

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-75378; File No. SR-CBOE-2015-067)

July 7, 2015

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Delay Implementation of Tied to Stock Marking Requirement for Certain Orders

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 July 1, 2015, Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II 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 delay the implementation of the marking requirement set forth in Rule 6.53(y) with respect to certain orders. There is no proposed change to the rule text.

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

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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).

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

On August 13, 2014, the Securities and Exchange Commission (the “Commission”) approved CBOE Rules 6.53(y) and 15.2A.<sup>5</sup> Rule 6.53(y) defines a tied to stock order<sup>6</sup> and requires the representing Trading Permit Holder to include an indicator on each tied to stock order upon systemization, subject to certain exceptions. Rule 15.2A requires, in a manner and form prescribed by the Exchange, each Trading Permit Holder (“TPH”), on the business day following the order execution date, to report to the Exchange certain information regarding the executed stock or convertible security legs of qualified contingent cross (“QCC”) orders,<sup>7</sup> stock-

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<sup>5</sup> Securities Exchange Act Release No. 72839 (August 13, 2014), 79 FR 49123 (August 19, 2014) (SR-CBOE-2014-040) (order approving Rules 6.53(y) and 15.2A).

<sup>6</sup> Rule 6.53(y) provides that an order is “tied to stock” if, at the time the Trading Permit Holder representing the order on the Exchange receives the order (if the order is a customer order) or initiates the order (if the order is a proprietary order), has knowledge that the order is coupled with an order(s) for the underlying stock or a security convertible into the underlying stock (“convertible security” and, together with underlying stock, “non-option”).

<sup>7</sup> A QCC order is an order to buy (sell) at least 1,000 standard option contracts or 10,000 mini-option contracts that is identified as being part of a qualified contingent trade coupled with a contra-side order to sell (buy) an equal number of contracts. These orders may only be entered in the standard increments applicable to simple orders in the options class under Rule 6.42. For purposes of this order type, a “qualified contingent trade” is a transaction consisting of two or more component orders, executed as agent or principal, where: (a) at least one component is an NMS stock, as defined in Rule 600 of Regulation NMS under the Act; (b) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (c) the execution of one component is contingent upon the execution of all other components at or near the same time; (d) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined by the time the contingent order is placed; (e) the component orders bear a derivative relationship to one another, represent different classes

option orders and other tied to stock orders that the TPH executed on the Exchange that trading day. The Exchange stated in rule filing SR-CBOE-2014-040 that it would issue a circular announcing the implementation date for these rules within 90 days of the date of filing, which implementation date would be within 180 days of the date of filing.

On January 7, 2015, CBOE submitted a rule filing to delay the implementation of these rules based on feedback it received from TPHs.<sup>8</sup> The Exchange stated in that rule filing that it would issue a circular announcing the implementation date for the rules within 90 days of the date of the rule filing, which implementation date would be within 180 days of the date of filing. In accordance with that filing, the Exchange recently issued a regulatory circular on April 7, 2015, which announced a July 1, 2015 implementation date for the tied to stock marking and reporting requirements.<sup>9</sup> On May 20, 2015, CBOE submitted a rule filing to further delay the implementation of the reporting requirement set forth in Rule 15.2A in order to evaluate the format of the reports in light of its entry into a Regulatory Services Agreement with the Financial Industry Regulatory Authority, Inc. (“FINRA”).<sup>10</sup> In that filing, CBOE announced its intention to proceed with the implementation of the marking requirement set forth in Rule 6.53(y) on July 1, 2015.

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of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (f) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade. QCC orders may execute without exposure provided the execution is not at the same price as a public customer order resting in the electronic book and is at or between the national best bid or offer. A QCC order will be cancelled if it cannot be executed. See Rule 6.53(u). The Exchange notes that it deactivated the QCC functionality effective August 11, 2014 and will announce any reactivation of QCC functionality by Regulatory Circular. See Regulatory Circular RG14-121.

<sup>8</sup> Securities Exchange Act Release No. 34-74067 (January 15, 2015), 80 FR 3267 (January 22, 2015) (SR-CBOE-2015-004) (notice of immediate effectiveness of rule filing).

<sup>9</sup> CBOE Regulatory Circular RG15-056 (April 7, 2015).

<sup>10</sup> Securities Exchange Act Release No. 34-75029 (May 21, 2015), 80 FR 30506 (May 28, 2015) (SR-CBOE-2015-051) (notice of immediate effectiveness of rule filing).

The Exchange believes it is appropriate to implement on a limited basis the marking requirement on July 1, 2015 with respect to orders sent to the Exchange for nonelectronic processing (i.e., orders received and systematized by floor brokers handling orders on the CBOE trading floor), but proposes to delay the implementation of the marking requirement with respect to all other orders (i.e., orders submitted to the Exchange for electronic processing). While the Exchange continues to believe that there has been sufficient notice, training and circulars provided to Trading Permit Holders on the marking requirement with respect to electronic orders, based on recent feedback from Trading Permit Holders regarding their development efforts related to the marking requirement, CBOE believes it is appropriate to provide Trading Permit Holders with additional time to complete their necessary systems development work to comply with this new marking requirement. However, since CBOE has completed development work to allow floor brokers to mark orders as tied to stock on devices approved by the Exchange that may be used on the trading floor for the systemization of orders represented in open outcry,<sup>11</sup> CBOE believes it is appropriate to move forward with implementing the tied to stock marking requirement with respect to those orders.

