proposed rule change is consistent with Section 6(b)(5) of the Act,[7] which requires that the rules of the exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

The Commission believes that the proposed rule change to amend the Corporation's By-Laws to adopt a majority vote standard for uncontested elections is consistent with the Act. The Commission believes that the proposed rule change is designed to allow the members of the Corporation's Board of Directors to be elected in a manner that closely reflects the desires of its shareholders, while also providing a process for addressing the circumstance when a director fails to receive a majority of votes in an uncontested election.[8]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSE–2010–18) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

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

[8] The Commission notes that NYSE represented that the proposed change would not affect the voting limitations contained in the Corporation's certificate of incorporation.

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61946; File No. SR–CBOE–2010–032]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove a Feature and Revise Outdated Text Regarding Certain Execution Rules

April 20, 2010.

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 April 5, 2010, Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") 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 self-regulatory organization. The Exchange filed the 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] 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 is proposing to eliminate a feature and revise outdated text regarding certain of its execution rules. The text of the proposed rule change is available on CBOE's Web site at *http://www.cboe.org,* on the Commission's Web site at *http://www.sec.gov,* 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 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

The Exchange is proposing to eliminate a feature and revise outdated text regarding certain of its execution rules.

In August 2008,[5] the Exchange received Securities and Exchange Commission ("Commission") approval of a rule change to give certain non-broker-dealer orders (identified as "Voluntary Professional" orders) the priority given broker-dealer orders rather than the priority given to public customer orders. In December 2009,[6] the Exchange received Commission approval of a rule change to give certain other non-broker-dealer orders (identified as "Professional" orders) the priority given broker-dealer orders rather than the priority given to public customer orders. The rules changed the execution priority in various Exchange execution rules as they existed in August 2008 and December 2009, respectively. After reviewing its execution rules, the Exchange has determined to eliminate a feature within its execution rules pertaining to customer-to-customer immediate cross orders related to Voluntary Professionals and Professionals. Specifically, the Exchange is proposing to amend the execution rules as follows:

Rule 6.74A.09 pertains to customer-to-customer immediate cross orders. Under this provision, the Exchange may determine whether the customer-to-customer immediate cross functionality will be available on a class-by-class basis. If the functionality is available, an agency order for the account of a non-broker-dealer customer may be paired with a solicited order for the account of a non-broker-dealer customer and such orders will be crossed without any auction exposure period, provided certain conditions are met. For purposes of this provision, the rule provides that Voluntary Professional and Professional orders may be considered customer agency orders or solicited orders.[7] However, the system does not currently recognize Voluntary Professional and Professional orders as customer orders for purposes of the customer-to-customer immediate cross. Thus, the proposed rule change narrows the definition of customer-to-customer immediate cross orders to only public customer orders that are not Voluntary Professionals or Professionals, which is consistent with the current operation of the system. The rule will continue to provide that customer-to-customer immediate cross orders cannot be executed at the same price as any resting customer orders (*i.e.,* non-broker-dealer orders that are not Voluntary Professional or Professional orders).[8]

[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] Securities Exchange Act Release No. 58327 (August 7, 2008), 73 FR 47988 (August 15, 2008) (SR–CBOE–2008–09).

[6] Securities Exchange Act Release No. 61198 (December 17, 2009), 74 FR 68880 (December 29, 2009) (SR–CBOE–2009–078).

[7] *See* cross reference to Rule 6.74A.09 in Rule 1.1(fff) and (ggg).

[8] Under CBOE Rules 6.45A.01 through .02 and 6.45B.01 through .02, members are required to expose trading interest to the market before executing agency orders as principal or before executing agency orders against orders that were solicited from other broker-dealers (*i.e.,* proprietary and solicited crossing transactions). However, the CBOE options rules do not contain any limitations

The Exchange also proposes to delete a provision from Rule 6.74A.09 (which is proposed to be re-numbered to Rule 6.74A.08) regarding customer-to-customer immediate cross orders that was related to a block exemption from the old linkage rules that does not now exist under the distributive linkage plan.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [9] that an exchange have rules that are designed to promote just and equitable principles of trade, and 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. In particular, the proposed rule change corrects an inconsistency by eliminating a feature and revises outdated text regarding certain Exchange execution rules.

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 proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, 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 Rule 19b–4(f)(6) [12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposed rule change removes an inconsistency in the Exchange rules, which may eliminate member confusion and provide clarity on the meaning and applicability of the affected rules. Therefore, the Commission designates the proposal operative upon filing.[14]

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.

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–2010–032 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–2010–032. 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such 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–2010–032 and should be submitted on or before May 18, 2010.

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

Florence E. Harmon,

Deputy Secretary.

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or exposure requirements regarding the execution of customer orders against other customer orders. Customer-to-customer immediate cross orders was [sic] adopted to provide a way to enter opposing customer orders using a paired order type that protected customer orders on the book. *See* Securities Exchange Act Release No. 57512 (March 17, 2008), 73 FR 15546 (March 24, 2008) (SR–CBOE–2008–19). While only a public customer order that is not a Voluntary Professional or Professional will be permitted to be executed using the customer-to-customer immediate cross order mechanism under the proposed rule change, Rules 6.45A.02 and 6.45B.02 continue to allow the execution of all public customer orders (including Voluntary Professional and Professional orders) without an exposure period. Members may continue to enter two public customer orders (including Voluntary Professional and Professional orders) on the Exchange with the intent to cross them without the use of the customer-to-customer immediate cross order type. *See* cross references to Rules 6.45A.02 and 6.45B.02 in Rule 1.1(fff) and (ggg).

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

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

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its 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 satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

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

[15] 17 CFR 200.30–3(a)(12).