

general, to protect investors and the public interest.

The Commission notes that the Exchange believes that the need to continue trading options for some period of time after the close of trading in the underlying securities markets is no longer necessary because improvements in the processing and reporting of transactions have obviated the need to respond to late reports of closing prices over the consolidated tape in order to bring options quotes in line with the closing price of the underlying security. Because the two minute delay between the close of normal trading in equity options and the corresponding underlying equity markets is no longer necessary, the Commission believes that eliminating the delay is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets. Therefore, the Commission finds that it is consistent with the Act for the Exchange to amend and clarify its rules governing the hours of trading of options on individual stocks on BOX from 4:02 p.m. (e.s.t.) to 4 p.m. (e.s.t.).

The Commission finds good cause for approving this proposed rule change, as amended, before the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission notes that all of the options exchanges have filed substantially similar proposals and seek to implement these industry-wide changes simultaneously on February 13, 2006.<sup>13</sup> For example, on December 20, 2005, the Commission published for comment in the **Federal Register** a similar proposed rule change submitted by the Chicago Board Options Exchange, Incorporated (“CBOE”).<sup>14</sup> The Commission received no comments on the CBOE’s proposed rule change. The Commission believes that the BSE’s proposed rule change, as amended, raises no new issues or novel regulatory questions. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>15</sup> for approving the proposed rule change, as amended, prior to the thirtieth day after publication in the **Federal Register**. In addition, because the existence of dissimilar closing times among the options exchanges could lead to confusion for options investors and broker-dealers, the Commission finds good cause to accelerate approval of the

proposed rule change, as amended, to enable the six options exchanges to simultaneously amend their hours of trading on an industry-wide basis in a uniform manner.<sup>16</sup>

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>17</sup> that the proposed rule change and Amendment No. 1 thereto (SR-BSE-2006-02) be, and hereby are, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**J. Lynn Taylor**,

*Assistant Secretary*.

[FR Doc. E6-2113 Filed 2-14-06; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53252; File No. SR-CBOE-2006-05]

### 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

February 8, 2006.

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 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 Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> 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.

<sup>16</sup> The Commission notes that it is simultaneously approving similar proposals from the other options exchanges. See Securities Exchange Act Release Nos. 53244 (SR-Amex-2006-003); 53246 (SR-CBOE-2005-104); 53248 (SR-ISE-2005-58); 53249 (SR-PCX-2005-138); and 53247 (SR-Phlx-2006-01) (February 7, 2006).

<sup>17</sup> 15 U.S.C. 78s(b)(2).

<sup>18</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).

## 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.<sup>5</sup> The text of the proposed rule change is available on the Exchange’s Web site (<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.<sup>6</sup> This pilot program

<sup>5</sup> 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-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).

<sup>6</sup> 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)).

<sup>13</sup> See note 16, *infra*.

<sup>14</sup> See Securities Exchange Act Release No. 52949 (December 13, 2005), 70 FR 75513 (December 20, 2005) (SR-CBOE-2005-104). See also Securities Exchange Act Release No. 53055 (January 5, 2006), 71 FR 2279 (January 13, 2006) (SR-ISE-2005-58).

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

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 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 contracts<sup>7</sup> 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,<sup>8</sup> 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.<sup>9</sup> 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 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,<sup>10</sup> 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 Act<sup>11</sup> in general and furthers the objectives of section 6(b)(5) of the Act<sup>12</sup> 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;
- (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 Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup> 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.<sup>15</sup> 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.<sup>16</sup> 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.<sup>17</sup>

## 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-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

<sup>7</sup> 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.

<sup>8</sup> See note 6, *supra*.

<sup>9</sup> 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*.

<sup>10</sup> See note 6, *supra*.

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 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.

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>16</sup> *Id.*

<sup>17</sup> 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).

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 March 8, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53246; File No. SR-CBOE-2005-104]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 Thereto To Amend Its Rules Governing the Hours of Trading in Equity Options and Narrow-Based Index Options

February 7, 2006.

#### I. Introduction

On December 6, 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 amend its rules governing the hours of trading in equity options and narrow-based index options. The proposed rule change was published for comment in the **Federal Register** on December 20, 2005. The Commission received no comments on the proposed rule change. On January 31, 2006, the Exchange filed

Amendment No. 1 to the proposed rule change.<sup>3</sup> This order approves the proposed rule change, grants accelerated approval to Amendment No. 1 to the proposed rule change, and solicits comments from interested persons on Amendment No. 1.

#### II. Description

The CBOE proposes to amend its rules governing the hours of trading in equity options and narrow-based index options. Specifically, the CBOE proposes to amend its rules to change the close of the normal trading hours in equity options and in narrow-based index options from 3:02 p.m. (Chicago time) to 3 p.m. (Chicago time). After the change, the time of the close of trading in these CBOE options will correspond to the normal time set for the close of trading on the primary exchanges listing the stocks underlying the CBOE options. The primary exchanges generally close at 3 p.m. (Chicago time).

The Exchange represents that improvements in the processing and reporting of transactions have largely eliminated significant delays in the reporting of closing prices; and therefore, a two minute session is no longer needed to trade options after the underlying securities close trading. Additionally, the Exchange believes that pricing aberrations can occur if an option is traded when the underlying stock is no longer trading, since there is a close relationship in the price of the underlying stock and the underlying option. As a result, the CBOE believes that it is difficult for the market to price options accurately when the underlying security is not trading. Furthermore, as noted above, the Exchange also proposes to change the closing time for narrow-based indexes (under CBOE Rule 24.6) because these indexes are subject to the same pricing problems as options on individual stocks. According to the CBOE, a significant news announcement on one component of a narrow-based index could have a significant effect on that index.

However, the Exchange is not at this time proposing to change the closing time of 3:15 p.m. (Chicago time) for broad-based index options because it does not believe that a significant news announcement by the issuer of one component stock of a broad-based index is likely to have a significant effect on the price of that broad-based index.

Accordingly, under the proposed rule change, as amended, the CBOE proposes

to amend its rules, including CBOE Rules 6.1, 6.2, 12.3, 24.6, and 24.16, in which references are made to a 3:02 p.m. closing time for equity options and narrow-based index options. The CBOE proposes that the proposed rule change, as amended, be implemented on February 13, 2006.<sup>4</sup>

#### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form at (<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-2005-104 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-2005-104. 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. 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-2005-104 and

<sup>4</sup> *Id.*

<sup>18</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> In Amendment No. 1, the Exchange requested that the implementation date for the new closing time be changed from February 1, 2006, as was originally proposed, to February 13, 2006.