SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69203; File No. SR–CBOE–2013–032]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to an Order Router Subsidy Program for Complex Orders

March 21, 2013.

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 March 8, 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, II, and III 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 proposes to enter into subsidy arrangements with any CBOE Trading Permit Holder or Non-CBOE Trading Permit Holder broker-dealer that provide certain order routing functionalities with respect to complex orders[3] to other CBOE Trading Permit Holders, Non-CBOE Trading Permit Holders and/or use such functionalities themselves.

The text of the proposed rule change is available on the Exchange's Web site (*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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 5, 2007, CBOE established the Order Router Subsidy Program (the ''ORS Program'') which allows CBOE to enter into subsidy arrangements with CBOE Trading Permit Holders (''TPHs'') that provide certain order routing functionalities to other CBOE TPHs and/or use such functionalities themselves.[4] The Exchange later extended this program to enable CBOE to establish such subsidy arrangements with broker-dealers that are not CBOE TPHs and to permit participating CBOE TPHs and participating non-CBOE TPHs to receive subsidy payments for providing order routing functionality to broker-dealers who are not CBOE TPHs.[5] Specifically, CBOE TPHs and non-CBOE TPHs who enter into such subsidy arrangements receive a payment from CBOE for every executed contract for orders routed to CBOE through their system. Currently, the ORS Program permits subsidy payments with respect to simple, non-complex orders only. The Exchange now proposes to establish the Complex Order Router Subsidy Program (the ''CORS Program'' or ''Program''), which is a similar program but would permit subsidy payments with respect to complex orders only. Specifically, the CORS Program would permit CBOE to enter into subsidy arrangements with any CBOE TPH (each, a ''Participating TPH'') or Non-CBOE TPH broker-dealer (each a ''Participating Non-CBOE TPH'') that provide certain order routing functionalities with respect to complex orders[6] to other CBOE TPHs, Non-CBOE TPHs and/or use such functionalities themselves. (The term ''Participant'' as used in this filing refers to either a Participating TPH or a Participating Non-CBOE TPH). The purpose of this proposed change is to incentivize the sending of complex orders to the Exchange.

To qualify for the complex order subsidy arrangement, a Participant's order routing functionality would have to be capable of interfacing with CBOE's API to access current CBOE trade engine functionality and must be configured to cause CBOE to be the default destination exchange for complex orders, but allow any user to manually override CBOE as the default destination on an order-by-order basis. Any CBOE TPH or broker-dealer that is not a CBOE TPH would be permitted to avail itself of this arrangement, provided that its order routing functionality incorporates the features described above and it signs an agreement agreeing to abide by the provisions of the Program. Additionally, Participants must satisfy CBOE that their order routing functionality appears to be robust and reliable. The Participant would be solely responsible for implementing and operating its system.

CBOE is proposing to make payments to Participants for every executed contract for complex orders routed to CBOE through that Participant's system to subsidize their costs associated with providing order routing functionalities for complex orders. The payment would be $0.04 per executed contract of each leg[7] for complex orders routed to CBOE through a Participant's system. The Exchange notes that the amount of the subsidy payment per executed contract for complex orders will be the same as the subsidy payment per executed contract for simple, non-complex orders under the ORS Program. The Participants would have to agree that they are not entitled to receive any other revenue for the use of their system, specifically with respect to complex orders routed to CBOE.[8] Participants

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

[2] 17 CFR 240.19b–4.

[3] For purposes of the ORS [sic] Program, a ''complex order'' shall have the definition set forth in the first sentence of CBOE Rule 6.53C(a)(1) which reads ''[a] ''complex order'' is any order involving the execution of two or more different options series in the same underlying security occurring at or near the same time in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) (or such lower ratio as may be determined by the Exchange on a class-by-class basis) and for the purpose of executing a particular investment strategy.''

