SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70011; File No. SR-CBOE-2013-074)

July 19, 2013

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to CBSX Rule 53.2

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 July 19, 2013, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") 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 Exchange. 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Stock Exchange, LLC ("CBSX") Rule 53.2, which relates to the prohibition against trading ahead of customer orders. The text of the proposed rule change is provided below.

(additions are underlined; deletions are [bracketed])

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Chicago Board Options Exchange, Incorporated
Rules

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Rule 53.2. Prohibition Against Trading Ahead of Customer Orders
No change.

. . . Interpretations and Policies:

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

.01 No change.

.02 No-Knowledge Exception. With respect to NMS stocks, as defined in Rule 600 of SEC Regulation NMS, if a Trading Permit Holder implements and utilizes an effective system of internal controls, such as appropriate information barriers, that operate to prevent one trading unit from obtaining knowledge of customer orders held by a separate trading unit, those other trading units trading in a proprietary capacity may continue to trade at prices that would satisfy the customer orders held by the separate trading unit. A Trading Permit Holder that structures its order handling practices in NMS stocks to permit its proprietary and/or market-making desk to trade at prices that would satisfy customer orders held by a separate trading unit must disclose in writing to its customers, at account opening and annually thereafter, a description of the manner in which customer orders are handled by the Trading Permit Holder and the circumstances under which the Trading Permit Holder may trade proprietarily at its proprietary and/or market-making desk at prices that would satisfy the customer order. If a Trading Permit Holder intends to rely on this exception by implementing information barriers, those information barriers should at a minimum (i) [must]provide for the organizational separation of a Trading Permit Holder's customer order trading unit and proprietary trading unit; (ii) [must]ensure that one trading unit does not exert influence over the other trading unit; (iii) [must]ensure that information relating to each trading unit's stock positions[,] and trading activities[, and clearing and margin arrangements] is not improperly shared (except with persons in senior management who are involved in exercising general managerial oversight of one or both entities); (iv) [must require each trading unit to maintain separate books and records (and separate financial accounting); (v) must require each trading unit to separately meet all required capital requirements; (vi) must]ensure the confidentiality of the trading unit's book as provided by Exchange rules; and (v[ii]) [must]ensure that any other material, non-public information (e.g. information related to any business transactions between the trading unit and an issuer or any research reports or recommendations issued by the trading unit) is not made improperly available to the other trading unit in any manner that would allow that trading unit to take undue advantage of that information while trading on CBSX. A Trading Permit Holder must submit the proposed information barriers in writing to the Exchange upon request. Trading Permit Holders must maintain records that indicate which orders rely on this exception and submit these records to the Exchange upon request.

.03 – .07 No change.

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The text of the proposed rule change is also available on the Exchange's website (http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx), at the Exchange'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

CBSX Rule 53.2 governs the treatment of customer orders and prohibits a CBSX Trading Permit Holder from proprietarily trading ahead of a customer order. The Securities and Exchange Commission (the "Commission") recently approved a rule filing to, among other things, amend CBSX Rule 53.2.[3] The amendments to Rule 53.2 included, among other things, the addition of a number of exceptions to the customer order protection rule. One of the new exceptions is a "no-knowledge" exception, which allows a proprietary trading unit of a Trading Permit Holder organization to continue trading in a proprietary capacity and at prices that would satisfy customer orders that were being held by another, separate trading unit at the Trading Permit Holder organization.[4] In order to avail itself of the "no-knowledge" exception, a Trading Permit Holder organization must first implement and utilize an effective system of internal

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[3] See Securities Exchange Act Release No. 34–69504 (May 2, 2013), 78 FR 26828 (May 8, 2013) (SR-CBOE-2013-027). Pursuant to that rule filing, the Exchange issued Regulatory Circular RG 13-098 on July 10, 2013, which announced that the amendments to Rule 53.2 would become effective on July 22, 2013.

[4] See Rule 53.2, Interpretation and Policy .03. The "no-knowledge" exception is applicable with respect to NMS stocks, as defined in Rule 600 of SEC Regulation NMS.

controls (such as appropriate information barriers) that operate to prevent the proprietary trading unit from obtaining knowledge of the customer orders that are held at a separate trading unit.[5]

If a Trading Permit Holder intends to rely on the "no-knowledge" exception by implementing information barriers, those information barriers must (i) provide for the organization separation[6] of a Trading Permit Holder's trading unit that holds customer orders and a proprietary trading unit; (ii) ensure that one trading unit does not exert influence over the other trading unit; (iii) ensure that information relating to each trading unit's stock positions, trading activities, and clearing and margin arrangements is not improperly shared (except with person in senior management who are involved in exercising general managerial oversight of one or both entities); (iv) require each trading unit to maintain separate books and records (and separate financial accounting); (v) require each trading unit to separately meet all required capital requirements; (vi) ensure the confidentiality of each trading unit's book as provided by the Exchange rules; and (vii) ensure that any other material non-public information (e.g. information related to any business transactions between a trading unit and an issuer or any research reports or recommendations issued by the trading unit) is not made improperly available to the other trading unit in any manner that would allow that trading unit to take undue advantage of that information while trading on CBSX. A Trading Permit Holder must submit the proposed information barriers in writing to the Exchange upon request.

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[5] The "no-knowledge" exception also provides that a Trading Permit Holder organization that structures its order handling practices in NMS stocks to permit its proprietary and/or market-making desk to trade at prices that would satisfy customer orders held as a separate trading unit must disclose in writing to its customers, at account opening and annually thereafter, a description of the manner in which customer orders are handled by the Trading Permit Holder and the circumstances under which the Trading Permit Holder may trade proprietarily at its market-making desk at prices that would satisfy the customer order.

