

more spread strategies that are currently recognized in the Exchange's margin rules is consistent with the requirements of Section 6(b)(5) because the amendments will allow the Exchange to set levels of margin that more precisely represent the actual net risk of the option positions in the account and enable customers to implement these strategies more efficiently.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (File No. SR-CBOE-2004-53), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52949; File No. SR-CBOE-2005-104]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change to Amend its Rules Governing the Hours of Trading in Equity Options and Narrow-Based Index Options

December 13, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 6, 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, II, and III below, which Items have been prepared by the CBOE. 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 governing the hours of trading in equity options and narrow-based index options. The Exchange proposes that

these changes become effective February 1, 2006. The text of the proposed rule change is available on the CBOE's Web site (<http://www.cboe.com>), at the CBOE'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 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

The purpose of this rule change is to amend the CBOE's rules governing the hours of trading in equity options and narrow-based index options. Specifically, the CBOE proposes to amend its rules to change the close of the normal trading hours in equity options and in narrow-based index options from 3:02 p.m. (Chicago time) to 3 p.m. (Chicago time). After the change, the time of the close of trading in these CBOE options will correspond to the normal time set for the close of trading on the primary exchanges listing the stocks underlying the CBOE options. The primary exchanges generally close at 3 p.m. (Chicago time).

According to the Exchange, in 1997, the CBOE decided to change its closing time for equity options and narrow-based index options from 3:10 p.m. to 3:02 p.m. At the time, the CBOE determined that there were reasons to continue trading options for a limited period of time after the close of trading of the primary markets for the underlying securities. Specifically, the Exchange believed that the extended period allowed for options traders to respond to late reports of closing prices over the consolidated tape. If the price of a late reported trade on an underlying security was substantially different from the previous reported price, the extended trading session gave options traders the opportunity to bring options quotes in line with the closing price of the underlying security.

However, because of improvements in the processing and reporting of transactions, the CBOE believes that there are no longer significant delays in the reporting of closing prices; and therefore, a two minute session is no longer needed to trade options after the underlying securities close trading. Additionally, the Exchange believes that pricing aberrations can occur if an option is traded when the underlying stock is no longer trading, since there is a close relationship in the price of the underlying stock and the overlying option. As a result, the CBOE believes that it is difficult for the market to price options accurately when the underlying security is not trading.

As noted above, the Exchange also proposes to change the closing time for narrow-based indexes under CBOE Rule 24.6 because these indexes are subject to the same pricing problems as options on individual stocks. According to the CBOE, a significant news announcement on one component of a narrow-based index could have a significant effect on that index. However, the Exchange is not at this time proposing to change the closing time of 3:15 p.m. for broad-based index options because it does not believe that a significant news announcement by the issuer of one component stock of a broad-based index is likely to have a significant effect on the price of that broad-based index.

Accordingly, the CBOE proposes to amend its rules, including CBOE Rules 6.1, 6.2, 12.3, 24.6, and 24.16, in which references are made to a 3:02 p.m. closing time for equity options and narrow-based index options.

The Exchange notes that if it were to unilaterally modify its closing time, the existence of dissimilar closing times applicable to the different options exchanges would likely lead to confusion for options investors and broker-dealers. Accordingly, in September 2005, the Exchange requested from the Commission's Division of Market Regulation express authorization to jointly discuss this operational issue with the other options exchanges who are participants in the Options Price Reporting Authority,<sup>3</sup> and received such authorization.<sup>4</sup> The CBOE believes that all of the options exchanges will make similar changes to

<sup>3</sup> See letter from Joanne Moffic-Silver, Executive Vice President, General Counsel & Corporate Secretary, CBOE, to Robert L.D. Colby, Deputy Director, Division of Market Regulation ("Division"), Commission, dated September 16, 2005.

<sup>4</sup> See letter from Robert L.D. Colby, Deputy Director, Division, Commission, to Joanne Moffic-Silver, Executive Vice President, General Counsel and Secretary, CBOE, dated September 16, 2005.

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

their rules to revise the closing time in equity options and narrow-based index options from 3:02 p.m. (Chicago time) to 3 p.m. (Chicago time). According to the CBOE, the options exchanges collectively have determined that they would implement this new closing time on February 1, 2006.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>6</sup> in particular because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## 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 at (<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-2005-104 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-CBOE-2005-104. 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 Section. Copies of such filing also will be available for inspection and copying at the principal office of the 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-2005-104 and should be submitted on or before January 10, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Jonathan G. Katz,**

*Secretary.*

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<sup>7</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Amendment No. 1 clarifies that the central element in determining whether a communication is a solicitation is whether the communication occurs with the purpose of obtaining or retaining municipal securities business, and makes certain other changes.

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52948; File No. SR-MSRB-2005-11]

### **Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Definition of Solicitation Under MSRB Rules G-37 and G-38**

December 13, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 10, 2005, the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. On December 7, 2005, the MSRB filed Amendment No. 1 to the proposed rule change.<sup>3</sup> 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**

The MSRB has filed with the Commission a proposal consisting of an interpretive notice relating to the definition of solicitation for purposes of Rules G-37 and G-38. The text of the proposed rule change, as amended, is available on the MSRB's Web site (<http://www.msrb.org>), at the MSRB'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 MSRB 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 MSRB has prepared summaries, set forth in

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Amendment No. 1 clarifies that the central element in determining whether a communication is a solicitation is whether the communication occurs with the purpose of obtaining or retaining municipal securities business, and makes certain other changes.

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).