19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder,[10] because the 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) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change.[11] Consequently, the rule is being filed for immediate effectiveness.

At any time within 60 days of the filing of such 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.

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.* Please include File Number SR–Phlx–2009–107 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–Phlx–2009–107. 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, on official business days between the hours of 10 a.m. and 3 p.m. 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–Phlx-2009–107 and should be submitted on or before January 26, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–31344 Filed 1–4–10; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] As required under Rule 19b–4(f)(6)(iii), the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date of this proposal.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61259; File No. SR–CBOE–2009–025]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change, as Modified by Amendment No. 1, Related to the Simple Auction Liaison (SAL)

December 30, 2009.

I. Introduction

On May 4, 2009, 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'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 6.13A to revise the Designated Primary Market-Maker (''DPM'')/Lead Market-Maker (''LMM'') participation entitlement formula that is applicable to Simple Auction Liaison (''SAL'') executions in Hybrid 3.0 classes on a one-year pilot basis. On November 13, 2009, CBOE filed Amendment No. 1 to the proposed rule change, which replaced the original filing in its entirety. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on November 24, 2009.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal

CBOE Rule 6.13A governs the operation of the Exchange's SAL system. SAL is a feature within CBOE's Hybrid System that auctions marketable orders for price improvement over the national best bid or offer (''NBBO''). For Hybrid 3.0 Classes in which SAL is activated,[4] the Exchange determines, on a class-by-class basis, which electronic matching algorithm from CBOE Rule 6.45B shall apply to SAL executions (*e.g.,* pro-rata, price-time, UMA priority with public customer, participation entitlement and/or market turner priority overlays).[5]

The Exchange also may establish, on a class-by-class basis, a DPM/LMM participation entitlement that is applicable only to SAL executions.[6] Pursuant to CBOE Rules 8.15B and 8.87, the participation entitlement generally is 50% when there is one other Market-Maker also quoting at the best bid/offer on the Exchange, 40% when there are two Market-Makers also quoting at the best bid/offer on the Exchange, and 30% when there are three or more Market-Makers also quoting at the best bid/offer on the Exchange. In addition, the participation entitlement must be in compliance with Rule 6.45B(a)(i)(2).[7] In relevant part, Rule 6.45B(a)(i)(2) provides that the DPM or LMM may not be allocated a total quantity greater than the quantity that it is quoting (including orders not part of quotes) at that price.[8] Further, if pro-rata priority is in effect and the DPM or LMM's allocation of an order pursuant to its participation entitlement is greater than its percentage share of quotes/orders at the best price at the time that the participation

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 61024 (November 18, 2009), 74 FR 61395.

[4] Currently, SPX (options on the S&P 500 Index) is the only Hybrid 3.0 class. Telephone call between Angelo Evangelou, Assistant General Counsel, CBOE, and Sara Hawkins, Special Counsel, Division of Trading and Markets, Commission, on December 14, 2009.

[5] *See* CBOE Rule 6.13A, Interpretation .04(ii).

[6] *Id.*

[7] *Id.*

[8] *See* CBOE Rule 6.45B(a)(i)(2)(B).

entitlement is granted (the ''pro-rata share''), the DPM or LMM shall not receive any further allocation of that order.[9] The rule also provides that the participation entitlement shall not be in effect unless public customer priority is in effect in a priority sequence ahead of the participation entitlement and then the participation entitlement shall only apply to any remaining balance.[10] In addition, responses to SAL auctions are capped to the size of the Agency Order for allocation purposes pursuant to Rule 6.13A.[11]

The Exchange is now proposing to modify the DPM/LMM entitlement when the pro-rata algorithm is in effect for SAL in selected Hybrid 3.0 classes as part of a pilot program that will operate on a one-year basis. For such pro-rata classes, after all public customer orders in the book at the best bid/offer and the DPM/LMM participation entitlement have been satisfied, the DPM/LMM shall be eligible to participate in any remaining balance on a pro-rata basis (regardless of whether its participation entitlement is greater than its pro-rata share).[12]

As part of the pilot program, on a quarterly basis the Exchange will evaluate the number of SAL executions in each pilot class where the DPM/LMM participation entitlement was applied and the allocation was greater than what it would have been under the pre-pilot allocation algorithm. The Exchange will reduce the DPM/LMM participation entitlement for the class if the number of SAL executions that exceeded the benchmark is more than 1% of the total number of SAL executions in the class evaluated during the quarter. This evaluation will be based on a random sampling of three days for each month in each quarter. The ''benchmark'' will be 60% where there is one Market-Maker also quoting at the best bid/offer on the Exchange; 40% where there are two Market-Makers also quoting at the best bid/offer on the Exchange; and 40% where there are three or more Market-Makers also quoting at the best bid/offer on the Exchange. The benchmark percentages, which in some instances are greater than CBOE's DPM/LMM participation entitlement percentages contained in Rules 8.15B and 8.87, are based on the market-maker participation entitlement percentages that are available on other options exchanges.[13] During the pilot, the Exchange will submit a quarterly report containing certain data related to this evaluation to the Commission.[14]

III. Discussion and Findings

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[15] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[16] which requires, among other things, that the rules of a national securities exchange be 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, in general, to protect investors and the public interest.

