

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-59448; File No. SR-CBOE-2009-011)

February 25, 2009

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Simple Auction Liaison (SAL)

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 February 20, 2009, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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> 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 modify Rule 6.13A, Simple Auction Liaison (SAL), so that SAL will be available when the size of the agency order is larger than the disseminated Market-Maker quotation size on the opposite side of the market in Hybrid 3.0 classes. The text of the proposed rule change is available on the Exchange’s website ([www.cboe.org/Legal](http://www.cboe.org/Legal)), at the Exchange’s Office of the Secretary and at the Commission.

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<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).

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 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

SAL is a feature within CBOE's Hybrid System that auctions marketable orders for price improvement over the national best bid or offer ("NBBO"). Currently, SAL automatically initiates an auction process for any SAL-eligible order<sup>5</sup> that is eligible for automatic execution by the Hybrid System (an "agency order") pursuant to Rule 6.13, CBOE Hybrid System's Automatic Execution Feature, except when the Exchange's disseminated quotation on the opposite side of the market from the agency order does not contain sufficient Market-Maker quotation size to satisfy the entire Agency Order. Prior to commencing the auction, SAL stops the agency order at the NBBO against Market-Maker quotations displayed at the NBBO on the opposite side of the market as the agency order. For example, if an otherwise eligible agency order for 120 contracts is entered and the disseminated quotation size is 100, SAL will not initiate an auction process. On the other hand, if an eligible agency order for 100 contracts is entered and the disseminated quotation size is 100, SAL will stop the entire agency order at the

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<sup>5</sup> With respect to SAL eligibility, the Exchange designates the eligible order size, eligible order type, eligible order origin code (i.e., public customer orders, non-Member Maker broker-dealer orders, and Market Maker broker-dealer orders), and classes in which SAL is activated.

NBBO against the disseminated quotation size of 100 while SAL initiates an auction for price improvement over the NBBO.

In order to offer additional opportunities for price improvement in Hybrid 3.0 classes that are singly-listed (which currently only includes options on the Standard and Poor's 500 Index, SPX), we propose to modify the process so that SAL will operate in instances where the agency order size exceeds the disseminated Market-Maker quotation size. In such instances, the order would be stopped to the extent of the disseminated Market-Maker quotation size. To the extent an order exceeds the disseminated Market-Maker quotation size, a stop is not necessary and will not be applied. Thus, using our example above, if an eligible agency order for 120 contracts is entered in a Hybrid 3.0 class and the disseminated quotation size is 100, SAL will partially stop the agency order at the NBBO against the disseminated quotation size of 100 (the remaining 20 contracts will not be stopped) while SAL initiates an auction for price improvement over the NBBO for the entire 120 contract order. After expiration of the SAL auction, the order will execute to the extent possible in accordance with the matching algorithm in effect for SAL executions in the Hybrid 3.0 class. If there is any remainder and the order is a market order, the remainder would trade with the book at the next price level(s). If there is any remainder that is not executable and the order is a limit order, and if the Hybrid Agency Liaison ("HAL") is activated for the class pursuant to Rule 6.14, that remainder will HAL.<sup>6</sup> If HAL is not active, any remainder of the limit order will book. The Exchange believes this change would allow for

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<sup>6</sup> HAL is a feature within the Hybrid System that provides automated order handling in designated classes trading on Hybrid for qualifying electronic orders that are not automatically executed by the Hybrid System. In Hybrid 3.0 Classes that are singly-listed, HAL automatically processes upon receipt, eligible limit orders that would improve the Exchange's disseminated quotations except when the disseminated quotation is represented by a manual quote in which case the order will automatically route to the electronic book instead of being processed by HAL and the manual quote will be cancelled.

additional opportunities for price improvement to orders that would otherwise not be eligible for SAL. All other provisions of the SAL rule would apply unchanged.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act<sup>7</sup> in general and furthers the objectives of Section 6(b)(5) of the Act<sup>8</sup> in particular in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating 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. In particular, the Exchange believes that the proposed change would give additional opportunities to provide orders executions at improved prices.

### 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 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 Commission may designate if

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup> At any time within 60 days of the filing of such 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.

#### 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2009-011 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-2009-011. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). The Commission notes that CBOE has satisfied this 5-day requirement.

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, 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 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-2009-011 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).