

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53088; File No. SR-CBOE-2005-92]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change To Prohibit the Practice of Unbundling Orders To Maximize Rebates of Fees

January 10, 2006.

#### I. Introduction

On November 7, 2005, the Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder, <sup>2</sup> a proposed rule change to prohibit the practice of unbundling orders to maximize rebates of fees. The proposed rule change was published for notice and comment in the **Federal Register** on December 8, 2005. <sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

CBOE proposed to adopt a new rule to expressly prohibit its members from dividing single orders into multiple orders for the sole purpose of maximizing market data rebates.

#### III. Discussion and Commission Findings

The Commission has reviewed carefully the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, <sup>4</sup> particularly section 6(b)(5) of the Act which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating securities transactions, to remove impediments to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. <sup>5</sup> The Commission believes that the proposed

rule change should help eliminate the distortive practice of trade shredding, and, therefore, promote just and equitable principles of trade.

#### IV. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act, <sup>6</sup> that the proposed rule change (File No. SR-CBOE-2005-92), be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. <sup>7</sup>

**Nancy M. Morris,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53072; File No. SR-CBOE-2006-02]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend CBOE Rule 8.4 Relating to Remote Market-Maker Appointments

January 6, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder, <sup>2</sup> notice is hereby given that on January 5, 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 pursuant to section 19(b)(3)(A) of the Act <sup>3</sup> and Rule 19b-4(f)(6) thereunder, <sup>4</sup> which renders the proposal 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 CBOE proposes to amend CBOE Rule 8.4 relating to Remote Market-Maker appointments. Below is the text of the proposed rule change. Proposed

new language is italicized; proposed deletions are in [brackets].

\* \* \* \* \*

#### Rule 8.4—Remote Market-Makers

Rule 8.4. (a) No Change.  
 (b) No change.  
 (c) No change.  
 (d) Appointment of RMMs: An RMM will have a Virtual Trading Crowd (“VTC”) Appointment, which confers the right to quote electronically (and not in open outcry) an appropriate number of products selected from “tiers” that have been structured according to trading volume statistics. Of the products included in the Hybrid 2.0 Platform, Tier A will consist of the 20% most actively-traded products over the preceding three calendar months, excluding “A+” tier products, Tier B will consist of the next 20% most actively-traded products, etc., through Tier E, which will consist of the 20% least actively-traded products. Tier “A+” will consist of options on Standard & Poor’s Depository Receipts, options on the Nasdaq-100 Index Tracking Stock, options on Diamonds, [and] reduced value options on the Standard & Poor’s 500 Stock Index, *and options based on The Dow Jones Industrial Average.*

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#### 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 purpose of this rule change is to amend CBOE Rule 8.4 relating to Remote Market-Maker (“RMM”) appointments. CBOE Rule 8.4 provides that RMMs will have a Virtual Trading Crowd (“VTC”) Appointment, which confers the right to quote electronically in a certain number of products selected from various “tiers”. There are five tiers that are structured according to trading volume statistics and an “A+” Tier

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

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

<sup>3</sup> See Securities Exchange Act Release No. 52872 (December 1, 2005), 70 FR 73043.

<sup>4</sup> In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

<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).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).