

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58603; File No. SR-CBOE-2008-97)

September 19, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule to Establish a CBSX-Only Order Type

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Exchange Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 16, 2008, the Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “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.

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

The Exchange proposes to change CBOE Stock Exchange (“CBSX”) Rule 51.8, to adopt a CBSX-Only order. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.com>), at the Office of the Secretary, CBOE and at the Commission’s Public Reference Room.

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 self-regulatory organization 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 those statements may

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 parts 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 proposed rule change is to revise CBOE Stock Exchange ("CBSX") Rule 51.8 to adopt a CBSX-Only order type. A CBSX-only order is an order to buy or sell that is to be executed in whole or in part on CBSX, and the portion not so executed is to be cancelled, without routing the order to another market center or market participant, and without being "flashed" at the NBBO price to CBSX Traders pursuant to Rule 52.6 when CBSX is not at the NBBO and the order is marketable against the NBBO. Thus, a CBSX-Only order would either immediately execute on CBSX, get booked on CBSX (provided it does not cause a locked or crossed market), or cancel. Many exchanges have similar order-types (e.g. NSX Rule 11.11(c)(6)).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act³ in general and furthers the objectives of Section 6(b)(5) of the Act⁴ in particular in that, by offering users greater control over order routing, it is designed to promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

CBOE does not believe that the proposed rule change will impose any burden on competition 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 solicited or received with respect to the proposed rule change.

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

The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act⁵ and Rule 19b-4(f)(6) thereunder⁶ because it effects a change that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.⁷

CBOE has requested the Commission to waive the 30-day operative delay because the proposal may assist investors by allowing greater control over order routing. The Commission hereby grants the Exchange's request and believes such waiver is consistent with the protection of investors and the public interest. The CBSX-only order is similar to orders currently available on other markets and does not appear to raise any

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(f)(6).

⁷ In addition, Rule 19b-4(f)(6) under the Act requires the self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive the five-day pre-filing period in this case.

novel or significant issues.⁸ Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

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-2008-97 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-CBOE-2008-97. 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

⁸ For purposes only of waiving the 30-day operative delay 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).

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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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-2008-97 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon
Acting Secretary

⁹ 17 CFR 200.30-3(a)(12).