[6] Organizational separation includes physical separation of the trading units.

The Exchange proposes to amend the information barrier requirements of the "no-knowledge" exception as follows:

- remove from requirement (iii) the need to ensure that information relating to each trading unit's clearing and margin arrangements is not improperly shared;
- eliminate information barrier requirements (iv) and (v); and
- renumber requirements (vi) and (vii) as (iv) and (v).

The Exchange believes the remaining information barrier requirements provide for the necessary protections in order for a Trading Permit Holder to avail itself of the "no-knowledge" exception.

The Exchange also proposes to amend the "no-knowledge" exception by providing that a Trading Permit Holder relying on this exception should have information barriers that, at a minimum, satisfy the specified criteria. This change clarifies that Trading Permit Holders are able to include additional conditions in their information barriers as they deem appropriate.

Finally, the Exchange proposes to add a requirement that Trading Permit Holders must maintain records that indicate which orders rely on this "no-knowledge" exception and provide these records to the Exchange upon request. This change will ensure that a documented audit trail exists to indicate which orders are subject to this exception and that the Exchange will have access to records in connection with its surveillances associated with customer order protection.

The Exchange will implement the proposed changes on July 22, 2013, in conjunction with the previously approved amendments to CBSX Rule 53.2.[7]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of

[7] See supra note 3.

Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirements that the 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will protect investors by bringing the information barriers that Trading Permit Holders must maintain to avail themselves of the "no-knowledge" exception more in line with other trading venues while at the same time ensuring sufficient customer order protection.[11] The Exchange also believes the proposed change to clarify that Trading Permit Holders should at a minimum satisfy the information barrier requirements, as amended, will provide Trading Permit Holders with the flexibility to include other conditions they believe are appropriate to ensure proper barriers are in place.[12] In

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8 15 U.S.C. 78f(b).

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

10 Id.

11 See, e.g., Financial Industry Regulatory Authority (FINRA) Rule 5320, "Prohibition Against Trading Ahead of Customer Orders; and Chicago Stock Exchange (CHX) Article 9, Rule 17, "Prohibition Against Trading Ahead of Customer Orders."

12 Since each Trading Permit Holder is somewhat unique in its structure and business model, such flexibility will provide each firm with the ability to tailor their barriers in a way that is consistent with their needs, so long as, at a minimum, they include the requirements as proposed in this filing.

general, the Exchange believes that harmonizing customer order protection rules across self-regulatory organizations and providing Trading Permit Holders with the flexibility to implement their barriers in a manner they deem appropriate will foster cooperation and contribute to perfecting the mechanism of a free and open market and national market system. In addition, the Exchange believes the additional requirement for Trading Permit Holders to maintain records that identify the orders that are associated with the reliance of the no-knowledge exception will further enhance the Exchange's ability to adequately surveil its Trading Permit Holders for compliance with the customer order protection rule. Overall, the Exchange believes that the customer order protection rule, as amended by the proposed rule change, will continue to maintain the necessary protection and priority of customer orders designed to prevent fraudulent and manipulative acts, without imposing any undue regulatory costs on industry participants.

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 the purposes of the Act. All Trading Permit Holders that rely on information barriers to take advantage of the "no-knowledge" exception will have to satisfy the same criteria. The Exchange believes the proposed rule change will reduce the burdens on market participants by eliminating certain requirements in the current rule with which they must comply to avail themselves of the "no-knowledge" exception. The Exchange also believes the proposed rule change will reduce the burdens on market participants that result from their having to comply with varying rules related to customer order protection, thus reducing the complexity of customer order protection rules, particularly for those firms subject to the rules of multiple trading venues. The Exchange believes the additional requirement to maintain records of orders that rely on the "no-

knowledge" exception will not impose additional burdens on Trading Permit Holders, as it is consistent with audit trail and record retention requirements that are already imposed on market participants. Overall, the Exchange believes the proposed rule change further harmonizes customer order protection rules across self-regulatory organizations while sufficiently protecting customer orders, which ultimately benefits market participants and does not impose a burden on competition.

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 proposed rule change.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and subparagraph (f)(6) of Rule 19b-4 thereunder.[14]

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing.[15] However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public

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13 15 U.S.C. 78s(b)(3)(A).

14 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

15 17 CFR 240.19b-4(f)(6)(iii).

interest.[16] The Exchange has requested that the Commission waive the 30-day operative delay because the Exchange believes the proposed rule change does not present any new, unique or substantive issues. The proposed rule change eliminates some requirements that Trading Permit Holders otherwise would have to satisfy to take advantage of the "no-knowledge" exception; however, the Exchange believes that the amended information barrier requirements bring the rule further in line with the customer protection rule requirements of other self-regulatory organizations. In addition, the Exchange believes the information barriers, as amended, will be sufficiently adequate to allow Trading Permit Holders to avail themselves of the "no-knowledge" exception. The Exchange also believes that the additional requirement to maintain records of orders that rely on the "no-knowledge" exception is consistent with requirements already imposed on market participants and thus will not impose any additional burdens on Trading Permit Holders.

The Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule will harmonize the Exchange's customer order protection rules with the rules of other self-regulatory organizations,[17] and that the requirements that the Exchange's rules impose on Trading Permit Holders will continue to ensure that customer orders are afforded sufficient protection. Therefore, the Commission designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

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16 Id.

17 See supra note 11.

18 For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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-2013-074 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-2013-074. 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 website (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 website viewing and printing in the Commission's Public Reference Room on official business days between the

hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of 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-2013-074, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill
Deputy Secretary

[19] 17 CFR 200.30-3(a)(12).