

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-68487; File No. SR-CBOE-2012-124)

December 20, 2012

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Proposed Rule to Amend Various CBOE Rules Governing Letters of Guarantee and Authorization

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 December 14, 2012, 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 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

CBOE proposes to amend various CBOE rules governing letters of guarantee and authorization. The text of the rule proposal is available on the Exchange’s website (<http://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.

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

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

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Trading Permit Holders (“TPHs”) that have trading functions on CBOE, are required to submit a letter of guarantee or authorization<sup>3</sup> for that TPH’s trading activities on CBOE from a Clearing TPH.<sup>4</sup> The purpose of this proposal is to amend various CBOE rules governing letters of guarantee and authorization to:

- Give CBOE the ability to prevent access to its marketplace if a TPH does not have an effective letter of guarantee or authorization on file with the Exchange;
- Provide that any written revocation of a letter of guarantee or authorization will be given effect as quickly as CBOE can process it;
- Give CBOE the ability to take any action necessary to give effect to actions by the Clearing Corporation<sup>5</sup>, such as restricting the activities of a Clearing TPH or suspending a Clearing TPH;
- Automatically terminate the trading permit(s) and TPH status of a TPH if the TPH does not have a required letter of guarantee or authorization in place for ninety consecutive days;

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<sup>3</sup> A letter of guarantee is typically provided to CBOE by a Clearing TPH guaranteeing any trades made by one of its TPH customers, e.g., a Market-Maker. A letter of authorization is typically provided to CBOE by a Clearing TPH accepting financial responsibility for all transactions on CBOE made by a guaranteed Floor Broker.

<sup>4</sup> CBOE Rule 1.1(f) defines “Clearing Trading Permit Holder” as a Trading Permit Holder that has been admitted to membership in the Clearing Corporation pursuant to the provisions of the Rules of the Clearing Corporation.”

<sup>5</sup> The Options Clearing Corporation (“OCC”) is currently the only Clearing Corporation of CBOE.

- Delete obsolete and outdated rule text; and
- Make technical, non-substantive rule text changes.

The changes proposed in this filing are intended to clarify and codify existing and well-established principles regarding activities permitted by Clearing TPHs. While elementary, the Exchange believes that it is important to specifically provide in its rules that a TPH must have a valid letter of guarantee or authorization in order to engage in trading activities and, if one is not in place, the Exchange is permitted to prevent connectivity and access to the Exchange by that TPH. Similarly, the definition of a Clearing TPH requires that a TPH be admitted to membership in the OCC.<sup>6</sup> If the OCC restricts the activities of a Clearing TPH or terminates a Clearing TPH's membership in the OCC, that TPH no longer meets the definition of a "Clearing TPH." As a result, the Exchange believes it is appropriate to codify its ability to take action, as necessary, to give effect to any restriction or suspension issued by the OCC.<sup>7</sup> Finally, the Exchange is proposing to provide that if a TPH does not have a required letter of guarantee or authorization in place for ninety consecutive days, the TPH's TPH status and trading permit(s) will automatically terminate (in addition to previous action by the Exchange not to allow the TPH to have access and connectivity to the Exchange without a required guarantee which would occur following the revocation of a guarantee). If a TPH no longer has a valid letter of guarantee

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<sup>6</sup> See CBOE Rule 1.1(f).

<sup>7</sup> Earlier this year, the SEC approved a proposal by a stock exchange that resulted in a modest expansion of its emergency suspension authority. In that filing, the Chicago Stock Exchange ("CHX") proposed to permit officers designated by its Chief Regulatory Officer to suspend or otherwise limit membership of a market participant if a qualified clearing agency refuses to act to clear and settle the trades of that market participant. The Exchange believes its current proposal is similar in nature to the CHX filing since CBOE is seeking to codify its ability to give effect to actions (restrictions or suspensions) taken by the OCC. See Securities Exchange Act Release No. 66366 (February 9, 2012), 77 FR 8927 (February 15, 2012) (order approving SR-CHX-2011-34).

and authorization, that TPH presents risk to the marketplace and the Exchange believes it is appropriate to terminate trading, access and connectivity and then TPH status in this situation.

