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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69468; File No. SR-CBOE-2013-046)

April 26, 2013

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Delete Rule 6.74(b) that Sets Forth Expired SizeQuote Mechanism Pilot Program

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 April 25, 2013, the 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 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

CBOE proposes to delete Rule 6.74(f) that sets forth the SizeQuote Mechanism pilot program because this pilot program expired on February 15, 2008. The text of the proposed rule change is 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.

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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).

## 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 the Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The purpose of this filing is to delete Rule 6.74(f) that sets forth the open outcry SizeQuote Mechanism program, which was approved on a pilot basis in February 2005 and was expanded to include solicited orders in January 2006. The SizeQuote Mechanism pilot program was extended twice and expired on February 15, 2008.<sup>5</sup>

In connection with the March 18, 2013 launch of mini-options, the Exchange amended, among other rules, Rule 6.74(f) to establish a minimum eligible order size for mini-options in an amount proportional to the minimum eligible order size that is

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<sup>5</sup> See Securities Exchange Act Release Nos. 51205 (February 15, 2005), 70 FR 8647 (February 22, 2005) (approving SR-CBOE-2004-72 on a pilot basis through February 15, 2006); 53135 (January 17, 2006), 71 FR 3908 (January 24, 2006) (approving SR-CBOE-2005-83, which modified the pilot program); 53252 (February 8, 2006), 71 FR 8012 (February 15, 2006) (immediately effective proposal, SR-CBOE-2006-05, extending the pilot program from February 15, 2006 to February 15, 2007); and 55174 (January 25, 2007), 72 FR January 31, 2007 (immediately effective proposal, SR-CBOE-2007-07, extending the pilot program from February 15, 2007 to February 15, 2008).

The expired pilot program provided a process by which a Floor Broker (using his/her exercise of due diligence to execute orders at the best price(s)) could execute and facilitate large-sized orders in open outcry. The Exchange issued a Regulatory Circular announcing the expiration of the SizeQuote Mechanism Pilot, which was no longer operative after February 15, 2008. See CBOE Regulatory Circular [RG08-028](#) (Expiration of SizeQuote Mechanism Pilot).

required for standard options (i.e., not less than 250 standard option contracts delivering 100 shares and not less than 2,500 for mini-option contracts delivering 10 shares).<sup>6</sup> In that filing, the Exchange deleted obsolete rule text from Rule 6.74(f)(i) that referenced that the SizeQuote Mechanism pilot program had expired on February 15, 2008. The Exchange believes that the entirety of 6.74(f) should be deleted since the SizeQuote Mechanism pilot program has expired, the rule text language is obsolete and to eliminate confusion as to availability of the SizeQuote Mechanism pilot program that may arise if the language remains in Rule 6.74(f).

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.<sup>7</sup> In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>8</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

Specifically, the Exchange believes that investors and market participants would benefit from Rule 6.74(d) being deleted because it sets forth the SizeQuote Mechanism

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<sup>6</sup> See Securities Exchange Act Release No. 69235 (March 25, 2013), 78 FR 19552 (April 1, 2013) (notice of filing and immediate effectiveness of SR-CBOE-2013-036).

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

pilot program that expired on February 15, 2008 and therefore contains obsolete and outdated rule text. If the current rule text language remains, confusion could arise as to whether the SizeQuote Mechanism pilot program is currently available. Because CBOE did not to renew and/or revise or seek to make the SizeQuote Mechanism pilot program permanent, CBOE believes that it is appropriate to delete the obsolete rule text that references the SizeQuote Mechanism pilot program which expired on February 15, 2008.

B. 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. In this regard and as indicated above, the Exchange notes that the rule change is being proposed to delete obsolete rule text language that sets forth the expired SizeQuote Mechanism pilot program in Rule 6.74(d). Since all market participants cannot currently utilize the expired SizeQuote Mechanism pilot program, the rule change will not have any burden on competition.

C. 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.

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

Because the foregoing proposed 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 days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,<sup>9</sup> the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup> At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend 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-2013-046 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.

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<sup>9</sup> The Exchange has fulfilled this requirement.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

All submissions should refer to File Number SR-CBOE-2013-046. 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, 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 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-2013-046 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.<sup>12</sup>

Kevin M. O'Neill  
Deputy Secretary

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