of this filing is to make various changes to the Exchange's rules pertaining to complex orders. First, the Exchange is proposing to amend CBOE Rule 6.42. Rule 6.42 establishes the minimum trading increments for options traded on the Exchange. Rule 6.42(1) provides that, subject to Rule 6.42(2), bids and offers shall be expressed in decimal increments no smaller than \$.10 unless a different increment is approved by the appropriate Exchange committee for an option contract of a particular series. Rule 6.42(2) provides that bids and offers for all option series quoted below \$3.00 a contract shall be expressed in decimal increments no

smaller than \$.05. Rule 6.42(3) provides that bids and offers for all series of the options classes participating in the Penny Pilot Program<sup>6</sup> will be announced via Regulatory Circular. Rule 6.42(4) provides that bids and offers on complex orders may be expressed in any increment, and the legs of a complex order may be executed in one cent increments, regardless of the minimum increments otherwise appropriate to the individual legs of the order. Thus, for example, a complex order could be entered at a net debit or credit price of \$1.03 even though the standard minimum increment for the individual series is generally \$0.05 or \$0.10. As an exception to this provision, Rule 6.42(4) also provides that bids and offers on complex orders in options on the S&P 500 Index or the S&P 100 Index, except for box/roll spreads, shall be expressed in decimal increments no smaller than \$0.05. The Exchange is proposing the following changes:

- As currently worded, the text of Rule 6.42(4) simply refers to the underlying S&P 500 Index and S&P 100 Index, but not to the particular overlying option classes. Although there may be various options classes overlying these indexes, the Exchange only intends for the special increment to apply to certain option classes. Therefore, the Exchange is proposing to amend the text of the rule to clarify that the special increments apply only to the European-Style Exercise S&P 500 Index options class (option symbol “SPX”), the American-Style S&P 100 Index options class (option symbol “OEX”), and the European-Style Exercise S&P 100 Index options class (option symbol “XEO”).<sup>7</sup>

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<sup>6</sup> See Securities Exchange Act Release 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007)(order approving CBOE rule changes related to the Penny Pilot Program, which permits certain option classes to be quoted in pennies on a pilot basis).

<sup>7</sup> The Exchange notes that, when the provision respecting these special increments was originally adopted, it simply applied to options on the S&P 500 Index and that rule change filing referred to those options as “SPX” options. See Securities Exchange Act Release No. 45731 (April 11, 2002), 67 FR 19464 (April 19, 2002)(SR-CBOE-2001-62). The rule change filing that extended the application of the special increments to options on the S&P 100 Index referred to those options as “OEX” options. See Securities Exchange Act Release No. 54135 (July 12, 2006), 71 FR 41287 (July 20, 2006)(SR-CBOE-2005-65). Through the instant rule change, the Exchange is proposing to clarify that the reference to S&P 100 Index options should also include XEO options, which only differ from the OEX options in exercise style. As with OEX options, the Exchange believes that application of the special increment provisions to XEO options is appropriate given the complexity of XEO orders and the size of the underlying S&P 100 Index.

- To provide more flexibility, the Exchange is proposing to amend Rule 6.42(4) to provide that the appropriate Exchange committee may determine on a class-by-class basis whether the special increment provisions will apply. Specifically, the proposed rule change would permit the appropriate Exchange committee to designate the applicable minimum increment for bids and offers on complex orders in the SPX, OEX or XEO option class as either (i) the special \$0.05 increment or (ii) like other options classes, any increment. The proposed rule change also makes clear that, like other complex orders, the legs of SPX, OEX or XEO complex orders may be executed in \$0.01 increments.<sup>8</sup>

Second, the Exchange is proposing to amend CBOE Rule 6.53C. Rule 6.53C contains separate provisions regarding the minimum net price increment applicable to complex orders that are submitted to the Exchange's electronic complex order book ("COB") and the Exchange's automated complex order RFR auction process ("COA"). The rule currently provides that the appropriate Exchange committee will determine on a class-by-class basis whether the minimum net price increment for complex orders submitted COB or COA, as applicable, will be (i) a multiple of the minimum increment (i.e., \$0.05 or \$0.10, as applicable) or (ii) a \$0.01 increment. The Exchange is proposing to amend these provisions to provide that the minimum net price increment may be either (i) multiple of the minimum increment or (ii) a smaller increment, provided that the increment may not be less than \$0.01. This change is intended to provide additional clarity and flexibility for determining the applicable minimum net price increment for COB and COA. For example, the change accommodates the application of a minimum \$0.05 net priced increment for COB and COA in the OEX and XEO option classes, similar to the special \$0.05 increment provided under Rule 6.42(4).

Finally, the Exchange is proposing to make various non-substantive changes to CBOE Rule 6.53C to update references to the applicable minimum increment (which now includes

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<sup>8</sup> Two other non-substantive formatting changes are also being proposed to the text of Rule 6.42 (specifically, the term "one cent" would be replaced with "\$0.01" and parentheses ("(") would be added to the numbering contained in Interpretation and Policy .02).

\$0.01 in series participating in the Penny Pilot Program), delete an outdated reference to interim procedures regarding the N-second group timer (as described in Rule 6.45A(c)), reorganize and make various non-substantive changes to the text for clarity, and combine certain duplicative language regarding the issuance of regulatory circulars.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>10</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, 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

No written comments were either solicited or received with respect to the proposed rule change.

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

Because the foregoing proposed rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for thirty days from the date on which it was filed, or such shorter time

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

A proposed rule change filed under Commission Rule 19b-4(f)(6) normally does not become operative prior to thirty days after the date of filing. The CBOE requests that the Commission waive the 5-day pre-filing notice requirement as well as the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii),<sup>13</sup> and designate the proposed rule change operative immediately. The Commission believes that waiving the 5-day pre-filing notice requirement and the 30-day operative delay is consistent with the protection of investors and the public interest as the proposed rule change presents no novel issues. For this reason, the Commission designates the proposed rule change as operative upon filing.<sup>14</sup>

At any time within 60 days of the filing of such 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 the furtherance of the purposes of the Act.

#### 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:

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>14</sup> For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2008-01 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-2008-01. 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of CBOE. 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 SR-CBOE-2008-01 and should be submitted on or before [insert date 21 days after publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).