Changes to Rule 3.28 (Letters of Guarantee)

The Exchange is proposing to amend CBOE Rule 3.28 so that it will govern letters of guarantee and authorization (currently Rule 3.28 is limited to letters of guarantee).<sup>8</sup> The Exchange is proposing to add new paragraphs (b) through (g) to Rule 3.28 to expressly provide CBOE with remedial powers in the event the OCC restricts or suspends a Clearing TPH. The Exchange is also proposing to add new paragraph (h) to Rule 3.28 to govern the termination of TPH status when a TPH is without a required letter of guarantee or authorization for a ninety consecutive day period.

First, the Exchange is proposing to provide that a TPH may not engage in any trading activities on the Exchange if an effective letter of guarantee or authorization required to engage in those activities is not on file with the Exchange. If a Trading Permit Holder does not have an effective letter of guarantee or authorization on file with the Exchange, the Exchange will be permitted to prevent access and connectivity to the Exchange by that Trading Permit Holder.

Second, the Exchange is proposing to provide that letters of guarantee and authorization filed with the Exchange will remain in effect until a written notice of revocation has been filed with the TPH Department and the revocation becomes effective or the letter of guarantee or authorization otherwise becomes invalid pursuant to Exchange rules. A written notice of revocation will become effective as soon as the Exchange is able to process the revocation. A revocation will in no way relieve a Clearing TPH of responsibility for transactions guaranteed prior to the effectiveness of the revocation.

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<sup>8</sup> Rule 6.72 will also continue to govern Letters of Authorization for Floor Brokers and Rule 8.5 will also continue to govern Letters of Guarantee for Market-Makers.

Third, the Exchange is proposing to provide that if the OCC restricts the activities of a Clearing TPH or suspends a Clearing TPH as a Clearing Member of the OCC, the Exchange will be permitted to take action as necessary to give effect to the restriction or suspension. For example, if the OCC restricts transactions cleared by a Clearing TPH to “closing only” transactions, the Exchange will be similarly able to restrict transactions on the Exchange for clearance by that Clearing TPH as a Clearing Member of the OCC to “closing only” transactions. Similarly, if the OCC suspends a Clearing TPH, the Exchange will be similarly able to prevent access and connectivity to the Exchange by the suspended Clearing TPH.

Fourth, the Exchange is proposing to provide that if a Clearing TPH’s status as a Clearing Member of the OCC is terminated or if a Clearing TPH’s status as a CBOE TPH is terminated, all letters of guarantee and authorization on file with the Exchange from that Clearing TPH will no longer be valid effective as soon as the Exchange is able to process the invalidation of these letters of guarantee and authorization.

Fifth, the Exchange is proposing to provide that if a Clearing TPH has been suspended as a Clearing Member of the OCC or as a CBOE TPH, all existing letters of guarantee and authorization from that Clearing TPH will be invalid during the period of the suspension effective as soon as the Exchange is able to process the invalidation of those letters of guarantee and authorization.

Sixth, the Exchange is proposing to provide that the invalidation of a letter of guarantee or authorization will in no way relieve the Clearing TPH that issued the letter of guarantee or authorization of responsibility from transactions guaranteed prior to the effectiveness of the invalidation.

Seventh, the Exchange is proposing to provide that if a Trading Permit Holder does not

have a required letter of guarantee or authorization for period of ninety consecutive days, the Trading Permit Holder's trading permit(s) and status as a Trading Permit Holder shall automatically be terminated.

A revocation of a letter of guarantee or authorization will not occur immediately upon receipt of the revocation by the TPH Department because it takes time for the Exchange to process and effectuate the revocation. For example, there are changes that must be input into the Exchange's systems in order to systematize and effectuate a revocation. Also Exchange staff may be occupied with other matters when a revocation is received and may not immediately be able to process the revocation. Accordingly, the revocation and invalidation of letters of guarantee and authorization under proposed Rules 3.28(c) and 3.28(f) shall become effective as soon as the Exchange is able to process the revocation or invalidation. The Exchange will endeavor to process revocations and invalidations in a timely manner under the circumstances but makes no guarantees in this respect.

