

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53008; File No. SR-CBOE-2005-95)

December 22, 2005

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Complex Orders on the Hybrid System

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 19, 2005, the Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The CBOE has filed this proposal pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ 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 CBOE proposes to amend CBOE Rule 6.53C, "Complex Orders on the Hybrid System," to better describe the routing of complex orders and to include orders from Market-Makers and specialists on an options exchange as additional order categories eligible to be routed to the Hybrid System complex order book (“COB”) from PAR workstations or directly to the COB. The text of the proposed rule change is available on the Exchange’s website

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).

⁵ The CBOE has requested that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

(<http://www.cboe.com>), at the Exchange's Office of the Secretary, 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 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 these 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 aspects of such statements.

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

1. Purpose

The Commission recently approved CBOE Rule 6.53C, which sets forth the procedures used to trade complex orders on the CBOE's COB system.⁶ Currently, CBOE Rule 6.53C provides that the appropriate Exchange committee may determine whether to allow complex orders to route to PAR or to the COB and whether to allow complex orders from non-broker-dealer public customers and from broker-dealers that are not Market-Makers or specialists on an options exchange to route from PAR workstations to the COB.

The CBOE proposes to amend CBOE Rule 6.53C to better describe the routing of complex orders. The CBOE intended at all times and built its COB in such a way that, depending on committee determination, complex orders could be routed directly to the COB (which facilitates more automated handling of complex orders), to the PAR workstation (where

⁶ See Securities Exchange Act Release No. 51271 (February 28, 2005), 70 FR 10712 (March 4, 2005) (order approving File No. SR-CBOE-2004-45).

complex orders are announced to the trading crowd and are traded in open outcry), and/or from the PAR workstation to the COB.⁷ Accordingly, the revised rule more clearly states the routing alternatives for complex orders.

The CBOE also proposes to include orders from Market-Makers and specialists on an options exchange as additional order categories that are eligible to be entered in the COB. As part of the original CBOE Rule 6.53C proposal and text, the CBOE never intended to route these types of orders to the COB (either directly to the COB or from PAR to the COB). Instead, the CBOE intended that such orders would be routed to PAR workstations for handling. However, the CBOE is now proposing to make these orders eligible for entry into the COB, subject to committee determination. The CBOE also proposes to make corresponding changes to the rule text to clarify that, in addition to routing to PAR workstations, as determined by the appropriate Exchange committee, such orders would be eligible for routing from PAR workstations to the COB and/or routing to the COB directly.

2. Statutory Basis

The CBOE believes the proposed rule change is consistent with the Act⁸ and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.⁹ Specifically, the Exchange believes the proposed rule

⁷ The appropriate committee may determine that more than one of these routing alternatives is available. Thus, for example, if the appropriate committee determines that the routing alternatives available for public customer complex orders in a particular class are to: (i) route directly to the COB, (ii) route to PAR, and (iii) route from PAR to the COB, a member representing a public customer complex order could elect whether to route that order directly to the COB or to a PAR workstation and, if routed to a PAR workstation, whether the order would be represented in open outcry or routed from the PAR workstation to the COB for electronic handling.

⁸ 15 U.S.C. 78a et seq.

⁹ 15 U.S.C. 78f(b).

change is consistent with Section 6(b)(5)¹⁰ in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest.

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

The 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.

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

The Exchange has designated the proposed rule change as one 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) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. In addition, as required under Rule 19b-4(f)(6)(iii),¹¹ the CBOE provided the Commission with written notice of its intention to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to filing the proposal with the Commission. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

Pursuant to Rule 19b-4(f)(6)(iii) under the Act, a proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The CBOE has requested that the Commission waive the 30-day operative delay. The CBOE believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal clarifies the CBOE's existing rule and amends the rule to allow orders from Market Makers and options exchange specialists to be eligible for entry into the COB, which could facilitate more automated handling of complex orders and allow CBOE participants to access potentially larger pools of liquidity located on the CBOE.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal clarifies the CBOE's existing rule and because allowing orders from Market Makers and options exchange specialists to be eligible for entry into the COB could facilitate the execution of complex orders entered into the COB.¹⁴ For these reasons, the Commission designates that the proposed rule change become operative immediately.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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

¹⁴ For purposes of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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-2005-95 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File No. SR-CBOE-2005-95. 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. 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 No. SR-CBOE-2005-95 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Jonathan G. Katz
Secretary

¹⁵ 17 CFR 200.30-3(a)(12).