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 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–C2–2012–003 and should be submitted on or before February 16, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1628 Filed 1–25–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66207; File No. SR–CBOE–2012–004]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Automatic Execution and Complex Order Price Check Parameter Features

January 20, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 9, 2012, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") 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 Exchange has designated the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[15] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).

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

The Exchange is proposing to amend its automatic execution and complex order processing rules to update existing price check parameter and order handling features and include some additional ones. The text of the proposed rule change is available on the Exchange's Web site (*www.cboe.org/Legal*), at the Exchange's Office of the Secretary and at the Commission.

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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has in place various price check parameter features that are designed to prevent incoming orders from automatically executing at potentially erroneous prices. These price check parameter features are designed to help maintain a fair and orderly market. The Exchange believes that the price check parameter features assist with the maintenance of fair and orderly markets by helping to mitigate the potential risks associated with orders drilling through multiple price points (thereby resulting in executions at prices that are extreme and potentially erroneous) and complex orders trading at prices that are inconsistent with particular complex order strategies (thereby resulting in executions at prices that are extreme and potentially erroneous). The Exchange is proposing to amend its automatic execution and complex order processing rules to update existing price check protection and order handling features to provide additional clarity on the operation of the functionality and to include some additional features.

With respect to the CBOE Hybrid System Automatic Execution Feature, the Exchange is proposing to amend Rule 6.13 in various respects. By way of

background, orders eligible for automatic execution through the CBOE Hybrid System may be automatically executed in accordance with Rule 6.13, Rule 6.13A, 6.14 or 6.14A, as applicable.[5] Under the Rule 6.13, the Exchange designates eligible order size, eligible order type, eligible order origin code (*i.e.,* public customer orders, non-Market-Maker broker-dealer orders, and Market-Maker broker-dealer orders), and classes in which the automatic execution feature shall be activated.[6] In addition, other conditions may apply. For example, the Exchange may establish price check parameters that prevent orders from automatically executing outside acceptable price ranges or acceptable tick distances.[7] Orders that are not eligible for automatic execution generally route on a class-by-class basis to PAR or, at the order entry firm's discretion, to the order entry firm's booth.

As for the proposed changes to Rule 6.13, first, the Exchange is proposing to delete unnecessary cross references within the rule in order to make the text consistent and easier to read.[8] Second, currently the rule is silent on what happens when an order that would otherwise route to PAR is not eligible for PAR. Therefore, the Exchange is proposing to provide that, in instances where an order would route to PAR but the order is not eligible for PAR, then the remaining balance of the order will be cancelled. For example, assume an order entry firm has chosen to route its orders that are not eligible for automatic execution to PAR (and the order entry firm has also not specified that its orders can route to a booth if PAR is unavailable). With this configuration, if an order is routed by that firm to the

[5] SAL or the "Simple Auction Liaison" is a feature within the Hybrid System that auctions marketable orders for price improvement over the national best bid or offer ("NBBO") as provided in Rule 6.13A. HAL or the "Hybrid Agency Liaison" is a feature within the Hybrid System that provides automated order handling in designated classes trading on the Hybrid System for qualifying orders that are not automatically executed. For example, eligible orders in classes that are multiply traded are not automatically executed on CBOE at prices that are inferior to the NBBO and instead may route to HAL. The original version of HAL is described in Rule 6.14. The second version of HAL, referred to as HAL2, is described in Rule 6.14A.

[6] *See* Rule 6.13(b)(i).

[7] *See* Rule 6.13(b)(v) and (vi).

[8] In particular, various provisions within the rule text provide that certain orders will be routed to PAR or, at the order entry firm's discretion, to the order entry firm's booth. Some of those provisions contain the phrase "pursuant to subparagraph (b)(i)(B) above," (*see, e.g.,* existing Rule 6.13(b)(v)) while other provisions do not (*see, e.g.,* existing Rule 6.13(b)(iii)). The Exchange believes this cross-reference is unnecessary. For consistency and easier reading, the Exchange is proposing to delete the cross-reference.

