SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57067; File No. SR-CBOE-2007-87)

December 31, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting
Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Amend the
Quoting Requirements Applicable to the Hybrid Opening System

On July 25, 2007, the Chicago Board Options Exchange, Incorporated ("CBOE" or

"Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to

Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a

proposed rule change to amend its rule pertaining to the Hybrid Opening System ("HOSS") as

well as related rules pertaining to the obligations of designated primary market-makers

("DPMs"), electronic designated primary market-makers ("e-DPMs") and lead market-makers

("LMMs") during opening rotations. On November 19, 2007, CBOE filed Amendment No. 1 to

the proposed rule change. The proposed rule change, as amended, was published for comment in

the Federal Register on November 26, 2007.[3] The Commission received no comments on the

proposal. This order approves the proposed rule change, as modified by Amendment No. 1

thereto.

I.   Description of the Proposal

HOSS is the Exchange's automated system for initiating trading at the beginning of each

trading day. The Exchange proposes to amend its HOSS procedures contained in CBOE Rule

6.2B. Previously, for each option class approved for trading, HOSS had been programmed to

open an option series only if the DPM or LMM, as applicable, for the particular option class

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

[2]   17 CFR 240.19b-4.

[3]   See Securities Exchange Act Release No. 56814 (November 19, 2007), 72 FR 66008
        ("Notice").

submitted a quote that complies with the legal quote width requirements of paragraph (b)(iv) to

CBOE Rule 8.7, Obligations of Market-Makers. In 2005, the HOSS procedures were revised;

currently, HOSS is programmed to open an option series as long as any market maker,[4] not just

the DPM or LMM, has submitted an opening quote that complies with the legal width quote

requirements of CBOE Rule 8.7(b)(iv).[5] However, even though the procedures were changed to

permit HOSS to automatically open a series without a DPM's or LMM's quote, DPMs (as well

as e-DPMs) and LMMs are still obligated under CBOE's rules to submit timely opening quotes.[6]

The proposed rule change modifies the HOSS procedures to allow the parameters to be

configured so that an option series will open: (1) if at least one market maker has submitted an

opening quote, which is how HOSS currently operates; or (2) only if a DPM or LMM, as

applicable, has submitted an opening quote, which is how HOSS operated previously.

Determinations on the particular configuration would be made on a class-by-class basis by the

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[4]   This could include a quote from a DPM, e-DPM, LMM, Market-Maker or Remote
        Market-Maker.

[5]   See Securities Exchange Act Release No. 52234 (August 10, 2005), 70 FR 48214
        (August 16, 2005) (SR-CBOE-2005-40). Other factors must also be satisfied for HOSS
        to open an options series. For example, the opening price for the series must be within an
        acceptable range and the opening trade cannot create a market order imbalance. See, e.g.,
        CBOE Rule 6.2B(e)(ii)-(iii).

[6]   Currently, DPMs, e-DPMs, and LMMs are required to enter opening quotes in
        accordance with CBOE Rule 6.2B in 100% of the series of each appointed class;
        whereas, other Market-Makers and Remote Market-Makers are permitted, but not
        obligated, to enter opening quotes in accordance with CBOE Rule 6.2B. See current
        CBOE Rules 6.2B, 8.15A, Lead Market-Makers in Hybrid Classes (subparagraph (b)(iv)
        of this rule has been interpreted by the Exchange to require an LMM to enter opening
        quotes in 100% of the series of each appointed class), 8.85, DPM Obligations, and 8.93,
        e-DPM Obligations.

appropriate Exchange Procedure Committee and announced to the membership via Regulatory Circular.[7]

In addition, the proposed rule change amends the opening quote obligations of DPMs, e-DPMs, and LMMs to require them to ensure a timely initiation of an opening trading rotation of each allocated class by entering opening quotes as necessary (i.e., when no other market maker has entered an opening quote). This change would absolve DPMs, e-DPMs, and LMMs of their responsibility (under CBOE's current rules) to enter opening quotes when another market maker has already entered an opening quote in a particular series.[8]

II.   Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, 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.

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[7]   See Notice, supra note 3, 72 FR at 66008 (noting that the Exchange Procedure Committee might consider such things as "trading in the underlying or related products, trading in the option on competing exchanges, how effectively opens have occurred in the past, liquidity and/or other factors.")

[8]   Under CBOE's proposed rules, DPMs, e-DPMs, and LMMs would still be permitted to enter opening quotes even if another market maker has already entered an opening quote.

[9]   In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[10]   15 U.S.C. 78f(b)(5).

The proposed rule change will afford the Exchange more flexibility in the manner in which HOSS conducts opening rotations. The Commission believes that allowing the appropriate Exchange Procedure Committee to determine on class-by-class basis how a particular series should open may allow CBOE to achieve more competitive, efficient, and orderly openings, while allowing the Exchange to provide sufficient liquidity at the open in particular classes.

While the Commission continues to believe that the quoting obligations of LMMs, DPMs, and e-DPMs are appropriate, given the benefits (such as favorable margin treatment) that are provided to market makers, the Commission also believes that it is reasonable for CBOE to excuse them from submitting opening quotes in their assigned series when at least one other market maker has already entered an opening quote in that series. The Commission notes that if no other market maker has entered an opening quote, the DPM and e-DPM or LMM would be responsible for ensuring that an opening quote is promptly entered so that HOSS can automatically open the series. This proposal, in conjunction with another recently approved proposed rule change,[11] also should encourage LMMs, DPMs, and e-DPMs to quote more competitively during HOSS opening rotations.[12]

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[11] See Securities Exchange Act Release No. 56860 (November 29, 2007), 72 FR 68919 (December 6, 2007) (SR-CBOE-2007-59) (allowing market makers to enter an opening quote for as low as one contract if the underlying primary market disseminates less than a 1000-share best bid or offer quote immediately prior to an option series opening).

[12] Nothing in this proposal would affect a Market-Maker's obligation to honor its firm quote obligations imposed by CBOE Rule 8.51.

III.   Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[13] that the

proposed rule change (SR-CBOE-2007-87), as modified by Amendment No. 1, be, and hereby is,

approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated

authority.[14]

Nancy M. Morris
Secretary

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[13]   15 U.S.C. 78s(b)(2).

[14]   17 CFR 200.30-3(a)(12).