

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

The foregoing rule change, as amended, has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>15</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>16</sup> because it establishes or changes a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such 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.<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, as amended, 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-Amex-2006-10 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-Amex-2006-10. 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 such filing also will be available for inspection and copying at the principal office of Amex. 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-Amex-2006-10 and should be submitted on or before April 3, 2006.

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

**Nancy M. Morris,**  
Secretary.

[FR Doc. E6-3497 Filed 3-10-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53410; File No. SR-CBOE-2006-24]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Rule 8.3 To Extend for an Additional Year a Pilot Program Relating to Market-Makers Quoting Outside Their Appointed Trading Station

March 3, 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 March 2, 2006, 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 CBOE. 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

the proposal effective upon filing with the Commission.<sup>5</sup> 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 8.3 to extend for an additional year a pilot program relating to Market-Makers quoting outside their appointed trading station. The text of the proposed rule change is below. Proposed additions are in *italics* and proposed deletions are in brackets:

#### Rule 8.3—Appointment of Market-Makers

Rule 8.3. This Rule governs the appointment of Market-Makers other than Remote Market-Makers. Rule 8.4 governs the appointment of Remote Market-Makers.

(a) No change.  
(b) No change.  
(c) Absent an exemption by the appropriate Market Performance Committee, an appointment of a Market-Maker confers the right to quote as described below:

- (i) No change.
- (ii) No change.
- (iii) No change.

With respect to classes located at his/her appointed trading station, a Market-Maker may submit, [for a one-year] *as part of a pilot program* [period] ending March 24, 2007 [2006], electronic quotations from a location outside of the appointed trading station in his/her appointed Hybrid classes and his/her appointed Hybrid 2.0 Classes. Any Market-Maker affiliated with an e-DPM or RMM shall be ineligible to submit electronic quotations from outside of its appointed trading station pursuant to this rule in any class in which the affiliated e-DPM or RMM has an appointment.

\* \* \* \* \*  
(d) No Change.  
\* \* \* \* \*

### 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 CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any

<sup>5</sup> As required by Rule 19b-4(f)(6)(iii), 17 CFR 240.19b-4(f)(6)(iii), the CBOE submitted 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.

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

<sup>16</sup> 17 CFR 240.19b-4(f)(2).

<sup>17</sup> The effective date of the original proposed rule change is February 2, 2006, the date of the original filing, and the effective date of Amendment No. 1 is February 28, 2006, the filing date of the amendment. For purposes of calculating the 60-day abrogation period within which the Commission may summarily abrogate the proposed rule change, as amended, under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on February 28, 2006, the date on which the Exchange submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

<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).

comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The CBOE 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 extend for an additional year, until March 24, 2007, an existing Pilot Program that allows a CBOE Market-Maker to submit electronic quotations in his/her Hybrid and Hybrid 2.0 classes from a location outside of his/her appointed trading station.

In March 2005, the CBOE amended its rules relating to Market-Maker appointments and quoting obligations.<sup>6</sup> The Exchange amended, among other things, Rule 8.3 to provide that a Market-Maker may submit electronic quotations from a location outside of his/her appointed trading station. Previously, Market-Makers were only permitted to stream electronic quotations in their appointed Hybrid and Hybrid 2.0 classes when they were physically present in the trading crowd. In making this change, the CBOE determined to request that it only be approved on a pilot basis so as to give the Exchange the ability to evaluate the effectiveness of allowing Market-Makers to quote remotely. The current Pilot program is scheduled to expire on March 24, 2006.

The Exchange believes that the Pilot Program has been successful, in that it allows Market-Makers to choose how they would like to participate in CBOE's Hybrid Trading System, *i.e.*, electronically, in open outcry, or both. The CBOE states that, although not all Market-Makers have chosen to quote electronically from outside their trading station, those Market-Makers that have availed themselves of this Pilot Program continued to provide liquidity and increased competition in their appointed option classes when they quoted remotely. The Exchange states that it has not experienced any negative effects from allowing Market-Makers to quote from a location outside of their appointed trading station. Thus, the CBOE believes it would be appropriate and beneficial to extend the Pilot Program for an additional year until March 24, 2007, and permit Market-

Makers to continue to have the option to quote electronically from a location outside their appointed trading station.

**2. Statutory Basis**

The Exchange believes the proposed rule change is consistent with the Act 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.<sup>7</sup> Specifically, the Exchange believes the proposed rule change is consistent with the requirement of Section 6(b)(5) Act<sup>8</sup> that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

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

The CBOE believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The CBOE has neither solicited nor received comments on the proposed rule change.

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

Normally, a proposed rule change filed under Rule 19b-4(f)(6) does not become operative for 30 days after the date of filing. However, 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.