CBOE Hybrid System but the order is not eligible for automatic execution or book entry (*e.g.,* because an incoming order is marketable and would execute at a price outside an acceptable price range), then: (i) The order would route to PAR so the order can be manually addressed, or (ii) if it is not eligible to route to PAR (*e.g.,* because the particular order type is not eligible for PAR [9] and the order entry firm has not specified that its orders can route to a booth if PAR is unavailable), then the remaining balance of the order will be cancelled.[10] Third, currently the rule describes that the price check parameters are available in classes where HAL or HAL2 is activated and, depending on the particular version of HAL, differing price check features apply.[11] Thus, the rule currently addresses two categories of options classes: HAL classes and HAL2 classes. For classes where HAL is activated, an acceptable BBO price range parameter may be applied. For classes where HAL2 is activated, an acceptable NBBO price range parameter and/or an acceptable tick distance parameter may be applied.[12] The rule does not specify

which features would be available in the instance where neither HAL nor HAL2 is activated. Therefore, the Exchange is proposing to provide that, for classes where neither HAL nor HAL2 is activated, the acceptable NBBO price range parameter and/or acceptable tick distance parameter may be applied (*i.e.,* the same price check features applicable to HAL2 classes may apply to classes where neither HAL nor HAL2 is activated). The Exchange notes that HAL is not currently activated in any options classes and the related the price check parameter logic is therefore not currently being utilized. In addition, making it clear that the price check parameter features applicable to HAL2 classes to non-HAL/HAL2 classes is also consistent with how the Exchange's automated technology is currently configured and operating.

With respect to the complex order process, the Exchange is proposing to amend Rule 6.53C, Complex Orders on the Hybrid System, to update the price check parameters in various respects. First, currently the rule is silent on what happens when a complex order attempts to route to PAR but is not eligible for PAR. Therefore, similar to the changes noted above for Rule 6.13, the Exchange is proposing to amend Rule 6.53C.08 to provide that, in instances where a complex order would normally route to PAR if a complex order price check parameter is triggered but the order is not eligible to route to PAR, then the remaining balance of the complex order will be cancelled.

Second, the Exchange is proposing to replace specific references in Rule 6.53C.08 to routing orders to BART (the booth automated routing terminal) and an order entry firm's booth printer with a general reference to an order entry firm's booth. The Exchange no longer utilizes the particular system that it had referred to as BART and believes that the general reference to routing an order to an order entry firm's booth is more accurate for its rules.

Third, the Exchange is proposing to include descriptive headings in the rule text for each of the existing price check parameters. The Exchange is also

proposing to break the description of the existing same expiration strategy price check parameters into two separate paragraphs instead of a single paragraph. We believe these changes will make it easier for users to read and understand the operation of these price protection features. These changes are simply non-substantive formatting changes and do not impact the operation of the various features.

Fourth, the market width parameter under Rule 6.53C.08(a) currently provides that the complex order book ("COB") will not automatically execute eligible complex orders that are market orders if the width between the Exchange's best bid and best offer are not within an acceptable price range. The rule text provides that the acceptable price range is no less than 1.5 times the corresponding bid/ask differential requirements determined by the Exchange on a class-by-class basis pursuant to Rule 8.7(b)(iv). In addition, the rule text currently provides that such market complex orders route on a class-by-class basis to PAR, BART or, at the order entry firm's discretion, to the order entry firm's booth.

The Exchange is proposing to revise this provision in various respects. As discussed above, the Exchange is proposing to make it clear that the remaining balance of a complex order will be cancelled if it would normally route to PAR but is not eligible and to delete references to BART. In addition, the Exchange is proposing to provide that the Exchange may determine to apply these price check parameters to market orders and/or marketable limit orders. However, whereas market orders that are subject to this price protection feature route to PAR, a booth or are cancelled, marketable limit orders would be held in the Hybrid System. Any such orders held in the Hybrid System would not be eligible to automatically execute until after the market width parameter condition is resolved. In addition, while being held in the Hybrid System, such orders would be displayed in the COB as applicable. This functionality for marketable limit orders is currently in use but not expressly covered in the rules. The Exchange believes that extending the same price check logic to not automatically execute such marketable limit orders but to continue to hold such orders in the Hybrid System is reasonable and appropriate because, as with market orders, this feature should help to prevent executions of such limit orders at extreme and potentially erroneous prices. In contrast to market orders, marketable limit orders are able to be

[9] For example, reserve orders (which are limit orders that have both a displayed size as well as an additional non-displayed size amount) and CBOE–Only orders (which are orders to buy or sell that are to be executed in whole or in part on the Exchange without routing to another market center and that are to be cancelled if routing would be required under CBOE Rules) are currently not eligible to route to PAR.