[4] *See* Securities Exchange Act Release No. 55629 (April 13, 2007), 72 FR 19992 (April 20, 2007) (SR–CBOE–2007–034). Additionally, the description of the current program was clarified in SR–CBOE–2008–27. *See* Securities Exchange Act Release No. 57498 (March 14, 2008), 73 FR 15018 (March 20, 2008) (SR–CBOE–2008–27).

[5] *See* Securities Exchange Act Release No. 63631 (January 3, 2011), 76 FR 1203 (January 7, 2011) (SR–CBOE–2010–117).

[6] For purposes of the CORS Program, a ''complex order'' shall have the definition set forth in the first sentence of CBOE Rule 6.53C(a)(1) which reads ''[a] ''complex order'' is any order involving the execution of two or more different options series in the same underlying security occurring at or near the same time in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) (or such lower ratio as may be determined by the Exchange on a class-by-class basis) and for the purpose of executing a particular investment strategy.''

[7] For example, if a complex order to buy ten March 50 call options and to sell ten March 55 call options were executed, the transaction would count as 20 contracts for calculating the fee payable to Participant.

[8] This requirement would not prevent the Participant from charging fees (for example, a flat monthly fee) for the general use of its order routing system. Nor would it prevent the Participant from charging fees or commissions in accordance with its

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would not be precluded, however, from receiving payment for order flow if they choose to do so. Any CBOE TPH or broker-dealer that is not a CBOE TPH would be permitted to avail itself of both this arrangement and the arrangement under the ORS Program, so long as its order routing functionality incorporates the features required under the CORS Program and the features required under the ORS Program.

The Exchange notes that the proposed CORS Program is substantially similar to the current ORS Program. One notable difference however, is that Participants in the ORS Program are required to incorporate a function allowing orders at a specified price to be sent to multiple exchanges with a simple click (''sweep function'') and the sweep function needs to be configured to cause an order to be sent to CBOE for up to the full size quoted by CBOE if CBOE is at the NBBO. Unlike simple, non-complex orders, there is no NBBO for complex orders and an exception from the prohibition on trade-throughs is provided for any transaction that was effected as a portion of a complex order.[9] Therefore, the sweep function required under the ORS Program for simple, non-complex orders would not be applicable to complex orders and accordingly is not required under the CORS Program. Additionally, Participants under the CORS Program would not be required to enable the electronic routing of orders to all of the U.S. options exchanges or provide current consolidated market data from the U.S. options exchanges. The Exchange notes that this requirement would not make sense in the CORS Program as some options exchanges do not offer complex order execution systems. The Exchange also notes that the optional Marketing Service Election and Billing Election under the ORS Program would not be available under the CORS Program.

Finally, nothing in the proposed subsidy arrangement relieves any CBOE TPH or non-CBOE TPH broker-dealer that is using an order routing functionality whose provider is participating in the CORS Program from complying with its best execution obligations. Just as with any customer order and any other routing functionality, both a CBOE TPH and a non-CBOE TPH broker dealer have an obligation to consider the availability of price improvement at various markets and whether routing a customer order through a functionality that incorporates the features described above would allow for access to such opportunities if readily available. Moreover, any user, whether or not a CBOE TPH, needs to conduct best execution evaluations on a regular basis, at a minimum quarterly, that include its use of any router incorporating the features described above.

general practices with respect to transactions effected through its system.

[9] *See* CBOE Rule 6.81(b)(7).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (''Act''), in general. Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. In particular, the proposed adoption of a subsidy payment program for complex orders is reasonable because it affords Participants an opportunity to receive payments to subsidize the costs associated with providing certain order routing functionalities. The Exchange believes that limiting the subsidy payment to those that provide complex order routing functionalities is equitable and not unfairly discriminatory because the Participants of the Program have devoted resources to provide the order routing functionalities. The proposed change further encourages CBOE TPHs and broker-dealers that are not CBOE TPHs to provide complex order routing functionalities. Limiting the Program to complex orders is reasonable because a similar program already exists for simple, non-complex orders. Moreover, the proposed complex order subsidy amount is the same amount as already exists for simple, non-complex orders under the ORS Program.

