Commission believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act [6] in general, and Section 6(b)(5) of the Act [7] in specific, which requires 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 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 for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that the proposed rule change, as amended, will retroactively reinstate the rules governing the market opening pilot program currently in use on BOX for the period August 6, 2006 through September 1, 2006.[8] Thus, upon approval of this proposed rule change, there will effectively be no interruption of the pilot program rules governing the market opening on BOX.[9] The Commission finds that the BOX market opening pilot program procedures provide a quicker, more efficient, fair and orderly market opening process to the benefit of BOX market participants and investors.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (File No. SR–BSE–2006–36), as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,
Secretary.
[FR Doc. E6–19382 Filed 11–15–06; 8:45 am]
BILLING CODE 8011–01–P

---

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] On September 1, 2006, BSE filed a proposed rule change, which was immediately effective, to extend the market opening pilot program from September 1, 2006 through August 6, 2007. *See* Securities Exchange Act Release No. 54467 (September 18, 2006), 71 FR 55530 (September 22, 2006).

[9] Prior to approval of this proposed rule change, however, BOX's market opening was operating without effective rules for the period August 6, 2006 through September 1, 2006.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54729; File No. SR–CBOE–2006–83]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Complex Orders

November 8, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 20, 2006, 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 Exchange. The CBOE has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] 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 amend its rules regarding the execution of complex orders to clarify that the legs of stock-option and security future-option orders may be executed in penny increments. The CBOE also proposes various non-substantive changes designed to simplify the text of several rules. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com*), at the Exchange's Office of the Secretary, 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 Exchange 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

---

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).

[5] The CBOE has requested that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

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 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 Rule 6.42(3), "Minimum Increments for Bids and Offers," currently provides that complex orders may generally be expressed on a net price basis in any increment, regardless of the minimum increment otherwise appropriate to the individual legs of the order.[6] Thus, for example, a complex order could be entered at a net debit or credit price of $1.03 even though the minimum increment for the individual series is generally $0.05 or $0.10.[7] After a complex order has been executed at the total net debit or credit price, the contract quantities and prices for each individual component leg of the trade are reported as executions. In this regard, CBOE Rule 6.42(3) currently provides that the legs of a complex order may be executed in one-cent increments, regardless of the minimum increments otherwise appropriate to the individual legs of the order.

With respect to the types of complex orders that may be expressed in net price increments and reported in one-cent increments as described above, the rule text currently refers to spreads, straddles, and combinations as defined in CBOE Rule 6.53, "Certain Types of Orders Defined," and any other type of complex order defined in CBOE Rule 6.53C, "Complex Orders on the Hybrid System." The purpose of the proposed rule change is to clarify that the options leg of a stock-option or security future-option order, as defined in CBOE Rules

---

[6] A minimum trading increment is defined in CBOE Rule 6.42 as $0.05 if the options contract is trading at less than $3.00 and $0.10 if the options contract is trading at or above $3.00.

[7] As an exception to this provision, CBOE Rule 6.42(3) provides that complex orders in options on the S&P 500 Index ("SPX") and the S&P 100 Index ("OEX") that are not box spreads are to be expressed in decimal increments no smaller than $0.05. A "box spread" (also referred to as a "box/roll spread") means "an aggregation of positions in a long call option and short put option with the same exercise price ('buy side') coupled with a long put option and short call option with the same exercise price ('sell side') all of which have the same aggregate current underlying value, and are structured as either: (A) a 'long box spread' in which the sell side exercise price exceeds the buy side exercise price or (B) a 'short box spread' in which the buy side exercise price exceeds the sell side exercise price." *See* CBOE Rule 6.42, Interpretation and Policy .05, and CBOE Rule 6.53C(a)(7).