The Commission has closely scrutinized proposals which would provide participation entitlements to specialists or market makers or would increase any such existing entitlements.[17] The Commission has recognized that such entitlements to specialists, market makers, or other members that ''lock up'' a certain portion of each affected order reduce the number of contracts for which other members and market participants can compete.[18] Eventually, if particular exchange members ''lock up'' a large share of customer orders, competing members would have less incentive to compete by offering better prices on an exchange and competition could diminish. As a result, the disseminated quotations, and the other trading interest available on a market, could deteriorate, ultimately harming investors.[19]

As noted, CBOE's proposal will permit DPMs and LMMs to execute a larger share of a SAL order than under the current allocation algorithm, as DPMs and LMMs will now be permitted to receive their DPM/LMM participation entitlement as well as a pro-rata share of the remaining balance on an order (after all public customer orders in the book at the best bid/offer and the DPM/LMM participation entitlement have been satisfied). However, the Commission believes that any potential concerns regarding the increased allocation to DPMs/LMMs, as discussed above, are mitigated by the terms and conditions of the pilot program. Specifically, during the pilot program, the Exchange will be required to closely monitor a random sampling of the SAL executions and evaluate executions in which the DPM/LMM allocation is greater than what it would have been under the previous allocation algorithm. These SAL executions will be evaluated against a ''benchmark'' that is based on market-maker participation entitlement percentages that have been approved by the Commission for other options exchanges.[20] If the number of SAL executions that exceeds the benchmark amounts to more than 1% of the total number of SAL executions in the class evaluated during the quarter, the Exchange must reduce the DPM/LMM participation entitlement for that class. As such, the Commission believes that the proposal will permit only DPM/LMM allocations that are generally consistent with the level of participation entitlement that the Commission has previously approved for other options exchanges.

Further, the Exchange will submit quarterly reports to the Commission providing data on SAL executions evaluated during the relevant time period. In evaluating the pilot program, the Commission will consider, among other things, how often the allocation percentage exceeds the benchmark and by what amount. The Commission will closely scrutinize the pilot program to ensure that the DPM/LMM allocations under the proposed rule change are

[9] *Id.*

[10] *See* CBOE Rule 6.45B(a)(i)(2)(D). CBOE Rule 6.45B(a)(i)(2) also provides that, to be entitled to their participation entitlement, the DPM/LMM's order and/or quote must be at the best price on the Exchange. For purposes of SAL executions, the Exchange noted that it interprets this to mean that the DPM/LMM must be at the best price at both the start and the conclusion of the SAL auction.

[11] *See* Notice, *supra* note 3, for an example of an allocation of a SAL order.

[12] *See* Notice, *supra* note 3, for an example of an allocation of a SAL order under the proposed rule change.

[13] *See, e.g.,* International Securities Exchange Rule 7.13.01(b) (provides a 60% participation right if there is only one other Professional Order or market maker quotation at the best price) and NYSE Arca, Inc. Rule 6.76A(a)(1)(A)(i) (provides a 40% participation right regardless of the number of other market participants at the best price).

[14] *See* Notice, *supra* note 3, for further detail on the data to be provided in the reports submitted to the Commission. Such data will be provided by CBOE on a confidential basis.

[15] 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).

[16] 15 U.S.C. 78f(b)(5).

[17] *See* Securities Exchange Act Release No. 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (establishing trading rules for the Boston Options Exchange Facility) and Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388, 11395 (March 2, 2000) (order approving the registration of the International Securities Exchange LLC as a national securities exchange).

[18] *Id.*

[19] *Id.*

[20] *See supra* note 13. Specifically, the ''benchmark'' will be 60% where there is one Market-Maker also quoting at the best bid/offer on the Exchange; 40% where there are two Market-Makers also quoting at the best bid/offer on the Exchange; and 40% where there are three or more Market-Makers also quoting at the best bid/offer on the Exchange.

generally in line with the maximum participation entitlement percentages that the Commission has previously approved.

