Regulation SHO under the Act. The proposed rule change is also consistent with Section 11A(a)(1) of the Act [24] in that it seeks to assure fair competition among brokers and dealers and exchange markets.[25] The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes uniformity across listing markets concerning the application of Regulation SHO, as amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written 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 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 Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [26] and Rule 19b–4(f)(6)(iii) thereunder.[27]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 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 Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[28] The Commission notes the proposal is substantially similar to and based on the rules of other exchanges,[29] and does not raise any new regulatory issues. In addition, the Exchange's operation as a listing market for certain securities requires it to comply with the provisions of Rule 201 of Regulation SHO. Codification within the Exchange's rules of the provisions of Rule 201 of Regulation SHO as described above will help to avoid any confusion regarding the Exchange's status as a listing market, including, but not limited to, the manner in which the Exchange calculates the Trigger Price and the Exchange's ability to lift a Short Sale Price Test in the event it was triggered by a clearly erroneous execution. Accordingly, waiver of the operative delay will help to ensure uniformity across listing markets concerning the application of Rule 201 of Regulation SHO. For these reasons, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the 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 proposal 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 No. SR–BATS–2012–019 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 No. SR–BATS–2012–019. 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 changes 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 10:00 a.m. and 3:00 p.m. Copies of such filing will also 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 No. SR–BATS–2012–019 and should be submitted on or before July 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–14405 Filed 6–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67152; File No. SR–CBOE–2012–013]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change To Adopt Self-Trade Prevention Modifiers on the CBOE Stock Exchange

June 7, 2012.

I. Introduction

On April 12, 2012, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') 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 adopt Self-Trade Prevention modifiers on the CBOE Stock Exchange (''CBSX''). The proposed rule change was published for comment in the **Federal Register** on May 1, 2012.[3] The Commission received no comment letters on the proposed rule change.

[24] 15 U.S.C. 78k–1(a)(1).

[25] *See supra* note 3.

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6)(iii).

[28] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[29] *See, e.g.,* Nasdaq Rule 4763(a)–(d); NYSE Rule 440B(a)–(d); NYSE Arca Rule 7.16(f)(i)–(iv).

[30] 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. 66860 (April 25, 2012), 77 FR 25767 (''Notice'').

This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to adopt Cancel Newest, Cancel Oldest, and Cancel Both Self-Trade Prevention modifiers on CBSX. As proposed, a CBSX trader may elect for none, or all, of his proprietary orders and quotes to be marked with one of these types of Self-Trade Prevention modifiers.[4] If a CBSX trader makes an election, any quote or order he submits will be prevented from executing against a resting opposite side order or quote that is labeled as originating from the same associated acronym and trading for the same account (''Same CBSX Trader'').

If a CBSX trader elects the Cancel Newest Self-Trade Prevention modifier, any incoming order or quote submitted by that CBSX trader will not execute against opposite side resting interest from the Same CBSX Trader. The incoming order or quote (or any portion thereof) will be canceled back to the originating CBSX trader if such order or quote cannot trade with another eligible order or quote originating from any origin other than the Same CBSX Trader (''Another CBSX Trader''). The incoming order or quote may only trade with an eligible order or quote originating from Another CBSX Trader if the order or quote originating from Another CBSX Trader is at as good a price as the order or quote from the Same CBSX Trader that is being ''skipped over.'' The resting order or quote from the Same CBSX Trader will remain on the book. In the case of an opening or re-opening, the newer of the two orders or quotes submitted by the Same CBSX Trader will be canceled. The older order or quote will be permitted to trade with eligible orders or quotes originating from Another CBSX Trader, and any remaining portion thereof will remain in the book.[5]