1.1(ii)(a) and 1.1(zz)(a),[8] respectively (collectively "Type A" orders), also may be executed in one-cent increments.[9] While there are already references to both Type A and Type B stock-option and security future-option orders in the Exchange's priority rules applicable to complex orders,[10] the Exchange believes that making the proposed clarification in the text of CBOE Rule 6.42(3) should help to avoid any confusion as to the applicable increments for reporting the execution of any options leg of Type A stock-option and security future-option orders. The Exchange believes that this clarification is consistent with Rule 722 of the International Securities Exchange ("ISE"), which permits complex orders, as defined in ISE Rule 722, to be executed in penny increments.[11]

The Exchange also notes that under CBOE rules, a stock-option order or security future-option order may be executed at a total credit or debit price without giving priority to bids (offers)

established in the trading crowd but not over bids (offers) in the public customer limit order book. While CBOE is proposing to clarify that the options leg of a Type A stock-option or security future-option order may be executed in penny increments, it is not proposing to change the existing requirement that to have priority over public customer limit orders, the options leg of the order must trade at a price that is better than the corresponding bid (offer) by at least one minimum trading increment. Thus, public customer limit orders will maintain their existing priority.

Finally, the Exchange is proposing various non-substantive changes in an effort to simplify the existing text of several rules. First, rather than list out the various types of complex orders, the Exchange proposes to add a definition of a "complex order" in Interpretation and Policy .01 to CBOE Rule 6.42.[12] The Exchange also proposes to add corresponding cross-references to this definition in other CBOE rules.[13] Second, the Exchange proposes to add a reference to CBOE Rule 6.42(3) to clarify that, except as otherwise provided in CBOE Rule 6.53C, a complex order may be expressed in any increment.[14] Third, the Exchange proposes to replace rule text in CBOE Rule 6.42(3), regarding the priority applicable to complex orders that are not net priced in a multiple of the minimum increment, with a cross-reference to the applicable priority requirements described in other CBOE rules, and to add a reference to certain of the Exchange's applicable complex order priority rules providing that at least one leg of a complex order must

better the corresponding bid (offer) in the public customer limit order book by at least one minimum trading increment as defined in CBOE Rule 6.42 (*i.e.,* $0.05 or $0.10, as applicable). The Exchange believes that this proposed change to the rule text is substantively the same as one recently made by the ISE.[15] Finally, CBOE Rule 6.42 is being revised to clarify that the terms "box/roll spread" and "box spread," both of which are used in the CBOE's rules, have the same meaning.[16]

2. Statutory Basis

The Exchange believes that the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) of the Act[17] that a national securities 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 and to 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 Exchange believes that the proposed rule change will provide investors with more flexibility in pricing stock-option orders and security future-option orders and will increase the opportunity for such orders to be executed.

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

The Exchange has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the

---

[8] A "stock-option order" is defined as "an order to buy or sell a stated number of units of an underlying or a related security coupled with either (a) The purchase or sale of option contract(s) on the opposite side of the market representing either the same number of units of the underlying or related security or the number of units of the underlying security necessary to create a delta neutral position or (b) the purchase or sale of an equal number of put and call option contracts, each having the same exercise price, expiration date and each representing the same number of units of stock as, and on the opposite side of the market from, the underlying or related security portion of the order." *See* CBOE Rule 1.1(ii). A "security future-option order" is defined as "an order to buy or sell a stated number of units of a security future or a related security convertible into a security future ('convertible security future') coupled with either (a) The purchase or sale of option contract(s) on the opposite side of the market representing either the same number of the underlying for the security future or convertible security future or the number of units of the underlying for the security future or convertible security future necessary to create a delta neutral position or (b) the purchase or sale of an equal number of put and call option contracts, each having the same exercise price, expiration date and each representing the same number of the underlying for the security future or convertible security future, as and on the opposite side of the market from, the underlying for the security future or convertible security future portion of the order." *See* CBOE Rule 1.1(zz).

