

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60572; File No. SR-CBOE-2009-060)

August 26, 2009

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Hybrid Quote Locks

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 19, 2009, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 is proposing to amend Rules 6.45A, Priority and Allocation of Equity Option Trades on the CBOE Hybrid System, and 6.45B, Priority and Allocation of Trades in Index Options and Options on ETFs on the CBOE Hybrid System, to eliminate provisions in each respective rule that provide that Market-Makers whose quotes are locked (or inverted) will receive a quote update notification. CBOE is also proposing to amend Rule 6.45A to provide that the length of the quote lock counting period will be established by the Exchange,

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).

may vary by product, and will not exceed one second. The text of the proposed rule change is available on the Exchange's website (www.cboe.org/Legal), at the Exchange's Office of the Secretary and at the Commission.

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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rules 6.45A(d) and 6.45B(d) describe how the Hybrid System operates in the event that a Market-Maker's disseminated quotes interact with the disseminated quote(s) of other Market-Makers, resulting in a "locked" quote (e.g., \$1.00 bid - \$1.00 offer). In the event of a quote lock, the following currently occurs:

- (i) The Exchange will disseminate the locked market and both quotes will be deemed "firm" disseminated market quotes.
- (ii) The Market-Makers whose quotes are locked will receive a quote update notification advising that their quotes are locked.
- (iii) When the market locks, a "counting period" will begin during which Market-Makers

whose quotes are locked may eliminate the locked market. Provided, however, in accordance with paragraph (i) above a Market-Maker will be obligated to execute customer and broker-dealer orders eligible for automatic execution pursuant to Rule 6.13, CBOE Hybrid System's Automatic Execution Feature, at his disseminated quote in accordance with Rule 8.51, Firm Disseminated Market Quotes. If at the end of the counting period the quotes remain locked, the locked quotes will automatically execute against each other in accordance with the applicable allocation algorithm. Under Rule 6.45A (applicable to equity options), the counting period is one second. Under Rule 6.45B (applicable to index and ETF options), the length of the counting period is established by the Exchange, may vary by product, and will not exceed one second.⁵

(iv) The Hybrid System will not disseminate an internally crossed market (i.e., the CBOE best bid is higher than the CBOE best offer). If a Market-Maker submits a quote (“incoming quote”) that would invert an existing quote (“existing quote”), the Hybrid System will change the incoming quote such that it locks the first quote and send a notice to the second Market-Maker indicating that its quote was changed. Locked markets are handled in accordance with paragraphs (i) through (iii) above. During the lock period, if the existing quote is cancelled subsequent to the time the incoming quote is changed, the incoming quote will automatically be restored to its original terms.

Through this rule change, the Exchange is seeking to amend the locked quote process

⁵ Under Rule 6.45B, an exception applies when the market locks in a Hybrid 3.0 class. In such cases, there is no counting period. Locked quotes will not automatically execute against each other and will remain locked until a quote is cancelled or changed. See Rule 6.45A(d)(i)(C).

in two respects. First, the Exchange is proposing to eliminate the provisions that provide that Market-Makers whose quotes are locked (or inverted) will receive a quote update notification message (as described in paragraphs (ii) and (iv) above). The Exchange will continue to disseminate the locked market and have a counting period during which Market-Makers whose quotes are locked may eliminate the locked market in the same manner as described above. The Exchange believes that elimination of the notification messages will permit its systems to operate more efficiently. In addition, the Exchange believes that it is no longer necessary for Market-Makers to have a separate notification to react to a quote lock. For example, they can instead react based on a disseminated locked market.

Second, the Exchange is amending Rule 6.45A (applicable to equity options) to provide that the length of the counting period, which is currently fixed at one-second, will instead be established by the Exchange, may vary by product, and will not exceed one second. This change will provide more flexibility in the administration of the rule and is consistent with the counting period language that already exists in Rule 6.45B (applicable to index and ETF options). The Exchange had previously indicated that the ability to vary the timer by product is more important in an index setting where there are larger trading crowds than there are in an equity setting.⁶ However, the Exchange believes we no longer need to have that distinction and we should have the same flexibility to reduce the timer in an equity setting.

⁶ See Securities Exchange Act Release No. 51680 (May 10, 2005), 70 FR 28326 (May 17, 2005)(SR-CBOE-2004-87)(notice of proposed rule change relating to trading rules on the Hybrid System for index options and options on ETFs); see also Securities Exchange Act Release No. 51822 (June 10, 2005), 70 FR 35321 (June 17, 2005)(order approving SR-CBOE-2004-87).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act⁷ and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.⁸ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁹ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the Exchange believes that the elimination of the notification messages will permit its systems to operate more efficiently and the change to the counting period for equity options classes will provide more flexibility in the administration of the rule in a manner consistent with existing rule for index and ETF options classes.

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 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.

⁷ 15 U.S.C. 78s(b)(1). [sic]

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

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

Because the foregoing 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) by its terms, 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, provided that the self-regulatory organization has given the Commission written notice of its intent to file 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹ 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 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:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>);

or

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2009-060 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CBOE-2009-060. 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 such filing also will be available for inspection and copying at the principal office of the 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 File Number SR-CBOE-

2009-060 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.¹²

Florence E. Harmon
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).