In addition, the Exchange believes that this proposed change is equitable and not unfairly discriminatory because any CBOE TPH or broker-dealer that is not a CBOE TPH may avail itself of this arrangement, provided that its complex order routing functionality incorporates the requirements set forth above. Finally, the proposed change incentivizes the sending of more complex orders to the Exchange. This increased liquidity creates greater trading opportunities that benefit all market participants, including market participants who send only simple orders to the Exchange (as simple orders can trade with the legs of complex orders).

[10] 15 U.S.C. 78f(b)(4).

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. The Exchange does not believe that the proposed change will impose an unnecessary burden on intramarket competition because it will apply equally to all participating parties. Although the subsidy for complex orders routed to CBOE through a Participant's system only applies to Participants of the Program, the subsidy for complex orders is designed to encourage the sending of more complex orders to the Exchange, which should provide greater liquidity and trading opportunities for all market participants. This includes market participants who send simple orders to the Exchange (as simple orders can trade with the legs of complex orders).

Further, the Exchange does not believe that such change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that, should the proposed changes make CBOE more attractive for trading, market participants trading on other exchanges can always elect to provide order routing functionality to CBOE for complex orders. Additionally, to the extent that subsidy payments for complex orders under the CORS Program may result in increased trading volume on CBOE and lessened volume on other exchanges, the Exchange notes that market participants trading on other exchanges can always elect to become TPHs on CBOE to take advantage of the trading opportunities.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 [12] thereunder. 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

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b-4(f).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or 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 email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2013–032 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–2013–032. This file number should be included on the subject line if email 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, 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 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–2013–032, and should be submitted on or before April 17, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69200; File No. SR–CBOE–2013–031]

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

March 21, 2013.

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 March 7, 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, II and III 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

CBOE proposes to modify an equity rights program of CBOE Stock Exchange, LLC (''CBSX'').[3] There are no proposed changes to the rule text.

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

The purpose of the Program is to promote the long-term interests of CBSX by providing incentives designed to encourage current and future CBSX owners and market participants to contribute to the growth and success of CBSX, by being active liquidity providers and takers to provide enhanced levels of trading volume to CBSX's market, through an opportunity to increase their proprietary interests in CBSX's enterprise value.

Under the Program, in exchange for providing order flow to CBSX, a participant may earn EPE Units representing the right to acquire Series B Shares of CBSX pursuant to the terms of the Program. Under the Program, a participant may earn up to the number of EPE Units that would constitute, upon conversion, up to an aggregate of 19.99% of then-outstanding CBSX equity (''Earn-Out Percentage''). EPE Units may be earned based on a participant's trading activity in the initial three years of the Program (''Measurement Period One'') and in years three[4] [sic] through five of the Program (''Measurement Period Two''). EPE Units are earned and issued on the day following the end of the applicable Measurement Period.

A participant will be eligible to earn EPE Units in Measurement Period One provided that the participant is a Trading Permit Holder (''TPH'') in good standing of CBSX, and that the participant has achieved ''MADV'' during that period. ''MADV'' means a ''minimum average daily volume'' of executions by the participant at CBSX that equals at least 0.25% of ''TCAV.'' ''TCAV'' means the ''total consolidated average daily trading volume'' of all NMS stocks as disseminated pursuant to an effective national market system plan during the applicable Measurement Period, less a 3% downward adjustment for trades in quantities below 100 shares (odd-lot trades).[5] Upon achieving the

[13] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] CBSX is a stock trading facility of the Exchange.

[4] Commission staff confirmed on a conference call with CBOE staff that Measurement Period Two consists of years 4 and 5 of the Program. Conference call between Tina Barry, Senior Special Counsel, Division of Trading and Markets, Commission, and Laura Dickman, Attorney, CBOE, on March 12, 2013.

[5] Currently, odd-lot trades are not disseminated under national market system (''NMS'') plans and thus are not included in total consolidated trading

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