

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53438; File No. SR-CBOE-2006-19]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend CBOE Rule 11.1 Relating to the Exercise of Option Contracts

March 7, 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 3, 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 CBOE 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.<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, pursuant to section 19(b)(1) of the Act<sup>6</sup> and Rule 19b-4 thereunder,<sup>7</sup> proposes to amend CBOE Rule 11.1 relating to the exercise of option contracts. The text of the proposed rule change is available on the CBOE's Web site (<http://www.cboe.com>), at the CBOE's Office of the Secretary, and at the Commission's Public Reference Room.

#### 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 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 the proposed rule change is to amend CBOE Rule 11.1 relating to the exercise of option contracts.

On February 13, 2006, CBOE changed its closing time for trading in equity options and options on narrow-based indices from 3:02 p.m. to 3 p.m. (Chicago time).<sup>8</sup> However, at that time, CBOE did not make a corresponding change to CBOE Rule 11.1 as it relates to situations where there is a modified time for the close of trading in non cash-settled equity options on the last business day before expiration will occur.

CBOE believes that, consistent with its decision to change the closing time for equity options and options on narrow-based indices to 3 p.m., the references to 1 hour and 28 minutes and 2 hours and 28 minutes in CBOE Rule 11.1(c)(1) and (2) should be changed to 1 hour 30 minutes and 2 hours 30 minutes, respectively. CBOE believes that this proposed rule change is consistent with a Commission approved amendment that the Pacific Exchange, Inc. ("PCX") recently made to PCX Rule 6.24(g).<sup>9</sup> CBOE also notes that it believes that the other option exchanges intend to make similar changes as well.<sup>10</sup>

###### 2. Statutory Basis

The Exchange believes that 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, because it is 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 Exchange does not believe that the proposed rule change will 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 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 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, the proposed rule change 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>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>15</sup> normally does not become operative prior to 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. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the CBOE to immediately clarify its rule and conform it to the industry-wide close of trading times now in effect. Accelerating the operative date will allow for a more efficient and effective market operation by offering clarity and internal consistency with existing CBOE rules. For these reasons, the Commission designates the proposed rule change as effective and operative immediately upon filing with the Commission.<sup>16</sup>

<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).

<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 days prior to the date of filing.

<sup>6</sup> 15 U.S.C. 78s(b)(1).

<sup>7</sup> 17 CFR 240.19b-4.

<sup>8</sup> See Securities Exchange Act Release No. 53246 (February 7, 2006), 71 FR 8014 (February 15, 2006).

<sup>9</sup> See Securities Exchange Act Release No. 53249 (February 7, 2006), 71 FR 8035 (February 15, 2006) (order granting accelerated approval of SR-PCX-2005-138).

<sup>10</sup> See SR-ISE-2006-11 and SR-Phlx-2006-12.

<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).

<sup>15</sup> *Id.*

<sup>16</sup> For the purposes only of waiving the 30-day operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2006-19 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-2006-19. 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 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-2006-19 and should be submitted on or before April 6, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6-3787 Filed 3-15-06; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53441; File No. SR-CHX-2006-03]

### Self-Regulatory Organizations; the Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to the Prohibition of Trade Shredding

March 8, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended, ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 24, 2006, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III 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.

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

The Exchange proposes to amend its rules to prohibit "trade shredding." The text of the proposed rule change appears below. Additions are *in italics*.

#### ARTICLE IX

##### Trading Rules

\* \* \*

##### *Breaking Up Orders*

*RULE 18. No Participant shall break customer orders into multiple smaller orders for the primary purpose of maximizing rebates or other payments to the Participant without regard for the customer's interest.*

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

comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Commission has expressed concern that participants in the U.S. securities markets may be engaging in the practice of "trade shredding." "Trade shredding" is the practice of unbundling customer orders for securities into multiple smaller orders for the primary purpose of maximizing payments to the participant or participant firm. The Commission has noted that firms might engage in this practice to maximize the market data rebates available to them from self-regulatory organizations.<sup>3</sup> Unbundling customer orders also could have the effect of causing customers to pay (and participant firms to receive) excessive fees or commissions or could result in situations where customer orders are not receiving best execution.

The Commission has requested that self-regulatory organizations adopt rules to prohibit the practice of trade shredding.<sup>4</sup> Although the Exchange does not currently rebate market data fees to its order-sending firms—and therefore does not believe that its order-sending firms have an incentive to engage in the practice of trade shredding with respect to orders sent to the Exchange—the Exchange believes that it is appropriate to implement a rule that would prohibit this type of inappropriate practice. Specifically, new Rule 18, in Article IX of the Exchange's Rules, would prohibit an Exchange participant from breaking customer orders into smaller multiple orders for the primary purpose of maximizing rebates or other payments to the participant without regard for the customer's interest.

<sup>3</sup> The Commission has noted that the changes to the market data revenue formulas as a result of Regulation NMS were developed, at least in part, to respond to concerns relating to "trade shredding."

<sup>4</sup> Other self-regulatory organizations have submitted these types of rules in response to the Commission's request. *See e.g.*, NYSE Rule 123G (approved by Securities Exchange Act Release No. 52683 (October 26, 2005), 70 FR 66480 (November 2, 2005)).

<sup>17</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.