[10] The Exchange notes that other exchanges have features where orders that are not eligible for automatic execution are automatically cancelled or rejected. *See, e.g.,* International Securities Exchange ("ISE") Rule 714 (which provides in part that non-customer orders that are not automatically executed will be rejected automatically by the ISE's all electronic trading system). By comparison, because CBOE has a "hybrid system" that combines both electronic and open outcry trading, CBOE's process of routing orders that are not automatically executed by the Hybrid System to PAR or a booth provides for an additional, alternative means for an order to be manually addressed rather than simply be cancelled.

[11] HAL or the "Hybrid Agency Liaison" is a feature within the Hybrid System that provides automated order handling in designated classes trading on the Hybrid System for qualifying orders that are not automatically executed. The original version of HAL is described in Rule 6.14. The second version of HAL, referred to as HAL2, is described in Rule 6.14A.

[12] For classes on which HAL (Rule 6.14) is activated, the CBOE Hybrid System will not automatically execute eligible orders that are marketable if the width between the Exchange's best bid and best offer is not within an acceptable price range (as determined by the Exchange on a series-by-series basis for market orders and/or marketable limit orders and announced to the Trading Permit Holders via Regulatory Circular) (the "acceptable BBO price range" parameter). For classes on which HAL2 (Rule 6.14A) is activated, the CBOE Hybrid System will not automatically execute eligible orders that are marketable if (1) the width between the national best bid and national

best offer is not within an acceptable price range (as determined by the Exchange on a series-by-series basis for market orders and/or marketable limit orders and announced to the Trading Permit Holders via Regulatory Circular) (the "acceptable NBBO price range" parameter), or (2) the execution would follow an initial partial execution on the Exchange and would be at a subsequent price that is not within an acceptable tick distance from the initial execution (as determined by the Exchange on a series by series and premium basis for market orders and/or marketable limit orders and announced to the Trading Permit Holders via Regulatory Circular) (the "acceptable tick distance" parameter). *See* Rules 6.13(b)(v)—(vi).

held in the Hybrid System because they have a price associated with them. The Exchange also notes that applying market width price check logic to market orders and/or marketable limit orders is consistent with other existing price check parameters that apply to both market orders and marketable limit complex orders.[13] In addition, rather than cross reference corresponding bid/ask differential requirements, the Exchange is proposing to specify the minimum acceptable price range within Rule 6.53C.08(a). Specifically, the acceptable price range will be no less than: $0.375 between the bid and offer for each option contract for which the bid is less than $2, $0.60 where the bid is at least $2 but does not exceed $5, $0.75 where the bid is more than $5 but does not exceed $10, $1.20 where the bid is more than $10 but does not exceed $20, and $1.50 where the bid is more than $20.[14]

Fifth, the debit-to-credit (credit-to-debit) parameters under Rule 6.53C.08(b) currently provide that (i) a market order that would be executed at a net credit price after receiving a partial execution at a net debit price would not be automatically executed (the ''debit-to-credit'' parameter), and (ii) a market order that would be executed at a net debit price after receiving a partial execution at a net credit price would not be automatically executed (the ''credit-to-debit'' parameter). The Exchange is proposing to eliminate the debit-to-credit parameter because it is not possible for such a scenario to occur and therefore the parameter is unnecessary. (Because orders are executed at the best available price and then the next best price, a market order would never execute at a net debit price then at a net credit price.)