If a TPH has a letter of guarantee or authorization that is revoked or invalidated, that TPH's orders and quotes will be rejected after the revocation or invalidation after the revocation or invalidation becomes effective unless and until the TPH has another effective letter of guarantee or authorization in place and on file with the Exchange. This means that a TPH without an effective letter of guarantee or authorization will not be able to continue to trade on the Exchange.

#### Changes to Rule 6.72 (Letters of Authorization)

The Exchange is proposing to amend CBOE Rule 6.72 to provide that a letter of authorization previously filed with the Exchange will remain effective until a written notice of revocation has been filed with the TPH Department and the revocation becomes effective or until

such time that the letter of authorization otherwise becomes invalid under CBOE's rules. In the event a written notice of revocation is provided, the Exchange is proposing to provide that the revocation shall become effective as soon as the Exchange is able to process it. The current rule sets forth a time period for the effectiveness of a revocation to take place. The Exchange does not believe that a rigid timeframe is necessary. Due to the Exchange's ability to process revocations more quickly, a rigid timeframe for processing is no longer needed. The Exchange is also proposing to eliminate the provision that a Clearing TPH may request that the Exchange post notice of the revocation because the Exchange believes that such notice is no longer necessary. A posting is not currently required unless requested by the Clearing TPH that submitted the revocation, and the Exchange believes that all such revocations should be handled in the same manner in this regard. Since it is unusual for a Clearing TPH to request that notice of a revocation be posted, the Exchange does not see a need to do so based on this past experience.

The Exchange also proposes to include an internal cross reference to Rule 3.28 that would provide that letters of authorization issued for Floor Brokers under Rule 6.72 will be subject to Rule 3.28 whereas those letters of authorization issued to Floor Brokers were previously only governed by Rule 6.72. There would be some overlap between current Rule 6.72 and the newly proposed provisions to Rule 3.28; however, the following new provisions to Rule 3.28 would apply to letters of authorization issued pursuant to Rule 6.72 by reference:

- Give CBOE the ability to prevent access to its marketplace if a Floor Broker TPH does not have an effective letter of authorization on file with the Exchange (Proposed Rule 3.28(b));
- Give CBOE the ability to take any action necessary to give effect to actions by the Clearing Corporation, such as restricting the activities of a Clearing TPH or

- suspending a Clearing TPH (Proposed Rule 3.28(d));
- Give CBOE the ability to invalidate a Floor Broker's letter of authorization if it was issued by a Clearing TPH whose Clearing TPH status as a Clearing Member of the OCC is terminated or if a Clearing TPH's status as a CBOE TPH is terminated effective as soon as the Exchange is able to process the invalidation of the letter of authorization (Proposed Rule 3.28(e));
  - Give CBOE the ability to invalidate a Floor Broker's letter of authorization, if it was issued by a Clearing TPH who has been suspended as a Clearing Member of the OCC or as a CBOE TPH, during the period of the suspension effective as soon as the Exchange is able to process the invalidation of the letter of authorization (Proposed Rule 3.28(f));
  - Provide that the invalidation of a letter of authorization shall in no way relieve the Clearing Trading Holder that issued the letter of authorization of responsibility from transactions guaranteed prior to the effectiveness of the invalidation (Proposed Rule 3.28(g)); and
  - Automatically terminate the trading permit(s) and TPH status of a Floor Broker TPH if the Floor Broker TPH does not have a required letter of guarantee or authorization in place for ninety consecutive days (Proposed Rule 3.28(h)).

Finally, the Exchange proposes to make a few, non-substantive and technical changes to Rule 6.72 (i.e., minor word phrasing changes).