The CBOE has asked the Commission to waive the 30-day operative delay. Allowing Market-Makers to quote electronically into their appointed

Hybrid and Hybrid 2.0 option classes from a location outside their appointed trading station does not raise any new or unique issues.<sup>9</sup> The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the continuation of this program may enhance competition and liquidity and provide Market-Makers with additional trading opportunities.<sup>10</sup> For this reason, the Commission designates that the proposal has become effective and operative immediately upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such 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.<sup>11</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-2006-24 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-2006-24. 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

<sup>9</sup> See *supra*, at n.6.

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

<sup>11</sup> See Rule 19b-4(f)(6)(iii), 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> See Securities Exchange Act Release No. 51429 (March 24, 2005), 70 FR 16536 (March 31, 2005) (approving SR-CBOE-2004-58).

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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 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-2006-24 and should be submitted on or before April 3, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-3481 Filed 3-10-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53399; File No. SR-CBOE-2005-87]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Amending Exchange Delisting Rules To Conform to Recent Amendments to Commission Rules Regarding Removal From Listing and Withdrawal From Registration

March 2, 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 October 21, 2005, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. CBOE filed Amendment No. 1 to the proposal on December 14, 2005.<sup>3</sup> On February 24, 2006, CBOE filed Amendment No. 2 to the

proposal.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to revise its non-option securities listing rules to incorporate into the Exchange's delisting rules for non-option securities new rule changes promulgated by the Commission in SEC Rule 12d2-2.

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in [brackets].

\* \* \* \* \*

Chicago Board Options Exchange, Incorporated

\* \* \* \* \*

Rule 31.94. Suspension and Delisting Policies

\* \* \* \* \*

#### C. Application of Policies

To assist in the application of these policies, the Exchange has adopted certain criteria, outlined below, which a security must meet to continue to be listed on the Exchange. However, these minimum criteria[,] in no way limit or restrict the Exchange's right to delist a security, and the Exchange may at any time, in view of the circumstances in each case, suspend dealings in, or remove, a security from listing or unlisted trading when in its opinion such security is unsuitable for continued trading on the Exchange. Such action will be taken regardless of whether the issuer meets any or all of the criteria discussed below.

\* \* \* \* \*

(b) Limited Distribution—Reduced Market Value

(i) common stock:

(A) The number of shares publicly held (exclusive of holdings of officers, directors, controlling shareholders or other family or concentrated holdings) is at least 200,000; and

<sup>4</sup> In Amendment No. 2, CBOE amended CBOE Rule 31.94(G)(h) to state that in appropriate circumstances, when the Exchange is considering delisting because a company no longer meets the requirements for continued listing, a company may, with the consent of the Exchange, file a Form 25 with the SEC, provided that it follows the requirements set forth in SEC Rule 12d2-2(c) and discloses that it is no longer eligible for continued listing on the Exchange in its written notice to the Exchange and public press release, and if it has a publicly accessible Web site, posts such notice on that Web site.

(B) The total number of round lot shareholders of record is at least 300; and

(C) The aggregate market value of shares publicly held is at least \$1,000,000;

(ii) Preferred stock:

(A) The number of shares publicly held is at least 50,000; or

(B) The aggregate market value of shares publicly held is at least \$1,000,000;

(iii) Bonds: The delisting of bond and debenture issues will be considered on a case by case basis. The Exchange will normally consider suspending dealings in, or removing from the list, debt security when any one or more of the following conditions exist:

([a]A) If the aggregate market value or the principal amount of bonds publicly held is less than \$400,000; or

([b]B) If the issuer is not able to meet its obligations on the listed debt securities.

\* \* \* \* \*

*Rule 31.94(C)(f) in the following form is effective until April 23, 2006. It will be rescinded after that date and will be replaced as set forth below.*

(f) No change.

*Rule 31.94(C)(f) in the following form will be effective on April 24, 2006.*

*(f) SEC Rule 12d2-2(a) Conditions—The Exchange will remove a class of securities from listing whenever the Exchange is reliably informed that any of the conditions set forth in Rule 12d2-2(a) under the Exchange Act exist with respect to such security, such as a corporate action where the entire security class is matured, redeemed, retired or extinguished by operation of law, and shall file an application with the SEC on Form 25 in accordance with Rule 12d2-2(a) under the Exchange Act.*

*New paragraph (g) of Rule 31.94(C) in the following form will be effective on April 24, 2006.*

*(g) Other Events—The Exchange will normally consider suspending dealings in, or removing from the list, a security when any one of the following events shall occur:*

*(i) Registration No Longer Effective—If the registration (or exemption from registration thereof) pursuant to the Exchange Act is no longer effective.*

*(ii) Operations Contrary to Public Interest—If the company or its management shall engage in operations which, in the opinion of the Exchange, are contrary to the public interest.*

*(iii) Failure to Pay Listing Fees—If the company shall fail or refuse to pay, when due, any applicable listing fees established by the Exchange.*

*(iv) Low Selling Price Issues—In the case of a common stock selling for a*

<sup>12</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> Amendment No. 1 replaced the original filing in its entirety.