

provisions of 5 U.S.C. 552, will be available for inspection and copying 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 publicly available. All submissions should refer to File Number SR-BX-2010-066 and should be submitted on or before October 18, 2010.

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

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62951; File No. SR-CBOE-2010-087]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Related to CBSX Market-Maker Obligations

September 20, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 17, 2010, Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission ("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 Substance of the Proposed Rule Change

The Exchange is proposing to amend CBOE Stock Exchange's ("CBSX", the CBOE's stock trading facility) rules to enhance quotation requirements. The text of the rule proposal is available on the Exchange's Web site ([http://](http://www.cboe.org/legal)

[www.cboe.org/legal](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, 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 proposes to adopt rules to enhance minimum quotation requirements for CBSX Remote Market-Makers, CBSX Designated Primary Market-Makers ("CBSX DPMs"), and CBSX Lead Market-Makers ("CBSX LMMs") (collectively "CBSX Market-Makers"). Under the proposal, the Exchange will amend Rules 53.23, *Obligations of CBSX Remote Market-Makers*, and Rule 53.56, *CBSX DPM Obligations*,<sup>3</sup> to require CBSX Market-Makers for each stock in which they are registered to continuously maintain a two-sided quotation within a designated percentage of the National Best Bid and National Best Offer as appropriate during CBSX Regular Trading Hours after the primary listing market has disseminated an opening quote in the stock on a given trading day.<sup>4</sup> These enhanced market maker quotation obligations and [sic] are intended to

<sup>3</sup> The Exchange notes that no change is necessary to the text related to CBSX LMM obligations as existing Rule 53.51, *CBSX LMM Defined*, already provides that CBSX LMMs will have the same obligations of CBSX Remote Market-Makers plus those additional obligations of CBSX DPMs.

<sup>4</sup> A CBSX Remote Market-Maker would be obligated to provide continuous quotes only when the CBSX Remote Market-Maker is quoting in a particular security during CBSX Regular Trading Hours after the primary listing market has disseminated an opening quote in the stock on a given trading day. See proposed Rule 53.23.01(a), which is similar to CBOE's existing rule for options Market-Makers, Rule 8.7(d)(iii). A CBSX DPM or CBSX LMM would be obligated to provide continuous quotes during the CBSX Regular Trading Hours after the primary listing market has disseminated an opening quote in the stock on a given trading day. See proposed Rule 53.56.01(a), which is similar to CBOE's existing rules for options DPMs and LMMs, Rules 8.85(a)(i) and 8.15A(b)(i).

eliminate trade executions against market maker placeholder quotations traditionally priced far away from the inside market, commonly known as "stub quotes." They are also intended to augment and work in relation to the single stock pause standards already in place on a pilot basis for stocks in the S&P 500, the Russell 1000 and certain exchange-trade products.<sup>5</sup>

Under the proposal, the Exchange will require CBSX Market-Makers to enter and maintain quotes priced at no more than a certain percentage away from the national inside bid and offer.

Permissible quotes are determined by the individual character of the security, the time of day in which the quote is entered, and other factors which are summarized below:

For issues subject to an individual stock trading trigger pause, a permissible quote is determined by first looking at the applicable stock trading pause trigger percentage of the security and then reducing that number by 2%. Since currently the stock trading trigger percentage across all exchanges is 10%, a CBSX Market-Maker's quote in a such a security may not be more than 8% away from the national best bid or best offer as appropriate. Once a compliant quote is entered, it may rest without adjustment until such time as it moves to within 1/2 of 1% of the applicable trigger pause percentage (*i.e.*, currently 9.5%) whereupon the CBSX Market-Maker must immediately move its quote back to at least the permissible default level of 8% away from the national best bid or best offer. During times in which a trigger pause percentage is not applicable (*e.g.*, before 8:45 a.m. and after 2:35 p.m. Chicago Time), a market maker must maintain a quote no further than 20% away from the inside (*i.e.*, it may rest without adjustment until it reaches 21.5%). In the absence of national best or best offer, the above calculations will remain the same, but will use the national last sale instead of the absent bid or offer.

For securities not subject to any individual stock trading trigger, the proposal will a [sic] assume a hypothetical 32% trigger pause, apply a 2% reduction, and require CBSX Market-Makers in those issues to maintain quotes no more than 30% away from the national best and national best offer. Like securities subject to stock trading pauses, once a compliant quote is entered, it may rest without adjustment until such time as it moves to within 1/2 of 1% of its

<sup>5</sup> See Exchange Act Release Nos. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) and 62886 (September 10, 2010).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

applicable trigger pause percentage (31.5%) whereupon the CBSX Market-Maker must immediately move its quote back to at least the permissible default level of 30%. These requirements shall apply to Regulation NMS stocks during CBSX Regular Trading Hours after the primary listing market has disseminated an opening quote in the stock for the given trading day.

Nothing in the above precludes a CBSX Market-Maker from voluntarily quoting at price levels that are closer to the national best bid and best offer than required under the proposal.

## 2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,<sup>6</sup> which requires the rules of an exchange 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 proposed rule change also is designed to support the principles of Section 11A(a)(1)<sup>7</sup> of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning minimum market maker quotation requirements.

### 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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2010-087 on the subject line.

### Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-CBOE-2010-087. 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 inspection and copying 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 publicly available. All submissions should refer to File Number SR-CBOE-2010-087 and should be submitted on or before October 18, 2010.

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

**Florence E. Harmon,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62960; File No. SR-NYSE-2010-56]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving a Proposed Rule Change Amending Its Price List To Reflect Fees Charged for Co-Location Services

September 21, 2010.

On August 3, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its Price List to reflect fees charged for co-location services. The proposed rule change was published for comment in the **Federal Register** on August 20, 2010.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

In its proposal, NYSE proposed to amend its Price List to identify fees pertaining to co-location services, which allow Users<sup>4</sup> of the Exchange to rent space on premises controlled by the Exchange so that they may locate their electronic servers in close physical proximity to the Exchange's trading and execution systems. NYSE represented that it planned to begin operating a data center in Mahwah, New Jersey, from which it will offer co-location services. The Exchange represented that it will offer space at the data center in cabinets with power usage capability of either four or eight kilowatts (kW).<sup>5</sup> In

<sup>8</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 62732 (Aug 16, 2010), 75 FR 51512 ("Notice").

<sup>4</sup> For the purposes of this filing, the term "Users" includes any "member organization," as that term is defined in NYSE Rule 2(b) and any "Sponsored Participant," as that term is defined in NYSE Rule 123B.30(a)(ii)(B).

<sup>5</sup> The Exchange represented that it also allows Users, for a monthly fee (*i.e.*, 40% of the applicable monthly per kW fee), to obtain an option for future use on available, unused cabinet space in proximity to their existing cabinet space. Specifically, Users may reserve cabinet space of up to 30% of the

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78k-1(a)(1).