#### Changes to Rule 8.5 (Letters of Guarantee)

The Exchange is proposing to amend CBOE Rule 8.5 to provide that a letter of guarantee previously filed with the Exchange will remain effective until a written notice or revocation has

been filed with the TPH Department and the revocation becomes effective or until such time that the letter of guarantee otherwise becomes invalid under CBOE's rules. In the event a written notice of revocation is provided, the Exchange is proposing to provide that the revocation shall become effective as soon as the Exchange is able to process it. The current rule sets forth a time period for the effectiveness of a revocation to take place. The Exchange does not believe that a rigid timeframe is necessary. Due to the Exchange's ability to process revocations more quickly, a rigid timeframe for processing is no longer needed. The Exchange is also proposing to eliminate the provision that a Clearing TPH may request that the Exchange post notice of the revocation for the same reasons set forth in the paragraph above relating to revocations under Rule 6.72.

The Exchange also proposes to include an internal cross reference to Rule 3.28 that would provide that letters of guarantee issued for Market-Makers under Rule 8.5 will be subject to Rule 3.28 whereas those letters of guarantee issued to Market-Makers were previously only governed by Rule 8.5. There would be some overlap between current Rule 8.5 and the newly proposed provisions to Rule 3.28; however, the following new provisions to Rule 3.28 would apply to letters of guarantee issued pursuant to Rule 8.5 by reference:

- Give CBOE the ability to prevent access to its marketplace if a Market-Maker TPH does not have an effective letter of guarantee on file with the Exchange (Proposed Rule 3.28(b));
- Give CBOE the ability to take any action necessary to give effect to actions by the Clearing Corporation, such as restricting the activities of a Clearing TPH or suspending a Clearing TPH (Proposed Rule 3.28(d));
- Give CBOE the ability to invalidate a Market-Maker's letter of guarantee if it was

- issued by a Clearing TPH whose Clearing TPH status as a Clearing Member of the OCC is terminated or if a Clearing TPH's status as a CBOE TPH is terminated effective as soon as the Exchange is able to process the invalidation of the letter of guarantee (Proposed Rule 3.28(e));
- Give CBOE the ability to invalidate a Market-Maker's letter of guarantee, if it was issued by a Clearing TPH who has been suspended as a Clearing Member of the OCC or as a CBOE TPH, during the period of the suspension effective as soon as the Exchange is able to process the invalidation of the letter of guarantee (Proposed Rule 3.28(f));
  - Provide that the invalidation of a letter of guarantee shall in no way relieve the Clearing Trading Holder that issued the letter of guarantee of responsibility from transactions guaranteed prior to the effectiveness of the invalidation (Proposed Rule 3.28(g)); and
  - Automatically terminate the trading permit(s) and TPH status of a Market-Maker Broker TPH if the Market-Maker TPH does not have a required letter of guarantee or authorization in place for ninety consecutive days (Proposed Rule 3.28(h)).

The Exchange also proposes to make a few, non-substantive and technical changes to Rule 8.5 (i.e., minor word phrasing changes).

Finally, the Exchange is proposing to delete Interpretations and Policies .01, .02 and .04 from Rule 8.5 since .01 is obsolete as the Exchange no longer offers trading in the product referenced in that provision and .02 and .04 are obsolete since the OCC is no longer involved in approving CBOE letters of guarantee.

### Changes to Rules 24A.15 and 24B.13 (Letters of Guarantee or Authorization)

CBOE Rules 24A.15 and 24B.13 relate to FLEX options. The Exchange is proposing to amend those rules by deleting a provision in each rule relating to OCC approval of letters of guarantee that are being amended to include FLEX option transactions, since that provision is obsolete as the OCC is no longer involved in approving CBOE letters of guarantee.

