SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58088; File No. SR-CBOE-2008-16)

July 2, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change to Reduce Certain Order Exposure Times from Three Seconds to One Second

I. Introduction

On May 16, 2008, 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 reduce certain order exposure times from three seconds to one second. The proposed rule change was published for comment in the Federal Register on May 30, 2008.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to reduce the order handling and exposure periods contained in Rules 6.45A, Priority and Allocation of Equity Option Trades on the CBOE Hybrid System, 6.45B, Priority and Allocation of Trades in Index Options and Options on ETFs on the CBOE Hybrid System, 6.74A, Automated Improvement Mechanism ("AIM"), and 6.74B, Solicitation Auction Mechanism, from three seconds to one second.

Rules 6.45A and 6.45B provide that an order entry firm may not execute an order it represents as agent with a facilitation or solicited order (referred to herein as "crossing orders")

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1 15 U.S.C. 78s(b)(l).

2 17 CFR 240.19b-4.

3 See Securities Exchange Act Release No. 57849 (May 22, 2008), 73 FR 31167 (May 30, 2008).

using the Hybrid Trading System ("Hybrid") unless it first complies with the three-second exposure requirement. Specifically, order entry firms may not execute a facilitation cross unless: (i) the agency order is first exposed on Hybrid for at least three seconds; (ii) the order entry firm has been bidding or offering for at least three seconds prior to receiving the agency order that is executable against such bid or offer; or (iii) the order entry firm proceeds in accordance with the floor-based open outcry crossing rules contained in CBOE Rule 6.74, Crossing Orders. Similarly, order entry firms may not execute an order they represent as agent against orders solicited from members and non-member broker-dealers unless the agency order is first exposed on Hybrid for at least three seconds. During this three-second exposure period for crossing orders, other members may enter orders to trade against the exposed order. CBOE proposes to reduce these exposure periods to one second.

Rule 6.74A provides that orders entered into AIM must be exposed for a random time period that is not less than three seconds and not more than five seconds, to provide an opportunity for additional trading interest to be entered before the orders are automatically executed. Rule 6.74B provides that orders entered into the Solicitation Auction Mechanism (the "SAM Auction") must be exposed for a three second period, also to provide an opportunity for additional trading interest to be entered before the orders are automatically executed. CBOE proposes to reduce the exposure period for AIM and the exposure period for the SAM Auction to one second.

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, 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 also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,[6] which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that, in the electronic environment of Hybrid, reducing each of the exposure periods from three seconds to one second could facilitate the prompt execution of orders, while continuing to provide participants in Hybrid with an opportunity to compete for exposed bids and offers. According to the Exchange, numerous CBOE market participants have the capability to and do opt to respond within a one-second exposure period on its Hybrid trading platform. Specifically, the Exchange noted that the exposure and allocation timers for the Exchange's Hybrid Agency Liaison ("HAL") mechanism, which employs the same type of mechanical messaging as the AIM and SAM Auction mechanisms, are currently both set at 0.300 seconds and numerous market participants can and do opt to respond to HAL exposure messages within this time frame. The Exchange also noted that market participants receive mechanically messaged information about book updates, and are able to and do opt to automatically submit

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4 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).

5 15 U.S.C. 78f(b)(5).

6 15 U.S.C. 78f(b)(8).

orders and quotes in response to those book updates on the Hybrid trading system, in substantially the same manner as they would respond to a HAL message. Accordingly, the Commission believes that it is consistent with the Act for these order exposure times to be reduced from three seconds to one second.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR-CBOE-2008-16) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon
Acting Secretary

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[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30-3(a)(12).