If a CBSX trader elects the Cancel Oldest Self-Trade Prevention modifier, any incoming order or quote submitted by that CBSX trader will not execute against opposite side resting interest from the Same CBSX Trader. When a CBSX trader submits an incoming order or quote that would trade against opposite side resting interest from the Same CBSX Trader, the opposite side resting interest will be canceled. The incoming order or quote will be eligible to trade with another eligible order or quote originating from Another CBSX Trader. If any portion of the incoming order or quote does not trade with another eligible order or quote originating from Another CBSX Trader, it will be entered into the book. In the case of an opening or re-opening, the older of the two orders or quotes submitted by the Same CBSX Trader will be canceled. The newer order or quote will be permitted to trade with eligible orders or quotes originating from Another CBSX Trader, and any remaining portion thereof will be entered into the book.[6]

If a CBSX trader elects the Cancel Both Self-Trade Prevention modifier, any incoming order or quote submitted by that CBSX trader will not execute against opposite side resting interest from the Same CBSX Trader. When a CBSX trader submits an incoming order or quote that would trade against opposite side resting interest from the Same CBSX Trader, the opposite side resting interest will be canceled. The incoming order or quote (or any portion thereof) will be canceled back to the Same CBSX Trader if such order or quote (or part of such order or quote) cannot trade with another eligible order or quote originating from Another CBSX Trader. In the case of an opening or re-opening, both of the two orders or quotes will be canceled.[7]

Under the proposed Self-Trade Prevention modifier rules, orders or quotes may skip over orders or quotes from the Same CBSX Trader and trade against eligible orders or quotes with lower priority that originate from Another CBSX Trader, provided the prices are the same. Therefore, the Exchange proposes to add Interpretations and Policies .01 to Rule 52.1, Matching Algorithm/Priority, to provide that in instances in which the Self-Trade Prevention modifiers are implicated, the Self-Trade Prevention modifier rules will supersede other allocation methods only for the purpose of preventing self-trades, as described in the proposed Self-Trade Prevention modifier rule.

Finally, CBSX Rule 51.8(t) provides for a Market-Maker Trade Prevention Order which, if combined with a Self-Trade Prevention modifier, could cause a conflict in order handling. Thus, the Exchange proposes that, in circumstances where both the Market-Maker Trade Prevention Order and a Self-Trade Prevention modifier are implicated, the Self-Trade Prevention modifier shall take precedence.

Once the CBSX system is enabled to permit the use of Self-Trade Prevention modifiers, and prior to their implementation, CBSX will announce the availability of Self-Trade Prevention modifiers to CBSX traders via Regulatory Circular.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] which 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.

Self-Trade Prevention modifiers for proprietary orders and quotes of CBSX traders are, according to the Exchange, designed to prevent a market participant from unintentionally causing a proprietary self-trade. As such, Self-Trade Prevention modifiers could provide firms with the opportunity to better manage order flow and prevent undesirable self-executions and the potential for, or appearance of, ''wash sales.''[10] The Exchange further notes that Self-Trade Prevention modifiers may reduce false positive results on Exchange-generated wash trading surveillance reports when orders are executed by the Same CBSX Trader, which would increase regulatory efficiency.

The proposed Self-Trade Prevention modifier rules will apply to orders and quotes because the Exchange believes

[4] According to the Exchange, a CBSX trader may only elect for one of the three types of Self-Trade Prevention modifiers, as the CBSX system may only be configured to permit one such election. In addition, Self-Trade Prevention elections cannot be made on a per-order, per-quote, or security-by-security basis due to CBSX system limitations.

[5] The Exchange notes that orders marked with Self-Trade Prevention modifiers will be treated differently during openings and re-openings because of system limitations. The CBSX system cannot process orders marked with Self-Trade Prevention modifiers in the same manner during openings and re-openings as during regular trading.

[6] *See id.*

[7] *See id.*

[8] 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).

[9] 15 U.S.C. 78f(b)(5).

[10] CBSX traders may have multiple connections into CBSX, and orders routed by the same CBSX trader via different connections may, in certain circumstances, trade against each other. The proposed Self-Trade Prevention modifiers could provide CBSX traders the opportunity to prevent these potentially undesirable trades. *See* Notice, 77 FR at 25769.

the application of these rules to quotes, as well as orders, would allow the modifiers to be used in a more complete, comprehensive, and consistent manner.[11] The Commission finds that this is reasonable and consistent with the Act. In addition, the Exchange states that it chose to limit Self-Trade Prevention modifiers to proprietary orders and quotes.[12] This would allow agency orders for the Same CBSX Trader, which may actually be for different customers, to continue to trade with each other.

