

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, located at 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 filings also will be available for inspection and copying at the principal office of the BSE. 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-BSE-2008-56 and should be submitted on or before February 3, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59209; File No. SR-CBOE-2008-132]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Chicago Board Options Exchange, Incorporated Regarding Fees for the CBOE Stock Exchange

January 7, 2009.

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 December 30, 2008, 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

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange")

proposes to amend its CBOE Stock Exchange ("CBSX") Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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 CBOE 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 Exchange proposes to amend the CBSX Fees Schedule to adopt fees for transactions involving securities priced under \$1. Specifically, for transactions of securities priced less than \$1, the Exchange proposes a credit of 0.0020 times the principal amount of the trade for liquidity providers (makers); a charge of 0.0029 times the principal amount of the trade for removing liquidity (takers); and a charge of 0.0029 times the principal amount of the trade for an order routed to another exchange, except for an order routed as part of a Cross and Sweep Order, in which case the charge would be 0.0040 times the principal amount of the trade. The proposed changes will take effect on January 1, 2009.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act"),³ in general, and furthers the objectives of Section 6(b)(4)⁴ of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities.

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 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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁵ and subparagraph (f)(2) of Rule 19b-4⁶ thereunder. 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-2008-132 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-2008-132. 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

⁷ 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. 78f(b).

⁴ 15 U.S.C. 78f(b)(4).

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(f)(2).

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, on official business days between the hours of 10 a.m. and 3 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-2008-132 and should be submitted on or before February 3, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59210; File No. SR-CBOE-2008-118]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change Related to Obvious Error Rules

January 7, 2009.

On November 26, 2008, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend CBOE Rules 6.25 and 24.16 (collectively, the "Obvious Error Rules") to adopt procedures that would allow CBOE to review transactions on its own motion. The proposed rule change was published for comment in the **Federal Register** on December 8, 2008.³ The Commission received no comment

letters on the proposal. This order approves the proposed rule change.

The proposed rule change would provide that, in the interest of maintaining a fair and orderly market and for the protection of investors, the President of CBOE or his/her designee, who shall be an officer of CBOE but may not be a member (collectively "CBOE officer"), may, on his or her own motion or upon request, determine to review any transaction occurring on CBOE that is believed to be erroneous.⁴ CBOE would nullify or adjust a transaction reviewed pursuant to this new provision only if it is determined that the transaction is erroneous as provided in CBOE Rule 6.25(a)(1)–(6) or Rule 24.16(a)(1)–(6), as applicable.⁵ Trading Officials (or the senior official in the control room, in the case of opening trades in CBOE Rule 5.4 restricted series being reviewed under CBOE Rule 6.25(a)(6) or Rule 24.16(a)(6)) may assist the CBOE officer in reviewing a transaction.

Under the proposed rule change, the CBOE officer would be required to act as soon as possible after receiving notification of the transaction, and ordinarily would be expected to act on the same day as the transaction. However, because a transaction under review may have occurred near the close of trading or due to unusual circumstances, the rule provides that the CBOE officer would be required to act no later than 8:30 a.m. (CT) on the next trading day following the date of the transaction at issue. A member affected by a determination to nullify or adjust a transaction pursuant to this new provision would be permitted to appeal such determination in accordance with Rule 6.25(d) or Rule 24.16(d); however, a determination by a CBOE officer not to review a transaction, or a determination not to nullify or adjust a transaction for which a review was requested or conducted, is not appealable. Transactions adjusted or nullified pursuant to this new provision cannot be reviewed by an Obvious Error Panel under paragraph (c) of Rule 6.25.

⁴ In the event a party to a transaction requests that the President or his/her designee review a transaction, the CBOE officer nonetheless would need to determine, on his or her own motion, whether to review the transaction. In addition, if a transaction is reviewed and a determination is rendered pursuant to paragraphs (b)(1) and (b)(2) of CBOE Rule 6.25 or Rule 24.16, relief shall not be granted under the new provision of the applicable Obvious Error Rule.

⁵ The transaction would be adjusted or nullified in accordance with the provision under which it is deemed an erroneous transaction, including consideration of whether the parties involved are CBOE market-makers, non-CBOE market makers, or customers pursuant to CBOE Rule 6.25(a)(1)(i)–(iv) and CBOE Rule 24.16(c).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁶ and, in particular, the requirements of Section 6(b) of the Act⁷ and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁸ in that the proposal is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to 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, in approving proposals relating to adjustment or nullification of trades involving obvious errors, it has stated that the determination of whether an obvious error has occurred and the process for reviewing such a determination should be based on specific and objective criteria and subject to specific and objective procedures.⁹ The Commission notes that the new provisions in the Obvious Error Rules also have specific and objective procedures for determining whether a trade should be adjusted or nullified. The purpose of the new provisions is only to enable a CBOE officer on his/her own motion or upon request, to provide relief in instances where parties failed to meet the established time reporting requirements in CBOE's Obvious Error Rules. The new provisions still require that the transaction be erroneous as provided in CBOE Rules 6.25 or 24.16, as applicable, and the new provisions set forth specific time frames and procedures. Therefore, the Commission believes that that proposed rule change is appropriate.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-CBOE-2008-118) is hereby approved.

⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ See, e.g., Securities Exchange Act Release Nos. 58778 (October 14, 2008), 73 FR 62577 (October 21, 2008) and 54228 (July 27, 2006), 71 FR 44066 (August 3, 2006) (SR-CBOE-2006-14) (approving revisions to CBOE's Obvious Error Rules).

¹⁰ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 59038 (December 2, 2008), 73 FR 74543.