

change to CBOE Rule 24.15 would provide that retail automated execution systems ("RAES") will continue to be operational for non-Hybrid classes while CBOE Rule 6.13 will govern automatic executions in Hybrid classes.⁹ Finally, the Exchange proposes to amend paragraph (b)(iv) of CBOE Rule 24.19 to delineate priority principles applicable to multi-class index option spreads in non-Hybrid versus Hybrid classes.

Designation of Indexes Trading on Hybrid

CBOE also proposes to amend CBOE Rule 6.45A(e), which governs the rollout schedule for equity option classes, to give the appropriate Floor Procedure Committee ("FPC") the discretion to determine which index option classes and options on ETFs will trade on the Hybrid System. The exchange represents that this is identical to the equity option rule, where the appropriate committee determines the rollout schedule for equity option classes.

The current Hybrid rules only allow the trading of products in which there is a Designated Primary Market Maker ("DPM"). The Exchange does not propose any changes to these rules. As such, only those index or ETF option classes that have DPMs would be eligible to trade on the Hybrid System. An Index or ETF option class that does not have a DPM may not trade on the Hybrid System until such time that the DPM system is in place in that index or ETF option class or until the Exchange adopts additional rules allowing the introduction of Hybrid trading with other than a DPM (e.g., a Lead Market Maker or other type of trading structure.¹⁰ The Exchange proposes amending language to Exchange CBOE Rule 6.45A(e) to incorporate the above restriction.

In determining which index or ETF option classes to trade on the Hybrid System, the appropriate committee would consider several factors. First, it would look to the level of trading volume in a particular index/ETF option class. Generally, active index/ETF option classes (of those with DPMs) would be introduced to Hybrid trading

sooner than will those index/ETF option classes with low trading volume. Second, the FPC would consider the readiness of the trading crowd. Before the Exchange lists a product on the Hybrid System, it would provide education to the affected market participants in several different areas, such as: how Hybrid operates, how market participants connect to the Hybrid System, etc. Trading crowds exhibiting more readiness to trade likely would begin trading on the Hybrid System more quickly than will crowds not demonstrating the same level of readiness. Third, the FPC would consider market share in a particular index/ETF option class. An index or ETF option class in which the FPC believes the Exchange can obtain or maintain a high market share would be a prime candidate for Hybrid trading.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirement under section 6(b)(5) of the Act¹¹ in that it is designed 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 by providing automatic executions for eligible electronic orders; by providing an open outcry trading environment for trades to occur on the floor; and offer market participants the ability to electronically disseminate their own firm market quotes, which should result in a greater number of automatic executions for orders on the Exchange.

The Exchange also believes that extending Hybrid to selected index and ETF options, thereby adding market makers to the quoting equation, may have the effect of narrowing spreads and increasing depth.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest) after the date of the filing, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. 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 interest. The Exchange satisfied the five-day pre-filing requirement. The Exchange further requested that the Commission waive the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii)¹⁴ and designated the proposed rule change to become operative immediately to enable index options and options on ETFs to be traded on the Hybrid System immediately.

The Commission believes that it is consistent with the protection of investors and the public interest to designate the proposal immediately operative.¹⁵ CBOE currently trades equity options on the Hybrid System. The Exchange represents that the Hybrid System will function in the exact same manner in index classes and options on ETFs as it does in equity classes. The Commission notes that the operation of the Hybrid System was previously the subject of a full comment period pursuant to section 19(b) of the Act.¹⁶ The Commission does not believe that proposed rule change raises any new issues of regulatory concern. Accordingly, the Commission believes that there is good cause, pursuant to section 19(b)(3)(A)(iii) of the Act,¹⁷ to designate that the proposal become operative immediately.

At anytime within 60 days of the filing of the proposed rule change, the

⁹ This is the same as for equity options on Hybrid, which are governed by CBOE Rule 6.13. Non-Hybrid equity option classes continue to be governed by CBOE Rule 6.8.

¹⁰ Any such rules, of course, would be filed with the Commission. Options on the OEX, SPX, DJX, and DIA trade under a Lead Market Maker ("LMM") System. CBOE will not commence trading these products on Hybrid until it either adopts LMM rules applicable to Hybrid trading or until they convert to a DPM system. The Exchange currently has no intention of converting SPX, OEX, DJX, or DIA to a DPM system.

¹¹ 15 U.S.C. 78f(B)(5).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ *Id.*

¹⁵ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁶ 15 U.S.C. 78s(b).

¹⁷ 15 U.S.C. 78s(b)(3)(A)(iii).