CBOE delayed the implementation of Rule 15.2A for 12 to 18 months from the date of the filing that proposed that delay.<sup>12</sup> CBOE proposes to similarly delay implementation of the

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<sup>11</sup> Currently, the only Exchange-approved devices are the PULSe workstation, the Floor Broker Workstation (“FBW”) and FBW 2, which CBOE makes available to floor brokers. Pursuant to Rule 6.53(y), Trading Permit Holders representing tied to stock orders on the Exchange must apply the marking at the time of systemization of the order.

<sup>12</sup> See supra note 10. In that filing, CBOE indicated that it planned to evaluate the format of the reports with FINRA to ensure that the information to be provided in the reports can be incorporated into surveillances in an efficient and effective manner. During the delay, CBOE intends to review the number of tied to stock orders for which information regarding the stock or convertible security leg is not available from CBOE’s internal data (which will permit CBOE to evaluate the number of reports it can expect to receive and the potential impact of the reports on CBOE’s surveillances) and determine whether this

tied to stock marking requirement in Rule 6.53(y) with respect to orders submitted for electronic processing for 6 to 18 months from the date of this filing.<sup>13</sup> This will provide Trading Permit Holders with sufficient time to complete their systems development work to comply with the tied to stock marking requirement. During the delay, as part of CBOE's evaluation it is conducting in connection with the delay of the implementation of the reporting requirement, CBOE will evaluate the number of orders represented in open outcry that are marked as tied to stock, which will permit CBOE to evaluate the number of reports it can expect to receive with respect to those orders and the potential impact of the reports on CBOE's surveillances. The Exchange will issue a regulatory circular announcing the new implementation date for the reporting requirement as least 180 days prior to that date.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>14</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>15</sup> requirements that the rules of an exchange be 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 of a free and open market and a national

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additional information is necessary in order to enhance its ability to effectively monitor and conduct surveillance of the CBOE markets with respect to tied to stock orders whose execution information is not electronically captured by the audit trail.

<sup>13</sup> The Exchange may still implement the reporting requirement and the marking requirement for electronic orders at separate times.

<sup>14</sup> 15 U.S.C. 78f(b).

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

market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>16</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the delayed implementation of Rule 6.53(y) with respect to orders submitted to the Exchange for electronic processing will provide Trading Permit Holders with sufficient time to perform systems development work that will allow them to comply with the marking requirement for those orders, which will prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade. Additionally, the proposed delay will provide the Exchange with sufficient time to evaluate the information obtained through the marking requirement with respect to orders submitted for nonelectronic processing, as part of its ongoing evaluation of the related reporting requirement format. The Exchange believes the ability to tie executed non-option legs to the applicable option legs that were separately submitted for execution will assist in the Exchange's efforts to prevent fraudulent and manipulative acts and practices with respect to tied to stock orders, but only if Trading Permit Holders are able to apply the marking in accordance with the rule.

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. The proposed change does not impose any burden on competition, as it is simply seeking to delay the implementation of the tied to stock marking requirement with respect to certain orders. The implementation on July 1, 2015 of the marking requirement with respect to orders sent to the

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Id.

Exchange for nonelectronic processing is consistent with previous rule filings and was announced to Trading Permit Holders in regulatory circulars.

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 proposed rule change.

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 as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>17</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>18</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>19</sup> normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii)<sup>20</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay. The Exchange noted this proposed rule change merely further delays implementation of a marking requirement with respect to certain orders. The Exchange also previously indicated it would implement the marking requirement by July 6, 2015, which date is less than 30 days from the date of the filing. According to the Exchange, Trading Permit

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<sup>17</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>18</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of 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 Exchange has met this requirement.

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

<sup>20</sup> 17 CFR 240.19b-4(f)(6)(iii).

Holders have provided feedback that they will not be in a position to comply the marking requirement for electronic orders by that date. The Exchange believes the Commission should waive the operative delay to ensure that the Exchange will not be required to implement the marking requirement with respect to those orders prior to Trading Permit Holders having compliant systems ready to apply the marking.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Delaying the July 1, 2015 implementation date will allow more time for the Exchange and Trading Permit Holders to work together to ensure that Trading Permit Holder have compliant systems. For this reason, the Commission designates the proposed rule change to be operative on July 1, 2015.<sup>21</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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

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<sup>21</sup> For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).



- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2015-067 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CBOE-2015-067. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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 Number SR-CBOE-2015-067 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>22</sup>

Brent J. Fields  
Secretary

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<sup>22</sup> 17 CFR 200.30-3(a)(12).