The Exchange also proposes to include an internal cross reference to Rule 3.28 that would provide letters of guarantee or authorization issued for FLEX Market-Makers and Floor Brokers under Rules 24A.15 and 24B.13 will be subject to Rule 3.28 whereas those letters of guarantee or authorization issued to FLEX Market-Makers or Floor Brokers were previously only governed by Rules 24A.15 and 24B.15. There would be some overlap between current Rules 24A.15 and 24B.15 and the newly proposed provisions to Rule 3.28; however, the following new provisions to Rule 3.28 would apply to letters of guarantee or authorization issued pursuant to Rules 24A.15 and 24B.15 by reference:

- Give CBOE the ability to prevent access to its marketplace if a FLEX Market-Maker or Floor Broker TPH does not have an effective letter of guarantee or authorization on file with the Exchange (Proposed Rule 3.28(b));
- Give CBOE the ability to take any action necessary to give effect to actions by the Clearing Corporation, such as restricting the activities of a Clearing TPH or suspending a Clearing TPH (Proposed Rule 3.28(d));
- Give CBOE the ability to invalidate a FLEX Market-Maker or Floor Broker TPH's letter of guarantee or authorization if it was issued by a Clearing TPH whose Clearing TPH status as a Clearing Member of the OCC is terminated or if a Clearing TPH's status as a CBOE TPH is terminated effective as soon as the Exchange is able to

- process the invalidation of the letter of guarantee or authorization (Proposed Rule 3.28(e));
- Give CBOE the ability to invalidate a FLEX Market-Maker or Floor Broker TPH's letter of guarantee or authorization, if it was issued by a Clearing TPH who has been suspended as a Clearing Member of the OCC or as a CBOE TPH, during the period of the suspension effective as soon as the Exchange is able to process the invalidation of the letter of guarantee or authorization (Proposed Rule 3.28(f));
  - Provide that the invalidation of a letter of guarantee or authorization shall in no way relieve the Clearing Trading Holder that issued the letter of guarantee or authorization of responsibility from transactions guaranteed prior to the effectiveness of the invalidation (Proposed Rule 3.28(g)); and
  - Automatically terminate the trading permit(s) and TPH status of a FLEX Market-Maker or Floor Broker TPH if the FLEX Market-Maker or Floor Broker TPH does not have a required letter of guarantee or authorization in place for ninety consecutive days (Proposed Rule 3.28(h)).

Finally, the Exchange also proposes to make a few, non-substantive and technical changes to Rules 24A.15 and 24B.13 (i.e., the addition of the word "effective" in subparagraphs (a) and (b) to each rule).

Changes to Rules 26.11 (Market-Makers) and 26.13 (Floor Broker Financial Requirements)

CBOE Rules 26.11 and 26.13 relate to market basket contracts, which the Exchanges does not currently list for trading, but the Exchange is taking the opportunity to amend the identified rules since the changes proposed in this filing are on subject. The Exchange is proposing to amend those rules by deleting a provision in each rule relating to OCC approval of

letters of guarantee that are amended to include market basket transactions, since that provision is obsolete as the OCC is no longer involved in approving CBOE letters of guarantee.

The Exchange also proposes to include an internal cross reference to Rule 3.28 that would provide that letters of guarantee issued for Market-Makers in market basket contracts and letters of authorization issued for Floor Brokers in market basket contracts under Rules 26.11 and 26.13, respectively, will be subject to Rule 3.28 whereas those letters of guarantee or authorization issued to Market-Makers and Floor Brokers in market basket contracts were previously only governed by Rules 26.11 and 26.13. There would some overlap between current Rules 26.11 and 26.13 and the newly proposed provisions to Rule 3.28; however, the following new provisions to Rule 3.28 would apply to letters of guarantee or authorization issued pursuant to Rules 26.11 and 26.13 by reference:

- Give CBOE the ability to prevent access to its marketplace if a Market-Maker or Floor Broker TPH in market basket contracts does not have an effective letter of guarantee or authorization on file with the Exchange (Proposed Rule 3.28(b));
- Give CBOE the ability to take any action necessary to give effect to actions by the Clearing Corporation, such as restricting the activities of a Clearing TPH or suspending a Clearing TPH (Proposed Rule 3.28(d));
- Give CBOE the ability to invalidate a market basket Market-Maker or Floor Broker TPH's letter of guarantee or authorization if it was issued by a Clearing TPH whose Clearing TPH status as a Clearing Member of the OCC is terminated or if a Clearing TPH's status as a CBOE TPH is terminated effective as soon as the Exchange is able to process the invalidation of the letter of guarantee or authorization (Proposed Rule 3.28(e));