Sixth, the Exchange is proposing to change the existing same expiration strategy price check parameters to distinguish between its application to limit orders and to market orders. The Exchange is also proposing to eliminate a provision that would make this price check parameter feature available to ratio orders should the Exchange

determine to do so. As the term implies, the ''same expiration strategy'' price protection parameters apply to certain complex order strategies where all the option series have the same expiration.[15] The functionality is designed to detect scenarios where (i) a limit order is entered at a net credit price when it clearly should have been entered at a net debit price (or vice versa) and (ii) a market order would be executed at a net debit price when it clearly should be executed at a net credit price (but not vice versa).[16]

Currently the rule text provides that, if the conditions for this price check parameter exist when a complex order is routed to COB, then the order will be rejected. The rule text also currently provides that, to the extent the parameters are triggered once an order is resting in COB or after an incoming order receives a partial execution, such a complex order will route on a class-by-class basis to PAR, BART, or at the order entry firm's discretion to the order entry firm's booth printer. The provision does not distinguish between limit orders and market orders. The Exchange is proposing to amend the text to separately describe how the two categories of orders are processed.

With respect to limit orders, the proposed changes to the text provide that incoming limit orders will be rejected under this parameter only if the conditions exist when the order is first routed to COB. The provisions about resting orders and partial executions are not applicable to limit orders because incoming limit orders that are priced at a net price that meets the conditions are rejected outright upon routing to COB and never get to the point where they are resting or partially executed. With respect to market orders, proposed changes to the text provide that, to the extent the parameters are triggered when an incoming market order is routed to COB or after an incoming market order is subject to COA, any part of the market order that may be executed within an acceptable price range will be executed automatically and the part of the order that would execute at a net debit price will route on a class-by-class basis to PAR or, at the order entry firm's discretion, to the order entry firm's booth. If an order is

not eligible to route to PAR, then the remaining balance will be cancelled. (A market order would never rest in COB, so that provision will be removed from the rule text.)[17] The following examples illustrate this price check parameter:

Example 1: Assume a complex order to buy 50 Jan 45 XYZ calls and sell 50 Jan 50 XYZ calls is entered with a limit that is a net credit price (*i.e.,* the net sale proceeds from the Jan 50 calls are larger than the net purchase cost from the Jan 45 calls). Such an order would appear to be erroneously priced as a net credit—it should instead be a net debit—because normally a person would expect that the Jan 50 calls would not cost more than the Jan 45 calls. As a result, upon routing to COB, such a limit order would be rejected.

Example 2: Assume a butterfly spread to buy 50 Jan 45 XYZ calls, sell 100 Jan 50 XYZ calls and buy 50 Jan 55 XYZ calls is entered at a net credit price (*i.e.,* the net sale proceeds from the Jan 50 calls are more than the net purchase cost from the Jan 45 and 55 calls). Such an order would appear to be erroneously priced as a net credit—it should instead be a net debit—because normally a person would expect that selling the middle 50 strike would result in less than the cost of buying the upper 55 and lower 45 strikes. As a result, upon routing to COB, such a limit order would be rejected.

Example 3: Assume a market order to buy 50 Jan 45 XYZ calls and sell 50 Jan 40 XYZ calls is entered. Also assume that the Jan 45 XYZ calls are quoted $4.00–$4.10 for 10 contracts and the next available offer is $4.30 for 100 contracts, and that the Jan 40 XYZ calls are quoted $4.50–$4.60 for 10 contracts and the next available bid is $4.20 for 100 contracts. Under this scenario, the incoming market order would receive an execution for 10 spreads at a net credit price of $0.40 each (*i.e.,* the net sale proceeds from the Jan 40 Series are larger than the net purchase cost from the Jan 45 Series). When the series decrement, the net execution price would become a net *debit* price of $0.10 each (*i.e.,* the net sale proceeds from the Jan 40 Series are less than the net purchase cost from the Jan 45 Series). Such an execution would appear to be erroneous because normally a person in this scenario would expect to execute the vertical spread at a net credit price. As a result, upon routing to COB, 10 contracts would execute at a net credit price of $0.40 each and the remaining 40 contracts would route on a class-by-

[13] *See, e.g.,* Rule 6.13(vi) (which provides, among other things, that the Exchange will not automatically execute eligible orders that are marketable if the width between the NBBO is not within an acceptable price range (as determined by the Exchange on a series by series basis for market orders and/or marketable limit orders and announced to Trading Permit Holders via Regulatory Circular).

