CBOE EXECUTE SUCCESS℠

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July 21, 2015

Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F. Street, N.E.
Washington, D.C. 20549-0609

Re: Exchange Act Release No. 75245; File No. SR-CBOE-2015-026

Dear Mr. Fields:

The Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") appreciates the opportunity to comment in response to the Commission's Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change Relating to Rules 6.74A and 6.74B,[1] issued with respect to the recent rule filing submitted by the Exchange contemplating an amendment to CBOE rules regarding the solicitation of Market-Makers as the contra party to an agency order entered into the Exchange's Automated Improvement Mechanism ("AIM") and Solicitation Auction Mechanism ("SAM") auctions (collectively, the "Auctions").[2] As discussed below, the Exchange believes the Proposal is consistent with Section 6 of the Securities Exchange Act of 1934 (the "Act") and should be approved.

I. Background

The Auctions are automated processes that a Trading Permit Holder ("TPH") may use to electronically execute an order the TPH represents as agent ("Agency Order") against a principal contra order ("Facilitated Order") or a solicited contra order ("Solicited Order") (collectively, "Contra Orders"), potentially providing price improvement to the Agency Order. Currently, Solicited Orders entered by a TPH to trade against Agency Orders in the Auctions may not be for the account of a CBOE Market-Maker appointed to the same options class as the Agency Order. The Proposal seeks to remove this prohibition and allow Solicited Orders to be for the account of CBOE Market-Makers appointed to the option class.

The Exchange believes Agency Orders entered into the Auctions are well-served because, among other things, Contra Orders must be for the full size of the Agency Orders (effectively guaranteeing an execution); a price must be entered that is, depending on the size of the Agency

[1] Securities Exchange Act Release No. 75245 (June 18, 2015), 80 FR 36386 (June 24, 2015) ("Order").
[2] Securities Exchange Act Release No. 74519 (March 17, 2015), 80 FR 15264 (March 23, 2015) (SR-CBOE-2015-026) ("Proposal").

Order, at or better than the National Best Bid or Offer ("NBBO"); and Agency Orders have the potential to receive price improvement from responders to the auction. The Exchange notes that the Proposal will not modify any of the above benefits and is instead designed to increase the number of liquidity providers available to guarantee fills to Agency Orders via the auction process.

II. Inconsistencies with Current Market-Maker Solicitation Process

Currently, depending on the parties involved and whether the trade is executed in open outcry, the rules differ for whether a market-maker appointed to an options class can be solicited to trade against an order represented as agent. For example, within the Auctions, a Solicited Order may not be for the account of a CBOE Market-Maker appointed to the same options class as the Agency Order, but a Solicited Order can be for the account of a market-maker appointed in the options class on a non-CBOE exchange. Thus, the current prohibition adds unnecessary confusion regarding when appointed market-makers may add liquidity via Contra Orders.

In addition, in the open outcry environment, off-floor Market-Makers that are appointed to an options class on CBOE can be solicited to participate as contra in open outcry crossing transactions. This construct has not been detrimental to open outcry liquidity, and the Exchange believes there is no reason to apply a different standard to electronic auctions. The Exchange supports allowing Solicited Orders to be for the account of Market-Makers appointed in the options class on CBOE as it will eliminate some of the unnecessary disparities noted above and, at a minimum, decrease confusion over which entities can be solicited to help fill Agency Orders, as well as add consistency and increase the pool of available Market-Makers that can be solicited on electronic auctions.

III. Increasing Liquidity Available to Agency Orders

The Order states that "the Exchange has not provided any data to support its arguments" that the Proposal will lead to increased liquidity in the Auctions. The Exchange does not believe providing data that proves Auction liquidity will increase is necessary to approve the Proposal as the Act does not require data to be available or provided to the Commission in order for a rule change to be approved.[3] Importantly, the Exchange asserts that simplifying and expanding the number of participants that can be solicited to provide Solicited Orders should lead to more

[3] *See e.g.*, Section 6(b)(5) and (8) of the Act (lacking any reference to data). Section 6(b)(5) simply states that 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 market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this chapter matters not related to the purposes of this chapter or the administration of the exchange.

Solicited orders[4] which, unlike auction responses, guarantee Agency Orders a fill for the *full size* of the Agency Orders at a price equal to or better than the NBBO.

IV. Request for Comments

The Commission requested commenters' views on: 1) how the Proposal could impact the quality of the Auctions, internalization rates, liquidity, and competition, within or outside of the Auctions and 2) the potential impact of the Proposal on the quoting behavior of Market-Makers.

The Exchange does not believe the Proposal will adversely affect the quality of the Auctions. As noted above, the Exchange believes an increase in the number of market participants available to provide Contra Orders will increase liquidity available to Agency Orders, thus, potentially leading to an increase in the number of Auctions. The Exchange believes increased liquidity available to Agency Orders will positively affect the experience for Agency Orders and the overall quality of the Auctions. Furthermore, increasing the number of market participants available to provide Solicited Orders will likely increase competition to provide Contra Orders, which may lead to an Auction being initiated at a better price.[5]

Additionally, the Exchange does not foresee a significant impact on internalization rates. The current rule already allows initiating TPHs, which are not allowed to be market-makers, to internalize orders by submitting Facilitation Orders in order to trade against Agency Orders.

The Exchange also does not believe the Proposal will adversely impact the quoting behavior of Market-Makers because Market-Makers will continue to seek access to order flow that comes into the Exchange outside of the auction process. In order to interact with that order flow, Market-Makers will need to continue quoting aggressively or Market-Makers will not have any chance of participating in the majority of the Exchange's volume. The Auctions only accounted for approximately 17.7% of total CBOE volume in May and 15% in June, representing 25.5% and 21.4% of transactions, respectively.

Finally, the Exchange does not believe there is a meaningful regulatory purpose behind the prohibition against Market-Makers being solicited to trade against an Agency Order in a class in which the Market-Maker is appointed because, again, the current rule already allows a Solicited Order to be for the account of an appointed market-maker on a non-CBOE exchange, even if that same firm has a Market-Maker appointed on CBOE. Further, the Exchange does not believe potential market manipulation should be a basis for disapproval, especially considering that the Proposal specifically prohibits a Market-Maker from modifying its pre-programmed

[4] For example, there may be Agency Orders that are currently not eligible for Auctions because the initiating TPH is unable to find a Contra Order. Increasing the number of potential solicited parties increases the likelihood that the initiating TPH will be able to find a Contra Order via a Solicited Order thereby increasing liquidity available to the Agency Order. This benefits all auction participants.

[5] For example, an Auction with a Solicited Order will only be initiated when a TPH specifies a single price at which the TPH seeks to cross the Agency Order with the Solicited Order ("single-price submission"). Thus, more market participants competing to provide Solicited Orders may lead to solicited parties providing more aggressive initial prices.

response to Auctions based on information regarding a particular Agency Order or Solicited Order.

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CBOE respectfully requests that the Commission approve the Proposal as it is designed to increase the efficiency of the current market structure and potentially increase liquidity. If you have any questions, or if we can provide further information, please contact the undersigned.

Sincerely,

Kyle Edwards

cc: Mr. David Hsu, SEC
Ms. Susie Cho, SEC
Mr. Michael Ogershok, SEC
Mr. Arun Manoharan, SEC