

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-63191; File No. SR-CBOE-2010-094)

October 27, 2010

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Hybrid Automatic Execution Feature

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 19, 2010, 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 and II below, which Items have been prepared by the Exchange. The Exchange has designated 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> 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 CBOE Rule 6.13, CBOE Hybrid System’s Automatic Execution Feature, to provide additional clarity on the operation of the automatic execution feature. The text of the proposed rule change is available on the Exchange’s website ([www.cboe.org/Legal](http://www.cboe.org/Legal)), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

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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).

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 Exchange 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

The purpose of this filing is to amend Rule 6.13 to provide additional clarity on the operation of CBOE's Hybrid System automatic execution feature. In particular, the Exchange is proposing to amend the rule as follows:

First, the Exchange is proposing to include additional cross references in Rule 6.13 to Rules 6.13A, Simple Auction Liaison (SAL), 6.14, Hybrid Agency Liaison (HAL), 6.14A, Hybrid Agency Liaison 2 (HAL2) and 6.45B, Priority and Allocation of Trades in Index Options and Options on ETFs on the CBOE Hybrid System. While Rule 6.13 already contains cross references to these four rules, the Exchange believes the inclusion of the added cross references will provide additional clarity on the existing operation and interaction of the various processes within in [sic] the Hybrid System.

Second, Rule 6.13 provides that the Exchange will designate the order size and order origin codes that are eligible for automatic execution. The Exchange is proposing to amend the rule to clarify that the Exchange will also designate the order types (e.g., market, limit, contingency, etc.) that are eligible for automatic execution. The inclusion of this order type provision is consistent with various other CBOE Rules under which the Exchange designates

order size, origin code and order type, e.g., Rules 6.14, 6.14A and 6.53, Certain Types of Orders Defined.

Third, the Exchange is proposing to replace specific references in Rule 6.13 to routing order to BART (the booth automated routing terminal) and an order entry firm's booth printer with a general reference to an order entry firm's booth. The Exchange no longer utilizes the particular system that it had referred [sic] as BART and believes that the general reference to routing an order to an order entry firm's booth is more appropriate for its rules.

Fourth, Rule 6.13 provides for certain price check parameters for HAL and HAL2 classes under which the Hybrid System will not automatically execute orders if the width between the Exchange's best bid and best offer are not within an acceptable price range. The acceptable price range is no less than 1.5 times the corresponding bid/ask differential requirements determined by the Exchange on a class-by-class basis. The Exchange is proposing to clarify that the Exchange may determine to apply these price check parameters to market orders and/or marketable limit orders. In addition, rather than cross reference corresponding bid/ask differential requirements, the Exchange is proposing to specify the minimum acceptable price range within Rule 6.13. Specifically, the acceptable price range will be no less than: \$0.375 between the bid and offer for each option contract for which the bid is less than \$2, \$0.60 where the bid is at least \$2 but does not exceed \$5, \$0.75 where the bid is more than \$5 but does not exceed \$10, \$1.20 where the bid is more than \$10 but does not exceed \$20, and \$1.50 where the bid is more than \$20. These amounts are equal to 1.5 times the bid/ask differential requirements that the Exchange had in its rules at the time the price check parameters were adopted.

Finally, the Exchange is making some non-substantive changes to simplify the language in the text and to make miscellaneous typographical changes, such as uncapitalizing the word

“class,” deleting an extra word (“Eligibility:”) which appeared in the text twice, and renumbering certain paragraphs and revising certain headers so that the format is consistent with the remainder of the Rule.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.<sup>5</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>6</sup> in that it is 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, by providing additional clarity on the operation of CBOE Hybrid System automatic execution feature.

### 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

The Exchange neither solicited nor received comments on the proposal.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>8</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2010-094 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.

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission 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. CBOE has satisfied this requirement.

All submissions should refer to File Number SR-CBOE-2010-094. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the self-regulatory organization. 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-2010-094 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.<sup>9</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).