

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60710; File No. SR-CBOE-2009-057)

September 23, 2009

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change Related to Market-Maker and Specialist Orders

On August 10, 2009, the Chicago Board Options Exchange, Incorporated (“CBOE”) 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 eliminate Rule 6.73(d) and its requirement to orally identify a Market-Maker or a Specialist order in open outcry before requesting a quote. The proposed rule change was published for comment in the Federal Register on August 19, 2009.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

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 exchange.⁴ In particular, the Commission finds that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,⁵ which requires, among other things, that the CBOE rules be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 60491 (August 12, 2009), 74 FR 41953.

⁴ In approving this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

According to the CBOE, it adopted Rule 6.73(d) to ensure that Market-Maker and Specialist orders were not inadvertently represented as public customer orders, which receive preferential treatment in certain instances under CBOE rules.⁶ The CBOE proposes to eliminate the requirement in Rule 6.73(d) to orally identify the Market-Maker and Specialist orders in open outcry and represents that the requirement is superfluous and unnecessary because the preferential treatment afforded to public customer orders was system-enforced through the order marking requirement. In addition, the CBOE represents that it no longer utilizes the RAES trading platform for which the order identification procedure was introduced.

In approving the proposed rule change, the Commission notes that it received no comments on the proposed rule change and bases its approval, in part, on the CBOE's representations that public customer orders will continue to receive appropriate preferential treatment under its Hybrid Trading System and existing rules.

⁵ 15 U.S.C. 78f(b)(5).

⁶ See Securities Exchange Act Release No. 46102 (June 21, 2002), 67 FR 43692 (June 28, 2002)(SR-CBOE-2002-33) (immediately effective rule change relating to the identification of Market-Maker and Specialist orders).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-CBOE-2009-057) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Florence E. Harmon
Deputy Secretary

⁷ 15 U.S.C. 78s(b)(2)

⁸ 17 CFR 200.30-3(a)(12)