

## OMB APPROVAL

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Page 1 of 10

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. SR - 2007 - 45  
Amendment No.

Proposed Rule Change by Chicago Board Options Exchange  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input type="checkbox"/>	Section 19(b)(3)(A) <input checked="" type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>			<input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4)		
			<input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5)		
Date Expires <input type="text"/>			<input type="checkbox"/> 19b-4(f)(3) <input checked="" type="checkbox"/> 19b-4(f)(6)		

Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document

**Description**

Provide a brief description of the proposed rule change (limit 250 characters).

Proposes to Implement a Holdback Timer

**Contact Information**

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Patrick Last Name Sexton  
Title Associate General Counsel  
E-mail sexton@cboe.com  
Telephone (312) 786-7467 Fax (312) 786-7919

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date 05/08/2007

By Patrick Sexton

(Name)

Associate General Counsel

(Title)

NOTE: Clicking the button at right will digitally sign and lock  
this form. A digital signature is as legally binding as a physical  
signature, and once signed, this form cannot be changed.

Patrick Sexton, sexton@cboe.com

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information**

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

Exhibit Sent As Paper Document

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

Exhibit Sent As Paper Document

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**Item 1.        Text of Proposed Rule Change**

The Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) proposes to amend CBOE Rule 6.23A pertaining to the implementation of a “holdback timer.” The text of the proposed rule change is provided below:

\* \* \* \* \*

(Additions are underlined)

**Chicago Board Options Exchange, Incorporated  
Rules**

\* \* \* \* \*

**Rule 6.23A – Member Electronic Connectivity**

Rule 6.23A. (a) The Exchange may limit the number of messages sent by members accessing the Exchange electronically in order to protect the integrity of the Hybrid trading system. In addition, the Exchange may impose restrictions on the use of a computer connected through an API if it believes such restrictions are necessary to ensure the proper performance of the system. Any such restrictions shall be objectively determined and submitted to the Commission for approval pursuant to a rule change filing under Section 19(b) of the Exchange Act.

(b) In order to control the number of quotations the Exchange disseminates, the Exchange may utilize a mechanism so that newly-received quotations and other changes to the Exchange's best bid and offer are not disseminated for a period of up to, but not more than one second.

**Item 2.        Procedures of the Self-Regulatory Organization**

The proposed rule change was approved by the Exchange’s Office of the Chairman pursuant to delegated authority on April 23, 2007.

**Item 3.        Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

**Purpose**

CBOE proposes to implement an additional quote mitigation strategy. Specifically, CBOE intends to systematically limit the dissemination of quotations and other changes to CBOE's best bid and offer (e.g., orders that improve CBOE’s best bid and offer) according to prescribed time criteria (“holdback timer”). For instance, if there is a change in the price of a security underlying an option, multiple market participants may adjust the price or size of their quotes. Rather than disseminating each individual change, the holdback timer permits CBOE to wait until multiple market participants have adjusted their quotes and then to disseminate a new quotation. This mechanism helps to prevent the “flickering” of quotations. CBOE proposes to codify the holdback timer in Rule 6.23A. CBOE will utilize a holdback timer that delays quotation updates to OPRA for no longer than one (1) second, and will only be used in option classes trading on the Hybrid Trading System and Hybrid 2.0 Platform. CBOE may vary the holdback timer by option class. If the holdback timer is not being utilized in an option class trading on the Hybrid Trading System or Hybrid 2.0 Platform, CBOE will notify its members. CBOE does not intend to disclose the length of the holdback timer to its members or non-

members. CBOE notes that the holdback timer addresses the dissemination to OPRA of quotation updates and other changes to CBOE's best bid and offer, and not the execution of orders.

The SEC recently approved the ISE's and the Amex's usage of a holdback timer as a quote mitigation strategy.<sup>1</sup> (See ISE Rule 804(h) and Amex Rule 958A-ANTE.) Additionally, and as noted in the approval orders codifying the ISE's and Amex's usage of a holdback timer, the Securities Information and Financial Markets Association (SIFMA) strongly endorsed the usage of a holdback timer as a quote mitigation strategy.

