

spreads must be expressed in decimal increments no smaller than \$0.05. Thus, the minimum increment applicable to OEX options will be the same as that which is currently applicable to SPX options. The Exchange believes that this change is appropriate given the complexity of these orders and the size of the underlying S&P 100 Index. As discussed above, the Exchange is also proposing to clarify in Exchange Rule 6.53C that complex orders entered into and resting in the COB may be expressed on a net price basis in a multiple of the minimum increment (*i.e.*, \$0.05 or \$0.10, as applicable) or in a one-cent increment as determined by the appropriate Exchange committee on a class-by-class basis.

The Exchange is also proposing to make some clarifications with respect to the execution of the individual legs of a complex order. By way of background, after a complex order has been executed at the total net debit or credit price, the contract quantity and price for each individual component leg of the trade are reported as executions. However, the Exchange's rules are silent as to the minimum increment in which these resulting legs may be reported for execution. In the past, when a complex order was expressed in increments smaller than \$0.05 or \$0.10 in open outcry, each of the component legs of a resulting trade typically would be reported in "split" prices in order to reach the quoted debit or credit price. However, with the introduction of the COB, that system may report the legs of a resulting trade in one-cent increments. Because the Exchange rules do not specifically address the minimum increment in which the legs of a resulting complex order transaction are to be reported, CBOE is proposing to include language in Exchange Rules 6.42 and 6.53C to clarify that the legs of a complex order may be executed in open outcry, via COB or via a COA in one-cent increments, regardless of the minimum quoting increments otherwise appropriate to the individual legs of the order. This change applies a consistent standard for reporting the legs of a complex order transaction whether the transaction takes place in open outcry or via electronic trading, and the Exchange believes that it will enable members to more efficiently execute transactions with less component parts in the transaction.

Lastly, the Exchange is proposing to update the provisions of its rules that refer to the trading of various types of complex orders such as spreads, straddles and combinations. These provisions will now include a cross reference to the various other types of

complex orders defined in Exchange Rule 6.53C.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>19</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>20</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and to 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*

No written comments were solicited or received with respect to the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- (A) By order approve such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## 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-2005-65 on the subject line.

<sup>19</sup> 15 U.S.C. 78f(b).

<sup>20</sup> 15 U.S.C. 78f(b)(5).

### *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-2005-65. 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 Number SR-CBOE-2005-65 and should be submitted on or before June 28, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>21</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. E6-8801 Filed 6-6-06; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53922; File No. SR-CBOE-2006-52]

### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Extending the Exchange's Preferred Market-Maker Pilot Program**

June 1, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

<sup>21</sup> 17 CFR 200.30-3(a)(12).

("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 22, 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis, for a pilot period through June 2, 2007.

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

The Exchange proposes to amend its rules to extend the Preferred Market-Maker Pilot Program for one year, until June 2, 2007. The text of the proposed rule change is set forth below. Brackets indicate deletions; *italics* indicates new text.

\* \* \* \* \*

#### Chicago Board Options Exchange, Incorporated

##### Rules

\* \* \* \* \*

#### Rule 8.13 Preferred Market-Maker Program

(a) Generally. The Exchange may allow, on a class-by-class basis, for the receipt of marketable orders, through the Exchange's Order Routing System when the Exchange's disseminated quote is the NBBO, that carry a designation from the member transmitting the order that specifies a Market-Maker in that class as the "Preferred Market-Maker" for that order. A qualifying recipient of a Preferred Market-Maker order shall be afforded a participation entitlement as set forth in subparagraph (c) below. The Preferred Market-Maker Program shall be in effect until June 2, 2007[6] on a pilot basis.

(b)-(c) 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 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 III 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

In June 2005, CBOE obtained approval of a filing adopting a Preferred DPM Program.<sup>3</sup> This allowed order providers to send orders to the Exchange designating a Preferred DPM from among the DPM complex. If the Preferred DPM was quoting at the NBBO at the time the order was received by CBOE, the Preferred DPM was entitled to the entire DPM participation entitlement. The Exchange subsequently modified the applicable participation entitlement percentages under the program<sup>4</sup> and, then expanded the scope of the program to apply to qualifying Market-Makers (as opposed to just DPMs).<sup>5</sup> At that time, the program was renamed the Preferred Market-Maker Program.

