SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57512; File No. SR-CBOE-2008-19)

March 17, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Customer-to-Customer Immediate Crosses

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 March 4, 2008, 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 substantially by CBOE. On March 14, 2008, CBOE submitted Amendment No. 1 to the proposed rule change. CBOE filed the proposed rule change 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] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

CBOE proposes to amend its Automated Improvement Mechanism ("AIM") Rule to permit customer-to-customer orders to be entered paired and to be crossed without any AIM auction exposure period. The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and www.cboe.com.

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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).

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. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE proposes to amend Rule 6.74A to permit customer-to-customer orders to be entered paired and to be crossed without any AIM auction exposure period. Currently, CBOE Rules provide for a minimum exposure time of three seconds for crossing orders on the Hybrid Trading System ("Hybrid") when an order entry firm (i) executes as principal against orders it represents as agent, or (ii) executes orders it represents as agent against orders solicited from members and non-member broker-dealers to transact with such orders.[5] However, the three second exposure period is not applicable when crossing two orders that are both for the accounts of non-broker-dealer customers. Thus, two non-broker-dealer customer orders may be entered separately into Hybrid by the same order entry firm to trade against each other without waiting three seconds. To enhance and automate order entry firms' ability to submit two contra-side

[5] See CBOE Rule 6.45A, Priority and Allocation of Equity Option Trades on the CBOE Hybrid System, Interpretations and Policies .01 and .02, and Rule 6.45B, Priority and Allocation of Trades in Index Options and Options on ETFs on the CBOE Hybrid System.

customer orders, the Exchange is proposing to introduce and to codify a new feature in its AIM Rule[6] that the Exchange refers to as a "customer-to-customer immediate cross."

When using the AIM customer-to-customer immediate cross feature, the proposed rule will provide that an order entry firm ("Initiating Member") may enter an agency order for the account of a non-broker-dealer customer in AIM, paired with a solicited order for the account of a non-broker-dealer customer. Under the rule proposal, those paired orders will be automatically executed without an exposure period so long as the execution price: (i) is in the applicable standard increment (i.e., $0.10 for series quoted at or above $3, $0.05 for series quotes below $3, $0.01 for series participating in the Penny Pilot Program, and the applicable standard or $0.01 increment for complex orders as designated pursuant to Rule 6.53C); (ii) will not trade at the same price as any resting customer order; and (iii) subject to certain exceptions, is not at a price that trades through the national best bid or offer ("NBBO"). If the Exchange determines on a class-by-class to (i) designate complex orders as eligible for AIM customer-to-customer immediate crosses or (ii) permit orders of 500 or more contracts and that have a premium value of at least $150,000 to be executed without considering prices that might be available on other options exchanges, the NBBO condition shall not apply to such orders and instead the execution price will not trade through CBOE's best bid or offer ("BBO").[7] In addition, the execution price must be in the applicable standard increment and will not trade at the same price as any resting

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6 AIM is an automated auction mechanism through which a member that represents agency orders may electronically execute an order it represents as agent ("agency order") against principal or solicited interest. When the Exchange receives an agency order properly designated for an AIM auction, a request for responses ("RFR") is initiated and, subject to certain exceptions delineated in Rule 6.74A, the RFR lasts for a random time determined by the system between three and five seconds. Once the AIM auction concludes, the agency order is allocated at the best prices pursuant to allocation procedures in the Rule. See CBOE Rule 6.74A.

7 See proposed paragraph .09(b) to CBOE Rule 6.74A.

customer order. In the case of a complex order, this means that the execution price will not trade at the same price as any customer complex order resting in the CBOE's electronic complex order book. To be eligible to use the customer-to-customer immediate cross feature, the proposed rule will also provide that the agency order must be in a class designated by the Exchange as eligible for the feature and within the designated order eligibility size parameters, as such parameters are determined by the Exchange.

Lastly, the proposed rule will contain a cross-reference to Interpretation and Policy .01 to CBOE Rules 6.45A and 6.45B. Specifically, the proposed rule will note that Interpretation and Policy .01 to CBOE Rules 6.45A and 6.45B prevent an order entry firm from executing agency orders to increase its economic gain from trading against the order without first giving other trading interests on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the member was already bidding or offering on the book. However, as the proposed rule will also note, the Exchange recognizes that it may be possible for a firm to establish a relationship with a customer or other person to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency orders as principal. Therefore, the proposed rule will provide that it would be a violation of Interpretation and Policy .01 to Rule 6.45A or 6.45B, as applicable, for a firm to circumvent Interpretation and Policy .01 to Rule 6.45A or 6.45B, as applicable, by providing an opportunity for (i) a customer affiliated with the firm, or (ii) a customer with whom the firm has an arrangement that allows the firm to realize similar economic benefits from the transaction as the firm would achieve by executing agency orders as principal, to regularly execute against agency orders handled by the firm immediately upon their entry as AIM customer-to-customer immediate crosses. The Exchange believes that this provision should help prevent a firm from doing indirectly what it is prohibited from doing directly as principal. This provision of CBOE's proposed rule is substantially similar to a provision in ISE's Rules.[8]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) of the Act[9] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to an perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the proposed rule change will provide members with a more efficient means of executing their customer option orders subject to the Exchange's existing requirements limiting principal transactions, and will allow CBOE to effectively compete with ISE.

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

CBOE 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 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

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8 See Supplemental Material .01 to ISE Rule 717.

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

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b-4(f)(6) thereunder.[11]

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.[12] However, Rule 19b-4(f)(6)(iii)[13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow customers to benefit from the proposed rule change without delay.[14] The Commission hereby grants the Exchange's request and designates the proposal as operative upon filing.

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.

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10 15 U.S.C. 78s(b)(3)(A).

11 17 CFR 240.19b-4(f)(6).

12 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give 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. CBOE has complied with this requirement.

13 Id.

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

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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. Please include File No. SR-CBOE-2008-19 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2008-19. 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 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 inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. 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-2008-19 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

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

Florence E. Harmon
Deputy Secretary

[15] 17 CFR 200.30-3(a)(12).