

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60129; File No. SR-CBOE-2009-030)

June 17, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order
Approving Proposed Rule Change Regarding Appointments of CBSX DPMs

On May 7, 2009, 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 regarding appointments of Designated Primary Market-Makers (“DPMs”) on the CBOE Stock Exchange (“CBSX”). The proposed rule change was published for comment in the Federal Register on May 15, 2009.³ The Commission received no comments regarding the proposal. This order approves the proposed rule change.

CBOE proposed to amend its rules regarding appointments of CBSX DPMs. Currently, every security traded on CBSX must be assigned to a DPM.⁴ The Exchange’s proposal will modify its rules to provide the Exchange with the flexibility to commence trading in a security on the CBSX without an assigned DPM. The Exchange represented that some securities are not traded on CBSX because DPMs have opted to not seek assignments in such securities. The Exchange’s proposal will allow CBSX users the ability to trade these securities on CBSX without them being quoted by a DPM. The

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59896 (May 11, 2009), 74 FR 22991 (“Notice”).

⁴ See CBSX Rule 53.54. A CBSX DPM is a market-maker that must, among other things, provide opening and continuous quotes in its assigned securities. See CBSX Rule 53.56.

Exchange has also represented that this proposed modification to CBSX Rule 53.54 is not intended to in any way affect existing DPM appointments. The Exchange will notify its market participants of those securities that will trade without a DPM via a circular.

CBOE's proposal will also modify CBSX Rule 53.56 to change the time DPMs are required to begin providing quotes from 8:15 a.m. to 8:30 a.m. (Chicago time). Lastly, CBOE's proposal will eliminate CBSX Rule 53.54 which governed the allocation process used by CBSX prior to its initial launch.

The Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁵ which requires that the rules of a national securities exchange be designed, among other things, 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, in general, to protect investors and the public interest.⁶ The Act does not mandate a particular market structure or, specifically, that an exchange have specialists or the equivalent (which are known as DPMs on CBSX). Therefore, the Commission believes that it is reasonable and consistent with the Act to make additional securities available for trading on CBSX without the participation of a DPM. In taking this action, the Commission has relied on CBOE's representation that this proposal is not intended to affect existing DPM appointments. The Commission further believes that it is within the discretion of the Exchange to require DPMs to begin quoting in their required securities at 8:30 a.m. rather than, as under the Exchange's current rule, at 8:15 a.m. (Chicago

⁵ 15 U.S.C. 78f(b)(5).

⁶ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

time).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-CBOE-2009-030) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Florence E. Harmon
Deputy Secretary

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).