[9] CBOE Rule 6.42(3) already contains a cross-reference to conversions and reversals (collectively "Type B" orders). A conversion (reversal) order is an order involving the purchase (sale) of a put option and the sale (purchase) of a call option in equivalent units with the same strike price and expiration in the same underlying security, and the purchase (sale) of the related instrument. See CBOE Rule 6.53C(a)(9). This definition is also referenced in CBOE Rules 1.1(ii)(b) and 1.1(zz)(b).

[10] CBOE Rule 6.45(e) pertains to the priority of complex orders executed in non-Hybrid Trading System ("Hybrid") options classes. CBOE Rule 6.45A(b)(iii) pertains to the priority of complex orders in Hybrid equity options classes. CBOE Rule 6.45B(b)(iii) pertains to the priority of complex orders in Hybrid index and exchange-traded fund option classes.

[11] *See* ISE Rule 722(b)(1).

[12] For purposes of the rule, "complex order" shall mean a spread, straddle, combination, or ratio order as defined in CBOE Rule 6.53, a stock-option order as defined in CBOE Rule 1.1(ii), a security future-option order as defined in CBOE Rule 1.1(zz), or any other complex order as defined in CBOE Rule 6.53C. *See* CBOE Rule 6.42(3), Interpretation and Policy .01.

[13] The Exchange notes that the definition of a "complex order" for purposes of CBOE's priority rules is different from the definition of a "complex trade" for purposes of the options intermarket linkage requirements described in CBOE Rules 6.80, "Definitions," and 6.83, "Order Protection." Under the options intermarket linkage-related rules, a "complex trade" means the execution of an order in an options series in conjunction with the execution of one or more related order(s) in different options series in the same underlying security occurring at or near the same time for the equivalent number of contracts and for the purpose of executing a particular investment strategy. *See* CBOE Rules 6.80(4) and 6.83(b)(7).

[14] CBOE Rule 6.53C provides that the net price increment applicable to complex orders that are routed to the electronic complex order book ("COB") will be either a multiple of the minimum increment (*i.e.,* $0.05 or $0.10, as applicable) or a one cent increment, as determined on a class-by-class basis.

[15] *See* ISE Rule 722 and Securities Exchange Act Release No. 54124 (July 11, 2006), 71 FR 40567 (July 17, 2006) (order approving File No. SR–ISE–2005–49).

[16] *See supra* note 7.

[17] 15 U.S.C. 78f(b)(5).

protection of investors and the public interest. In addition, as required under Rule 19b–4(f)(6)(iii),[18] the CBOE provided the Commission with written notice of its intention to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to filing the proposal with the Commission. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and Rule 19b–4(f)(6) thereunder.[20]

Pursuant to Rule 19b–4(f)(6)(iii) under the Act, a proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The CBOE has asked the Commission to waive the 30-day operative delay because the CBOE believes that the proposal is substantially similar to ISE Rule 722 and because the proposal clarifies the applicable reporting increments for the options leg of stock-option and security future-option orders. Accordingly, the CBOE believes that its proposal presents no novel issues and that waiver of the 30-day operative delay 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 because the proposal will allow stock-option orders and security future-option orders, like other types of complex orders, to be executed in penny increments. Allowing stock-option and security future-option orders to be executed in penny increments could facilitate the execution of such orders by increasing the number of price points at which these orders may be executed. For these reasons, the Commission designates that the proposed rule change become operative immediately.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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.* Please include File Number SR–CBOE–2006–83 on the subject line.

Paper Comments

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

All submissions should refer to File No. SR–CBOE–2006–83. 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. Copies of the filing also will 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–CBOE–2006–83 and should be submitted on or before December 7, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Nancy M. Morris,

Secretary.

[FR Doc. E6–19378 Filed 11–15–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54726; File No. SR–CBOE–2006–89]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Exchange's Open Outcry Crossing Rule

November 8, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 6, 2006, 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 Exchange. The CBOE has filed this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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 certain changes that are intended to clarify the operation of CBOE Rule 6.74, which pertains to crossing orders in open outcry. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com*), at the Exchange's Office of the Secretary, 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 Exchange 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of

---

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).