

Management and Budget for extension and approval.

• **Applications for Permission To Reinstate Unlisted Trading Privileges**

Rule 12f-1 (the "Rule"), originally adopted in 1934 pursuant to sections 12(f) and 23(a) of the Act and as modified in 1995, sets forth the information which an exchange must include in an application to reinstate its ability to extend unlisted trading privileges to any security for which such unlisted trading privileges have been suspended by the Commission, pursuant to section 12(f)(2)(A) of the Act. An application must provide the name of the issuer, the title of the security, the name of each national securities exchange, if any, on which the security is listed or admitted to unlisted trading privileges, whether transaction information concerning such security is reported pursuant to an effective transaction reporting plan contemplated by Rule 601 under the Act, the date of the Commission's suspension of unlisted trading privileges in the security on the exchange, and any other pertinent information. Rule 12f-1 further requires a national securities exchange seeking to reinstate its ability to extend unlisted trading privileges to a security to indicate that it has provided a copy of such application to the issuer of the security, as well as to any other national securities exchange on which the security is listed or admitted to unlisted trading privileges.

The information required by Rule 12f-1 enables the Commission to make the necessary findings under the Act prior to granting applications to reinstate unlisted trading privileges. This information is also made available to members of the public who may wish to comment upon the applications. Without the Rule, the Commission would be unable to fulfill these statutory responsibilities.

There are currently eight national securities exchanges subject to Rule 12f-1. The burden of complying with Rule 12f-1 arises when a potential respondent seeks to reinstate its ability to extend unlisted trading privileges to any security for which unlisted trading privileges have been suspended by the Commission, pursuant to section 12(f)(2)(A) of the Act. The staff estimates that each application would require approximately one hour to complete. Thus each potential respondent would incur on average one burden hour in complying with the Rule.

The Commission staff estimates that there could be as many as eight responses annually and that each

respondent's related cost of compliance with Rule 12f-1 would be \$53.55, or, the cost of one hour of professional work needed to complete the application. The total annual related reporting cost for all potential respondents, therefore, is \$428.40 (8 responses × \$53.55/response).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549.

Dated: December 12, 2005.

**Jonathan G. Katz,**

*Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

**Proposed Collection; Comment Request**

Upon Written Request, Copies Available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 12f-3; SEC File No. 270-141; OMB Control No. 3235-0249.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget for extension and approval.

• **Termination or Suspension of Unlisted Trading Privileges**

Rule 12f-3 (the "Rule"), which was originally adopted in 1934 pursuant to sections 12(f) and 23(a) of the Act, as modified in 1995, prescribes the information which must be included in applications for and notices of termination or suspension of unlisted trading privileges for a security as contemplated in section 12(f)(4) of the Act. An application must provide, among other things, the name of the applicant; a brief statement of the applicant's interest in the question of termination or suspension of such unlisted trading privileges; the title of the security; the name of the issuer; certain information regarding the size of the class of security and its recent trading history; and a statement indicating that the applicant has provided a copy of such application to the exchange from which the suspension or termination of unlisted trading privileges are sought, and to any other exchange on which the security is listed or admitted to unlisted trading privileges.

The information required to be included in applications submitted pursuant to Rule 12f-3, is intended to provide the Commission with sufficient information to make the necessary findings under the Act to terminate or suspend by order the unlisted trading privileges granted a security on a national securities exchange. Without the Rule, the Commission would be unable to fulfill these statutory responsibilities.

The burden of complying with Rule 12f-3 arises when a potential respondent, having a demonstrable bona fide interest in the question of termination or suspension of the unlisted trading privileges of a security, determines to seek such termination or suspension. The staff estimates that each such application to terminate or suspend unlisted trading privileges requires approximately one hour to complete. Thus each potential respondent would incur on average one burden hour in complying with the Rule.

The Commission staff estimates that there could be as many as ten responses annually and that each respondent's related cost of compliance with Rule 12f-3 would be \$53.55, or, the cost of one hour of professional work needed to complete the application. The total annual related reporting cost for all potential respondents, therefore, is \$535.50 (10 responses × \$53.55/response).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549.

Dated: December 12, 2005.

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52957; File No. SR-CBOE-2005-102]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Duration of CBOE Rule 6.45A(b) Pertaining to Orders Represented in Open Outcry

December 15, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 13, 2005, 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 CBOE. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) 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 proposes to extend the duration of CBOE Rule 6.45A(b) (the "Rule"), which relates to the allocation of orders represented in open outcry in equity option classes designated by the Exchange to be traded on the CBOE Hybrid Trading System ("Hybrid"), through March 14, 2006. No other substantive changes are being made to the Rule. The text of the proposed rule change is available on the CBOE's Internet Web site (<http://www.cboe.com>), at the CBOE's principal office, 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 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 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

In March 2005, the Commission approved revisions to CBOE Rule 6.45A related to the introduction of Remote Market-Makers.<sup>6</sup> Among other things, the Rule, pertaining to the allocation of orders represented in open outcry in equity options classes traded on Hybrid, was amended to clarify that only in-crowd market participants would be eligible to participate in open outcry trade allocations. In addition, the Rule was amended to limit its duration until September 14, 2005, unless otherwise extended. The duration of the Rule was thereafter extended until December 14,

<sup>5</sup> The Exchange has asked the Commission to waive the 30-day operative delay required by Rule 19b-4(f)(6)(iii), 17 CFR 240.19b-4(f)(6)(iii). See discussion *infra* Section III.

<sup>6</sup> See Securities Exchange Act Release No. 51366 (March 14, 2005), 70 FR 13217 (March 18, 2005) (SR-CBOE-2004-75).

2005.<sup>7</sup> As the duration period expires on December 14, 2005, the Exchange proposes to extend the effectiveness of the Rule through March 14, 2006.<sup>8</sup>

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>9</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</sup> requirements that the rules of an exchange be 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 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 proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any

<sup>7</sup> See Securities Exchange Act Release No. 52423 (September 14, 2005), 70 FR 55194 (September 20, 2005) (SR-CBOE-2005-76).

<sup>8</sup> In order to effect proprietary transactions on the floor of the Exchange, in addition to complying with the requirements of the Rule, members are also required to comply with the requirements of Section 11(a)(1) of the Act, 15 U.S.C. 78k(a)(1), or qualify for an exemption. Section 11(a)(1) restricts securities transactions of a member of any national securities exchange effected on that exchange for (i) the member's own account, (ii) the account of a person associated with the member, or (iii) an account over which the member or a person associated with the member exercises discretion, unless a specific exemption is available. The Exchange issued a regulatory circular to members informing them of the applicability of these Section 11(a)(1) requirements when the duration of the Rule was extended until December 14, 2005. See CBOE Regulatory Circular RG05-103 (November 2, 2005). The Exchange has represented that it expects to issue a similar regulatory circular to members reminding them of the applicability of the Section 11(a)(1) requirements with respect to the proposed rule change. Telephone conversation between Jennifer Lamie, Managing Senior Attorney, CBOE, and Edward Cho, Attorney, Division of Market Regulation, Commission (December 15, 2005).

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<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)(iii).

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