[14] These amounts are equal to 1.5 times the bid/ask differential requirements that the Exchange had in its rules at the time the price check parameters were adopted and are the same as the acceptable price range parameters set forth in Rule 6.13(b)(v)–(vi).

[15] *See* Rule 6.53C.08(c).

[16] A same expiration strategy market order that would result in an execution at a net credit price (*i.e.,* the net sale proceeds from the series being sold are more than the net purchase cost from the series being bought) but that would normally execute at a net debit price (*i.e.,* the net sale proceeds from the series being sold are less than the net purchase cost from the series being bought) would be a favorable execution for the market order and would not trigger this price check parameter.

[17] As discussed above, the Exchange is also proposing to delete the references to BART and booth printers.

class basis to PAR, or at the order entry firm's discretion, to the order entry firm's booth. If the market order is not eligible to route to PAR, then the remaining balance would be cancelled.

Example 4: Assume a market order to buy 50 Jan 45 XYZ calls and sell 50 Jan 40 XYZ calls is routed to COA. Also assume that at the end of the COA the Jan 45 XYZ calls are quoted $4.00–$4.10 for 10 contracts and the next available offer is $4.30 for 100 contracts, and that the Jan 40 XYZ calls are quoted $4.50–$4.60 for 10 contracts and the next available bid is $4.20 for 100 contracts. To the extent the market order can execute at prices within the price check parameter, then that part of the order would execute (*i.e.,* 10 vertical spreads will execute at a net credit price of $0.40 each). To the extent that the price check parameters are triggered at the conclusion of COA, then that part of the market order would route on a class-by-class basis to PAR, or at the order entry firm's discretion, to the order entry firm's booth (*i.e.,* 40 vertical spreads will route). If the market order is not eligible to route to PAR, then the remaining balance would be cancelled.

As noted above, the Exchange is also proposing to delete a provision in the rule that provides that the Exchange may determine to make the same expiration strategy price check parameters available to applicable ratio orders (as such applicable ratios are determined by the Exchange on a class-by-class basis). The Exchange has not activated this feature for ratio orders and has no intention to do so at this time. Therefore, the Exchange is proposing to delete this provision from the rule at this time.[18]

Finally, seventh, the Exchange is proposing to codify a price check parameter for orders processed via COA, which is currently in use but not expressly covered in the rules. Under this parameter the Exchange may determine on a class-by-class basis (and announce to Trading Permit Holders via Regulatory Circular pursuant to Rule 6.53C.01) that COA will not automatically execute a COA-eligible order that is marketable if the execution would be at a price that is not within an acceptable percentage distance from the derived net price of the individual series legs that existed at the start of COA. For purposes of this provision, the ''acceptable percentage distance'' will be a percentage determined by the Exchange on a class-by-class basis and

it shall be not less than 3 percent. The Exchange believes a 3 percent level is reasonable and appropriate because a marketable order that would deviate from the derived net market by that percentage or more may be indicative of an extreme or potentially erroneous price, and a broker would generally want to evaluate the order further before receiving an automatic execution. The Exchange also believes that a 3 percent minimum is reasonable and appropriate in comparison to other price check parameters it currently has available.[19] To the extent the parameters under this provision are triggered, such a complex order would route on a class-by-class basis to PAR, or, at the order entry firm's discretion, to the order entry firm's booth. Again, as discussed above, if an order is not eligible to route to PAR, then the remaining balance will be cancelled.