#### Statutory Basis

Since the proposed changes set forth herein clearly establish the meaning of current Exchange rules that are already fairly implied by the language therein, the Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act") in general and furthers the objectives of Section 6(b)(5) in particular in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

#### **Item 4.        Self-Regulatory Organization's Statement on Burden on Competition**

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### **Item 5.        Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

No written comments were solicited or received with respect to the proposed rule change.

#### **Item 6.        Extension of Time Period for Commission Action**

The Exchange does not consent to an extension of the time period specified in Section 19(b)(2) of the Act for Commission consideration of the proposed rule change.

#### **Item 7.        Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A)<sup>2</sup> of the Securities Exchange Act of 1934 and Rule 19b-4(f)(6)<sup>3</sup> thereunder because it effects a change that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

Usage of a holdback timer as a quote mitigation strategy has been approved by the SEC and will assist the Exchange in mitigating quotations sent to OPRA. Additionally, the Exchange provided the

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<sup>1</sup> See SEC Release No. 34-55161, approving SR-ISE-2006-62 (January 24, 2006); SEC Release No. 34-55162, approving SR-AMEX-2006-106 (January 24, 2006).

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change as required by Rule 19b-4(f)(6).

For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 of the Act. The Exchange respectfully requests that the Commission waive the provision providing for “non-controversial” rule changes to become operative in 30 days and permit the proposed rule change to take effect and become operative upon filing pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

**Item 8.**            Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or the Commission

This proposed rule change is based upon ISE Rule 804(h) and Amex Rule 958A-ANTE.

**Item 9.**            Exhibits

Exhibit 1.            Form of Notice of Proposed Rule Change for Publication in the Federal Register.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-CBOE-2007-45)

Dated: \_\_\_\_\_

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Implementation of a “Holdback Timer”

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on \_\_\_\_\_, 2007, the Chicago Board Options Exchange, Incorporated ( “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 Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 amend CBOE Rule 6.23A pertaining to the implementation of a “holdback timer.” The text of the proposed rule change is available on the Exchange’s website (<http://www.cboe.com>), 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

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE proposes to implement an additional quote mitigation strategy. Specifically, CBOE intends to systematically limit the dissemination of quotations and other changes to CBOE's best bid and offer (*e.g.*, orders that improve CBOE's best bid and offer) according to prescribed time criteria ("holdback timer"). For instance, if there is a change in the price of a security underlying an option, multiple market participants may adjust the price or size of their quotes. Rather than disseminating each individual change, the holdback timer permits CBOE to wait until multiple market participants have adjusted their quotes and then to disseminate a new quotation. This mechanism helps to prevent the "flickering" of quotations. CBOE proposes to codify the holdback timer in Rule 6.23A. CBOE will utilize a holdback timer that delays quotation updates to OPRA for no longer than one (1) second, and will only be used in option classes trading on the Hybrid Trading System and Hybrid 2.0 Platform. CBOE may vary the holdback timer by option class. If the holdback timer is not being utilized in an option class trading on the Hybrid Trading System or Hybrid 2.0 Platform, CBOE will notify its members. CBOE does not intend to disclose the length of the holdback timer to its members or non-members. CBOE notes that the holdback timer addresses the dissemination to OPRA of quotation updates and other changes to CBOE's best bid and offer, and not the execution of orders.

The SEC recently approved the ISE's and the Amex's usage of a holdback timer as a quote

mitigation strategy.<sup>5</sup> (See ISE Rule 804(h) and Amex Rule 958A-ANTE.) Additionally, and as noted in the approval orders codifying the ISE's and Amex's usage of a holdback timer, the Securities Information and Financial Markets Association (SIFMA) strongly endorsed the usage of a holdback timer as a quote mitigation strategy.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act<sup>6</sup>. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) Act<sup>7</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

### 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

Because the foregoing rule 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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business

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<sup>5</sup> See SEC Release No. 34-55161, approving SR-ISE-2006-62 (January 24, 2006); SEC Release No. 34-55162, approving SR-AMEX-2006-106 (January 24, 2006).

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).



days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup> At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2007-45 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2007-45. 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

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

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 Section, 100 F Street, NE, Washington, DC 20549-1090. Copies of such filing also will be available for inspection and copying at the principal office of the 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-2007-45 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Dated: \_\_\_\_\_

Nancy M. Morris  
Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).