- Give CBOE the ability to invalidate a market basket Market-Maker or Floor Broker TPH's letter of guarantee or authorization, if it was issued by a Clearing TPH who has been suspended as a Clearing Member of the OCC or as a CBOE TPH, during the period of the suspension effective as soon as the Exchange is able to process the invalidation of the letter of guarantee or authorization (Proposed Rule 3.28(f));
- Provide that the invalidation of a letter of guarantee or authorization shall in no way relieve the Clearing Trading Holder that issued the letter of guarantee or authorization of responsibility from transactions guaranteed prior to the effectiveness of the invalidation (Proposed Rule 3.28(g)); and
- Automatically terminate the trading permit(s) and TPH status of a Market-Maker or Floor Broker TPH in market basket contracts if the Market-Maker or Floor Broker TPH in market basket contracts does not have a required letter of guarantee or authorization in place for ninety consecutive days (Proposed Rule 3.28(h)).

The Exchange also proposes to make a few, non-substantive and technical changes to Rules 26.11 and 26.13 (i.e., the addition of the words "Exchange" and "effective" to Rule 26.11 and the addition of the word "valid" to Rule 26.13).

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>9</sup>

Specifically, the Exchange believes the proposed rule change is consistent with the

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

Section 6(b)(5)<sup>10</sup> 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.

Expressly permitting the Exchange to take action as needed to give effect to a restriction or suspension issued by the OCC will protect the integrity of the Exchange's marketplace by limiting trading to only those TPHs with effective and unrestricted letters of guarantee and authorization. A key purpose for having Clearing TPHs is to reduce the risk of market participants failing to honor executed trades. By requiring that TPHs have an effective and unrestricted letters of guarantee, the Exchange is advancing this purpose. Additionally, the Exchange believes that the proposed rule change is designed 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 that it will allow CBOE to take actions to give effect to restrictions or suspensions issued by the OCC. The ability to take action is designed to prevent the execution of trades on CBOE which may not be able to be ultimately cleared and settled if access to CBOE's marketplace is not restricted in tandem with a restriction or suspension issued by the OCC. Also, preventing access and connectivity to the Exchange by a TPH if that TPH's Clearing TPH revokes the TPH's letter of guarantee or authorization is beneficial to the marketplace and serves to protect investors since it prevents trading by a TPH without a financial guarantee for that trading. If a TPH no longer has a valid letter of guarantee or authorization, that TPH presents risk to the marketplace and the Exchange believes it is appropriate to prevent access and connectivity to the Exchange by that TPH in this situation.

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

The Exchange also believes that having the ability to terminate the TPH status and trading permit(s) of a TPH that does not have a required letter of guarantee or authorization for ninety consecutive days is desirable since it allows the Exchange to appropriately manage and control access to its marketplace by limiting access only to those with a financial guarantee which thereby serves to protect investors by ensuring that counterparties to trades have such a guarantee.

The Exchange believes the proposed rule change is also consistent with the Section 6(b)(7)<sup>11</sup> requirements that the rules of an exchange provide a fair procedure for the denial of membership to any person seeking membership therein and the prohibition or limitation by an exchange of any person with respect to access to services offered by the exchange.

Specifically, with respect to the proposed automatic termination provision when a TPH does not have a required letter of guarantee or authorization for ninety consecutive days, the Exchange believes that that provision establishes a fair procedure because it strikes the appropriate balance between giving a deficient TPH an adequate amount of time to cure the deficiency of not having a required letter of guarantee or authorization and allowing the Exchange to appropriately limit access to its marketplace only to those TPHs with a financial guarantee. Furthermore, the automatic termination provision does not prohibit or limit a previously terminated TPH from seeking to gain access again to the Exchange by applying to become a TPH subsequent to the termination if the TPH is able to again acquire the required letter of guarantee and authorization.

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<sup>11</sup> 15 U.S.C. 78f(b)(7).

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

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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-2012-124 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-2012-124. 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 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-2012-124 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>12</sup>

Kevin M. O'Neill  
Deputy Secretary

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