For these reasons, the Commission finds that the proposed rule change is consistent with the Act.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–CBOE–2009–025), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–31345 Filed 1–4–10; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 6859]

In the Matter of the Review of the Designation of Kahane Chai (aka American Friends of the United Yeshiva Movement aka American Friends of Yeshivat Rav Meir aka Committee for the Safety of the Roads aka Dikuy Bogdim aka DOV aka Forefront of the Idea aka Friends of the Jewish Idea Yeshiva aka Jewish Legion aka Judea Police aka Judean Congress aka Kach aka Kahane aka Kahane Lives aka Kahane Tzadak aka Kahane.org aka Kahanetzadak.com aka Kfar Tapuah Fund aka KOACH aka Meir's Youth aka New Kach Movement aka newkach.org aka No'ar Meir aka Repression of Traitors aka State of Judea aka Sword of David aka The Committee Against Racism and Discrimination (CARD) aka The Hatikva Jewish Identity Center aka The International Kahane Movement aka The Jewish Idea Yeshiva aka The Judean Legion aka The Judean Voice aka The Qomemiyut Movement aka The Rabbi Meir David Kahane Memorial Fund aka The Voice of Judea aka The Way of the Torah aka The Yeshiva of the Jewish Idea aka Yeshivat HaRav Meir) As a Foreign Terrorist Organization pursuant to Section 219 of the Immigration and Nationality Act, as amended

Based upon a review of the Administrative Record assembled in these matters pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the 2004 re-designation of the aforementioned organization as foreign terrorist organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation.

Therefore, I hereby determine that the designation of the aforementioned organization as foreign terrorist organizations, pursuant to Section 219 of the INA (8 U.S.C. 1189), shall be maintained.

This determination shall be published in the **Federal Register.**

Dated: December 22, 2009.

James B. Steinberg,

Deputy Secretary of State, Department of State.

[FR Doc. E9–31305 Filed 1–4–10; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 6255]

U.S. Department of State Advisory Committee on Private International Law: Organization of American States (OAS) Specialized Conference on Private International Law (CIDIP) Study Group

The OAS CIDIP Study Group will hold another public meeting to continue the discussion started at the December 15, 2009 meeting. *This is not a meeting of the full Advisory Committee.*

In the context of the Seventh Inter-American Specialized Conference on Private International Law (CIDIP–VII), the Committee on Juridical and Political Affairs (CJAP) of the Permanent Council of the OAS is carrying out work on consumer rights as part of its program on private international law. Three proposals have been put forward: a revised Brazilian draft convention on applicable law that has recently been expanded to include jurisdiction, a Canadian draft model law on applicable law and jurisdiction, and a United States proposal (with several components) for legislative guidelines/model laws/rules to promote consumer redress mechanisms such as small claims tribunals, collective procedures, on-line dispute resolution, and government actions. The U.S. is considering the possibility of expanding its existing proposal.

The United States is also considering whether to pursue ratification of the Inter-American Convention on the Law Applicable to International Contracts (known as the Mexico City Convention), which was adopted at the Fifth Inter-American Specialized Conference on Private International Law (CIDIP–V). The United States is exploring the process for obtaining official corrections to the English text of the Convention to conform to the Spanish version. Copies of proposed corrections to the English text can be obtained through the contact points listed below. Other developments which may be relevant to work at the OAS include the proposal at UNCITRAL for future work on on-line dispute resolution and the establishment by the Permanent Bureau of the Hague Conference on Private International Law of an experts group to consider development of a non-binding instrument on choice of law in international commercial contracts.

Time and Place: The public meeting of the Study Group will take place at the Federal Trade Commission, 600 Pennsylvania Ave., NW., Room H–481, Washington, DC on January 15, 2010, from 10 a.m. EST to 2 p.m. EST. If you are unable to attend the public meeting and would like to participate from a remote location, teleconferencing will be available.

Public Participation: Advisory Committee Study Group meetings are open to the public. Persons wishing to attend must contact Trisha Smeltzer at smeltzertk@state.gov or 202–776–8423 and provide their name, e-mail address, and affiliation(s) if any. Please contact Ms. Smeltzer for additional meeting information, any of the documents referenced above, or dial-in information on the conference call. A member of the public needing reasonable accommodation should advise those same contacts not later than January 8th. Requests made after that date will be considered, but might not be able to be fulfilled. Persons who cannot attend or participate by conference call but who wish to comment on any of the topics referred to above are welcome to do so by e-mail to Michael Dennis at *DennisMJ@state.gov* or Hugh Stevenson at hstevenson@ftc.gov.

Dated: December 23, 2009.

Michael Dennis,

Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser, Department of State.

[FR Doc. E9–31335 Filed 1–4–10; 8:45 am]

BILLING CODE 4710–08–P

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).