For example, the Exchange could determine that the acceptable percentage distance is 5%. Assume at the start of COA the individual leg market in Series A is $1.00–$1.20 and in series B is $2.00–$2.20 and the derived leg market is $0.80 (net debit)–$1.20 (net credit). The acceptable percentage distance would be $0.04 (5% × $0.80) for orders to buy Series A and sell series B and $0.06 (5% × $1.20) for orders to sell Series A and buy series B. As a result, COA would execute a COA-eligible order at prices ranging from $0.84 (net debit)–$1.26 (net credit), but not an order priced at a net debit of $0.85 or more or a net credit of $1.27 or more.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [20] in general and furthers the objectives of Section 6(b)(5) of the Act [21] in particular in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. The Exchange believes that the complex order price check parameters described in Rule 6.53C assist in the automatic execution and processing of orders that are subject to the Exchange's complex order processing. The Exchange also believes these price check parameters assist with the maintenance of fair and

orderly markets by helping to mitigate the potential risks associated with orders drilling through multiple price points (thereby resulting in executions at prices that are extreme and potentially erroneous) and complex orders trading at prices that are inconsistent with particular complex order strategies (thereby resulting in executions at prices that are extreme and potentially erroneous). In this regard, for example, the Exchange notes that the acceptable percentage distance parameter is designed to mitigate the potential risks of executions at prices that are not within an acceptable percentage distance from the derived net market price of the individual series legs. The Exchange also notes that the extension of the BBO market width logic to include marketable limit orders is designed to help prevent executions of such limit orders at extreme and potentially erroneous prices in a manner consistent with the existing logic utilized for market orders. The Exchange also believes that the proposed changes to the rule text will make it easier for users to read and understand the operation of the complex order price check parameters, and will better and more fully describe the operation of the parameters. In addition, the Exchange believes the proposed revisions to Rule 6.13 will better and more fully describe the operation of the Hybrid System automatic execution feature, in particular the processing of orders that are not eligible for routing to PAR and the price check parameter protections that are applicable for non-HAL/HAL2 classes.

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

The Exchange neither solicited nor received comments on the proposal.

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

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the

---

[18] In the future, should the Exchange would determine to apply this price check parameter feature to ratio orders, the Exchange would address it through a separate rule change filing.

[19] The ''acceptable percentage distance'' price check parameter for complex orders is adapted from the ''acceptable tick distance'' parameter set forth in Rule 6.13(b)(vi), which provides that the acceptable tick distance shall not be less than 2 minimum increment ticks.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization 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 or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [22] and Rule 19b–4(f)(6) thereunder.[23] At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend 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 email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2012–004 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–2012–004. This file number should be included on the subject line if email 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 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 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–2012–004 and should be submitted on or before February 16, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1627 Filed 1–25–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66208; File No. SR–Phlx–2012–06]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Real-Time Risk Management Fee and Other Clarifying Amendments

January 20, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 10, 2012, NASDAQ OMX PHLX LLC ("Phlx" 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 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 the Real-Time Risk Management Fee to further clarify the application of the Fee. The Exchange also proposes to relocate the FLEX and Cabinet Options Transaction Fees within Section II of the

Exchange's Fee Schedule and add clarifying text.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings,* at the principal office of the Exchange, 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 proposed rule change. The text of these statements may be examined at the places specified in Item IV 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to memorialize the Exchange's practice of limiting the assessment of the Real-time Risk Management Fee to two (2) ports. The Exchange also proposes to add language to clarify the types of ports that are subject to this fee.

The Exchange initially filed to adopt a real-time, trade information fee (Real-time Risk Management Fee) for members receiving option trading information on-line (i.e., electronically) from the Exchange.[3] The purpose of the fee was to provide members and member organizations with option trade information electronically on a real-time basis. Members and member organizations were able to log on to an interface with AUTOM to receive options (among other information) transaction information real-time. When adopted, the Exchange limited the assessment of the Real-Time Risk Management Fee to two ports.[4] The Exchange has not assessed any member or member organization in excess of two

---

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 43719 (December 13, 2000), 65 FR 80975 (December 22, 2000) (SR–Phlx–00–97). The Exchange initially assessed $.0025 per contract and later raised this fee to $.003 per contract. *See also* Securities Exchange Act Release No. 61685 (March 10, 2010), 75 FR 13187 (March 18, 2010) (SR–Phlx–2010–39).

[4] *See* Securities Exchange Act Release No. 43719 (December 13, 2000), 65 FR 80975 (December 22, 2000) (SR–Phlx–00–97). The information included symbol, volume, price, time and clearing information.