The Commission also believes that the aspect of the proposal which would add Interpretations and Policies .01 to Rule 52.1 to provide that in circumstances where Self-Trade Prevention modifiers are implicated, the Self-Trade Prevention modifier rules will supersede other allocation methods only for the purpose of preventing self-trades is consistent with the Act. In addition, the Commission believes that the proposal to amend Rule 51.8(t) to provide that in circumstances in which both the Market-Maker Trade Prevention Order and a Self-Trade Prevention modifier are implicated, the Self-Trade Prevention modifier shall take precedence is consistent with the Act. The Commission believes that these amendments would clarify the application of the proposed Self-Trade Prevention modifier rules to existing CBSX rules.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–CBOE–2012–013) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

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[11] Other exchanges apply similar modifiers to orders only. *See, e.g.,* NYSE Arca Equities Rule 7.31(qq); BATS Rule 11.9(f).

[12] Other exchanges do not specify that their modifiers are limited to proprietary orders. *See id.*

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67160; File No. SR–EDGA–2012–19]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

DATES: June 7, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 29, 2012 the EDGA Exchange, Inc. (the ''Exchange'' or the ''EDGA'') 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 self-regulatory organization. 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 fees and rebates applicable to Members [3] of the Exchange pursuant to EDGA Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.directedge.com*, at the Exchange's principal office, and at the Public Reference Room of 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 self-regulatory organization 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 self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

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

[2] 17 CFR 240.19b–4.

[3] A Member is any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange.

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

Purpose

The Exchange proposes to introduce the Message Efficiency Incentive Program (''MEIP'') to its fee schedule and codify it in footnote c of the fee schedule. Under the MEIP, Members will receive standard rebates and tier rebates as provided on the EDGA fee schedule so long as the Member's average inbound message-to-trade ratio, measured monthly, is at or less than 100:1 for that month. The Exchange notes that the message-to-trade ratio is calculated by including total messages as the numerator (orders, cancels, and cancel/replace messages) and dividing it by total executions.[4] The Exchange also notes that any cancel/replace message, regardless of whether it is a partial cancel, is considered a new order. Members who do not satisfy this criteria will have their rebates reduced by $0.0001 per share, regardless of any tiers for which the Member would otherwise qualify.

The Exchange notes that Members sending fewer than 1 million messages per day are exempt from MEIP. Because of a Market Maker's [5] importance in liquidity provision and their ongoing obligations in Rule 11.21(d) [6] to maintain continuous two-sided interest, Members that are registered as Market Makers [7] will be exempt from the MEIP requirements in all securities provided that a Market Maker is registered in at least 100 securities over the course of a given month and is meeting its continuous, two-sided quoting obligations in those 100 securities as provided for in Rule 11.21(d) on at least 10 consecutive trading days in the month, where the Exchange believes that 10 days represents a consistent quoting obligation from the Member.[8]

[4] The Exchange notes that it counts only the first partial or complete execution resulting from an order if it is filled in parts. So, if a 1,000 share orders results in three partial executions of 400 shares, 300 shares, and 300 shares, it counts only the first execution of 400 shares toward the denominator. Thus, the Exchange counts all fills against an order as one trade for purposes of ''total executions.''

[5] As defined in Rule 1.5(l).

[6] Rule 11.21(d) provides that ''For each security in which a Member is registered as a Market Maker, the Member shall be willing to buy and sell such security for its own account on a continuous basis during Regular Trading Hours shall enter and maintain a two-sided trading interest (''Two-Sided Obligation'') that is displayed in the Exchange's System at all times.''

[7] Registration requirements for Market Makers are outlined in Rule 11.20.

[8] The Exchange notes that all registered Market Makers are obligated to meet continuous, two-sided