

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53252; File No. SR-CBOE-2006-05)

February 8, 2006

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Duration of the SizeQuote Mechanism Pilot

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 January 30, 2006, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) 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 Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders it effective upon filing with the Commission. 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 proposes to extend the pilot in CBOE Rule 6.74(f) pertaining to the SizeQuote Mechanism, which is a process by which a Floor Broker may execute and facilitate large-sized orders in open outcry. The Exchange is proposing to extend the pilot program, which would otherwise expire on February 15, 2006, through February 15, 2007. No other changes are being made to the pilot program through this rule filing.⁵ The text of the proposed rule change is

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ A separate rule change proposal has been filed and is currently pending with the Commission that would make amendments to the SizeQuote Mechanism. See SR-

available on the Exchange's website (<http://www.cboe.com>), 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, CBOE 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

CBOE Rule 6.74(f), which relates to the open outcry "SizeQuote" Mechanism, was approved on a pilot basis in February 2005; was recently expanded, in January 2006, to include solicited orders; and will expire on February 15, 2006.⁶ This pilot program provides a process by which a Floor Broker, using his or her exercise of due diligence to execute orders at the best price(s), may execute and facilitate large-sized orders in open outcry. Under the pilot program, the ICMPs have priority to trade a SizeQuote Order at the best price communicated by the

CBOE-2005-115 (proposal to modify the pilot program in various respects, including to permit a Floor Broker to execute the entire SizeQuote Order at a price at least one trading increment better than the best price communicated by the in-crowd market participants ("ICMPs") in their responses to the SizeQuote request).

⁶ See Securities Exchange Act Release Nos. 51205 (February 15, 2005), 70 FR 8647 (February 22, 2005) (approving SR-CBOE-2004-72 on a pilot basis through February 15, 2006) and 53135 (January 17, 2006), 71 FR 3908 (January 24, 2006) (approving SR-CBOE-2005-83, which modified the pilot program to enable a Floor Broker to execute a SizeQuote Order with either a Floor Broker's facilitation order, one or more solicited orders, or a combination of the Floor Broker's facilitation order and such solicited order(s)).

ICMPs in their response to a Floor Broker's SizeQuote request and at one increment better, while a Floor Broker can execute the entire SizeQuote Order with a facilitation order, one or more solicited orders, or a combination of solicited and facilitation orders at a price two trading increments better than the best price provided by the ICMPs in their response to the SizeQuote request. For purposes of the pilot program, the minimum qualifying order size is 250 contracts⁷ and Floor Brokers must stand ready to facilitate the entire size of the order for which they request SizeQuotes.

The instant proposed rule change seeks to extend the existing pilot program, which would otherwise expire on February 15, 2006, through February 15, 2007. The Exchange notes that, as part of the original pilot program approval order,⁸ the Exchange represented that it would provide the Commission a report at the end of the initial pilot period summarizing the effectiveness of the SizeQuote program. In that regard, though the SizeQuote Mechanism has been made available during the pilot period in all equity option classes traded on the Exchange for orders of 250 contracts or more, Floor Brokers have not generally availed themselves of the SizeQuote Mechanism to facilitate large-sized orders.⁹ However, the Exchange continues to believe that the SizeQuote Mechanism enhances ICMPs' ability and incentive to quote competitively and participate in open outcry trades while at the same time creates a process that

⁷ The appropriate Exchange committee determines the classes in which SizeQuote operates and may vary the minimum qualifying order size, provided that such number may not be less than 250 contracts.

⁸ See note 6, supra.

⁹ The Exchange believes the SizeQuote Mechanism has not been actively utilized due to some of the limitations and risks inherent in the original design of the pilot program. Thus, apart from the instant proposal to extend the pilot period, CBOE recently expanded the pilot program to include solicited orders. Originally the pilot program only applied to facilitation orders. See note 6, supra, and accompanying text. CBOE has also proposed to modify the pilot program in various other respects. See note 5, supra.

gives greater certainty to Floor Brokers in the execution of large orders in that ICMPs only have one opportunity to respond with a quote response (which further enhances an ICMP's incentive to quote competitively). The Exchange is therefore seeking to extend the existing pilot program, including the amendment made thereto pursuant to SR-CBOE-2005-83,¹⁰ for another year, through February 15, 2007, in order to continue its evaluation of the utility of the SizeQuote Mechanism.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act¹¹ in general and furthers the objectives of Section 6(b)(5) of the Act¹² in particular in that it is designed to promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

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.

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

Because the foregoing proposed rule change, as amended, does not:

- (i) significantly affect the protection of investors or the public interest;

¹⁰ See note 6, *supra*.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴ At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission 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.

A proposed rule change filed under Section 19b-4(f)(6) normally may not become operative prior to 30 days after the date of its filing.¹⁵ Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.¹⁶ CBOE has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest so that the pilot program may continue until February 15, 2007 without interruption.¹⁷

IV. Solicitation of Comments

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

Pursuant to Rule 19b-4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written 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. The Commission notes that the Exchange provided notice of the filing at least five business days prior to the date of filing.

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

¹⁶ Id.

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 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-2006-05 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CBOE-2006-05. 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 Section, 100 F Street, NE, Washington, DC 20549. 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-2006-05 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.¹⁸

Nancy M. Morris
Secretary

¹⁸ 17 CFR 200.30-3(a)(12).