

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62378; File No. SR-CBOE-2010-061]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Deletion of Obsolete CBOE Rule 2.50

Date: June 25, 2010.

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 June 21, 2010, the Chicago Board Options Exchange, Incorporated (“CBOE” or the “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. CBOE has filed the proposal pursuant to section 19(b)(3)(A) of the Act<sup>3</sup> and rule 19b-4(f)(6) thereunder, which renders the proposal effective upon filing with the Commission.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

CBOE is filing this proposed rule change to delete CBOE rule 2.50 in connection with a change in the parent company of C2 Options Exchange, Incorporated (“C2”) from CBOE to CBOE Holdings, Inc. (“CBOE Holdings”). The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.org/legal>), at the Exchange’s Office of the Secretary, at the Commission’s Public Reference Room and on the Commission’s Web site <http://www.sec.gov>.

#### 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 these statements may be examined at the places specified in Item IV below. 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Securities and Exchange Commission (“Commission”) has approved a rule filing by CBOE to accommodate the demutualization and restructuring of CBOE from a Delaware non-stock corporation to a Delaware stock corporation wholly owned by CBOE Holdings, a holding company organized as a Delaware stock corporation (“Restructuring Transaction”).<sup>5</sup> The Restructuring Transaction was consummated on June 18, 2010. The Commission has also approved a rule filing by C2 to accommodate a change in its parent company from CBOE to CBOE Holdings in connection with the Restructuring Transaction.<sup>6</sup> C2 became a wholly owned subsidiary of CBOE Holdings on June 18, 2010 in connection with the consummation of the Restructuring Transaction.

CBOE is now proposing to delete CBOE rule 2.50 because it addresses CBOE’s responsibility as the prior parent company of C2 for ensuring that C2 meets its obligations as a self-regulatory organization. Since CBOE is no longer the parent company of C2, CBOE Rule 2.50 is no longer applicable. Additionally, equivalent protections to those set forth in CBOE Rule 2.50 are contained in the CBOE Holdings Certificate of Incorporation and CBOE Holdings Bylaws, which apply to CBOE Holdings in its new capacity as the parent company of C2.<sup>7</sup>

##### 2. Statutory Basis

The proposed rule change eliminates an obsolete rule, the subject matter of which is now addressed by other provisions that have been approved by the Commission. Accordingly, the Exchange believes that the proposed rule change is consistent with the

provisions of section .6 of the (“Act”),<sup>8</sup> in general, and with section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it is 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, in general, 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 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

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 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, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>10</sup> and rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing.<sup>11</sup> 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 Exchange requested that the Commission waive the 30-day operative delay, as specified in rule 19b-4(f)(6)(iii),<sup>12</sup> which would make the rule

<sup>5</sup> Securities Exchange Act Release 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (SR-CBOE-2008-88).

<sup>6</sup> Securities Exchange Act Release 62323 (June 17, 2010) (SR-C2-2010-002).

<sup>7</sup> See Securities Exchange Act Release 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (SR-CBOE-2008-88) (which describes the provisions designed to protect the self-regulatory functions of Regulated Securities Exchange Subsidiaries of CBOE Holdings, which currently consist of CBOE and C2, and sets forth the Commission’s findings that those provisions are consistent with the Securities Exchange Act of 1934, as amended (“Act”), 15 U.S.C. 78a et seq.).

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission 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. CBOE has satisfied this requirement.

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

<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).

change effective and operative upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow CBOE to immediately delete an obsolete rule and update its rule book, which in turn will avoid potential confusion. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.<sup>13</sup>

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.

#### 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-2010-061 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-CBOE-2010-061. 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

<sup>13</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, 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 self-regulatory organization. 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-2010-061 and should be submitted on or before July 22, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010-15995 Filed 6-30-10; 8:45 am]

**BILLING CODE 8010-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62380; File No. SR-NASDAQ-2010-052]

#### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving Proposed Rule Change To Establish the Nasdaq Short Sale Volume and Monthly Short Sale Transaction Service and Related Fees

June 25, 2010.

#### I. Introduction

On April 26, 2010, The NASDAQ Stock Market LLC ("Nasdaq") 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 establish the Nasdaq Short Sale Volume and Monthly Short Sale Transaction files (the "Service"). The Service is comprised of aggregate reported share volume of executed short sale trades during regular market hours on a daily basis, as well as every short sale executed on the Nasdaq execution system and reported to a consolidated tape for Nasdaq, the New York Stock Exchange ("NYSE") and regional

<sup>14</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.

exchange-listed securities, including the price of the trade and the number of shares for every short sale transaction, on a monthly basis, separated into daily files. On May 13, 2010, Nasdaq filed Amendment No. 1. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on May 25, 2010.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

Nasdaq is proposing to establish a new service and related fees. The Service is comprised of aggregate reported share volume of executed short sale trades during regular market hours on a daily basis, as well as every short sale executed on the Nasdaq execution system and reported to a consolidated tape for Nasdaq, the NYSE and regional exchange-listed securities, including the price of the trade and the number of shares for every short sale transaction, on a monthly basis, separated into daily files. Nasdaq proposes to offer the Service at \$500 per subscriber, per month, which would allow a distributor access to the downloadable FTP files and to distribute the product internally and externally.

#### III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>4</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>5</sup> which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other parties using its facilities, and Section 6(b)(5) of the Act,<sup>6</sup> which requires, among other things, that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,<sup>7</sup> in that it does not impose any burden on

<sup>3</sup> See Securities Exchange Act Release No. 62112 (May 14, 2010), 75 FR 29371.

<sup>4</sup> 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).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78f(b)(8).