CBOE Rule 8.13 establishes a Preferred Market-Maker Program on a pilot basis. The pilot is due to expire on June 2, 2006. CBOE proposes extending the pilot program an additional year, until June 2, 2007. According to CBOE, since the pilot program was put into operation it has been positively received by the options trading community. CBOE believes that there has not been any adverse or unanticipated negative impact on the market by the presence of the Preferred Market-Maker Program. Further, CBOE believes that the pilot program helps generate greater order flow for the Exchange.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of section 6(b)(5) of the Act<sup>7</sup> in particular, in that it should promote just and equitable principles of trade, serve to remove

<sup>3</sup> See Securities Exchange Act Release No. 51779 (June 2, 2005), 70 FR 33564 (June 8, 2005) (approving SR-CBOE-2004-71).

<sup>4</sup> See Securities Exchange Act Release Nos. 51824 (June 10, 2005), 70 FR 35476 (June 20, 2005) (approving SR-CBOE-2005-45); and 52021 (July 13, 2005), 70 FR 41462 (July 19, 2005) (approving SR-CBOE-2005-50).

<sup>5</sup> See Securities Exchange Act Release No. 52506 (September 23, 2005), 70 FR 57340 (September 30, 2005) (approving SR-CBOE-2005-58).

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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

The Exchange believes that the proposed rule change does not impose any burden on competition that is 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 has not solicited, and does not intend to solicit comments on the proposed rule change.

### III. 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 and whether the pilot time frame is appropriate. 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-2006-52 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-2006-52. 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

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

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

the Commission's Public Reference Room. Copies of such 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 Number SR-CBOE-2006-52 and should be submitted on or before June 28, 2006.

#### IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Exchange has asked the Commission to approve the proposed rule change on an accelerated basis for an additional year so that the pilot program may continue uninterrupted. After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of section 6 of the Act<sup>8</sup> and the rules and regulations thereunder applicable to a national securities exchange,<sup>9</sup> and, in particular, the requirements of section 6(b)(5) of the Act.<sup>10</sup> Section 6(b)(5) requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the current pilot was approved on a one-year basis to give the Commission an opportunity to evaluate the impact of the pilot program on the options markets to determine whether it would be beneficial to customers and to the options markets as a whole before approving any request for permanent approval of the pilot program. The Commission believes that a one-year extension of the pilot period would provide the Commission with additional time to continue evaluate the Exchange's Preferred Market-Maker Program.

The Exchange has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission believes that granting accelerated

approval of the proposed rule change would allow the pilot program to continue without disruption while the Commission and the Exchange continue to review the pilot program's impact on the options market. Accordingly, the Commission finds good cause, consistent with section 19(b)(2) of the Act,<sup>11</sup> for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**.

#### V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>12</sup> that the proposed rule change (SR-CBOE-2006-52), which institutes the pilot program through June 2, 2007, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. E6-8805 Filed 6-6-06; 8:45 am]

**BILLING CODE 8010-01-P**

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53921; File No. SR-ISE-2006-28]

#### Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Extend the Pilot Period for Preferred Orders

June 1, 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 May 18, 2006, the International Securities Exchange, Inc. ("ISE" 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 Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis, for a pilot period through June 10, 2007.

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

The Exchange is proposing to extend the pilot program for Preferred Orders until June 10, 2007. The text of the proposed rule change is set forth below. Brackets indicate deletions; *italics* indicates new text.

\* \* \* \* \*

#### Rule 713. Priority of Quotes and Orders

(a) through (f) no change.

#### Supplementary Material to Rule 713

.01 through .02 no change.

.03 Preferred Orders. For a pilot period ending [June 10, 2006] *June 10, 2007*, an Electronic Access Member may designate a "Preferred Market Maker" on orders it enters into the System ("Preferred Orders").

(a) through (c) 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 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 III 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

According to the Exchange, the purpose of the proposed rule change is to extend, until June 10, 2007, the pilot period for preferred orders as provided in paragraph .03 of the Supplementary Material to ISE Rule 713. The proposal amends ISE's procedure for allocating trades among market makers and non-customer orders under ISE Rule 713 to provide an enhanced allocation to a "Preferred Market Maker" when it is quoting at the national best bid or offer ("NBBO"). Specifically, under the proposal, an Electronic Access Member may designate any market maker appointed to an options class to be a Preferred Market Maker on orders it enters into the Exchange's system ("Preferred Orders"). If the Preferred Market Maker is not quoting at the NBBO at the time

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> 15 U.S.C. 78s(b)(2).

<sup>13</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.