

rule change is consistent with Section 6(b)(5) of the Act,¹⁴ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, 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.

The Commission believes that the changes proposed by BSE should result in a more efficient process for members to register and to keep information current and should make regulatory information with respect to members and their associated persons more readily available to regulators as well as the public. Furthermore, it will align the rules of the Exchange regarding electronic registration more closely with those at other exchanges.

In addition, the Commission believes the proposed rule change is consistent with the Act because it is designed to allow BSE to discipline or sanction members under its MRVP for violation of the provisions of the rules of the Exchange for these rules. In approving the proposed rule change, the Commission in no way minimizes the importance of compliance with Exchange rules and all other rules subject to the imposition of fines under the MRVP. The Commission believes that the violation of a self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, in an effort to provide the Exchange with greater flexibility in addressing certain violations of its rules, the MRVP provides a reasonable means to address violations that do not rise to the level of requiring formal BSE disciplinary proceedings. The Commission expects that BSE will continue to conduct surveillance with due diligence, and make a determination based on its findings whether fines of more or less than the recommended amount are appropriate for violations of Exchange rules under the MRVP, on a case by case basis, or if a violation requires formal disciplinary action.

BSE has requested that the Commission find good cause for approving the proposed rule change before the thirtieth day after publication of the notice in the **Federal Register**. The Commission believes that granting accelerated approval of the proposal will allow the Exchange to migrate to Web CRD on its intended date, October 1, 2007. The Commission notes that it has approved similar proposals to

implement electronic registration for Chicago Board Options Exchange, Incorporated¹⁵ and the Philadelphia Stock Exchange.¹⁶ The Commission believes that BSE's proposal raises no new regulatory issues, and it should make regulatory information with respect to its members and their associated persons more readily available without further delay.

Accordingly, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹⁷ to grant accelerated approval to the proposed rule change before the thirtieth day after the publication of notice thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule change (SR-BSE-2007-25), as modified by Amendments No. 1, 2, and 3, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Nancy M. Morris,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56600; File No. SR-CBOE-2007-88]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change To Amend the Hybrid Opening System Opening Rotations Rules

October 2, 2007.

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 opening rotations rules conducted via the Hybrid Opening System ("HOSS"). The proposed rule

¹⁵ See Securities Exchange Act Release No. 46308 (August 2, 2002), 67 FR 51905 (August 9, 2002) (SR-CBOE-2001-66).

¹⁶ See Securities Exchange Act Release No. 54960 (December 12, 2006), 71 FR 77851 (December 27, 2006) (SR-Phlx-2006-83).

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ *Id.*

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

change was published in the **Federal Register** on August 29, 2007.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

HOSS is the Exchange's automated system for initiating trading at the beginning of each trading day. The Exchange proposes to amend HOSS procedures contained in CBOE Rule 6.2B. HOSS procedures currently provide that HOSS initiates an opening rotation for an options class at a randomly selected time within a number of seconds after the primary market⁴ for the underlying security opens (or after 8:30 a.m. (Central Time) for index options).⁵

The Exchange proposes to permit HOSS to initiate the opening rotation for an options class after the opening of the underlying security on: (1) The primary listing market; (2) the primary volume market,⁶ or (3) the first market to open the underlying security. Determinations on the particular configuration for the market for the underlying security would be made on a class-by-class basis by the appropriate Exchange Procedure Committee and announced to the membership via a Regulatory Circular.

After a careful review of the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the regulations thereunder applicable to a national securities exchange.⁷ In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁸ which requires that the rules of an exchange be 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. The Commission believes that the proposal will provide

³ See Securities Exchange Act Release No. 56302 (August 22, 2007), 72 FR 49752.

⁴ According to the Exchange, for purposes of CBOE Rule 6.2B, the Exchange has interpreted the "primary market" to be the primary listing market.

⁵ According to the Exchange, for purposes of CBOE Rule 6.2B, the Exchange determines when the underlying market "opens", on a class-by-class basis, to be either the opening trade and/or opening quote (or whichever occurs first). Once the underlying market opens, HOSS initiates the overlying option class opening and sends a Rotation Notice to market participants. Thereafter, HOSS would open the series of a class in a random order.

⁶ Proposed CBOE Rule 6.2B(b) would define the primary volume market as the market with the most liquidity in that underlying security for the previous two calendar months.

⁷ In approving the proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(5).

¹⁴ 15 U.S.C. 78f(b)(5).

the Exchange more flexibility to determine when to permit the HOSS opening rotation process to begin, and should contribute to the Exchange's ability to conduct openings in a fair and orderly manner. Further, the Commission notes that it previously approved a similar rule changes for the American Stock Exchange LLC.⁹

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-CBOE-2007-88) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Nancy M. Morris,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56602; File No. SR-CBOE-2007-116]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exchange's Hybrid Electronic Quoting Fee

October 3, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 1, 2007, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A),³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. 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 amend its Hybrid Electronic Quoting Fee. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.cboe.org/legal>.

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

In its filing with the Commission, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. CBOE 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 this proposed rule change is to amend CBOE's Hybrid Electronic Quoting Fee, which is applicable to all Market-Makers, RMMs, DPMs and e-DPMs (collectively "liquidity providers") in order to promote and encourage more efficient quoting.⁵ The fee has been effective since February 1, 2007.

Under the existing fee, all liquidity providers who are submitting electronic quotations to the Exchange in Hybrid and Hybrid 2.0 option classes are assessed a monthly fee of \$450. Each month, each liquidity provider receives an allocation of 1,000,000 quotes. If a liquidity provider submits to CBOE more than 1,000,000 quotes in a month, the liquidity provider is assessed an additional fee of \$.03 per 1,000 quotes in excess of 1,000,000.

As amended, CBOE will continue to assess all liquidity providers who are submitting electronic quotations to the Exchange in Hybrid and Hybrid 2.0 option classes a monthly fee of \$450 per membership utilized. However, CBOE proposes to assess or credit liquidity

providers a Hybrid Electronic Quoting Fee that varies depending on: (i) The quality of the liquidity providers' quotation (a quotation is a bid and an offer); and (ii) the value of the underlying security and CBOE's bid in the option series.⁶ CBOE also proposes to vary the fee slightly in "high premium series"⁷ with respect to Market-Makers and RMMs on the one hand, and DPMs and e-DPMs on the other hand due to the difference in their quoting obligations. Market-Makers and RMMs have an obligation to continuously quote 60% of the series in each of their appointed classes that have a time to expiration of less than 9 months. DPMs and e-DPMs, however, have a greater obligation and must continuously quote either 100% of the series in their appointed classes (DPMs) or 90% if the series in their appointed classes (e-DPMs). CBOE generally has found that there are a significant amount of quotations in high premium series, but very little volume.

Specifically, the Hybrid Electronic Quoting Fee will be assessed/credited as follows:

If the value of the underlying security is less than or equal to \$100 and CBOE's bid is less than or equal to \$10, or if the value of the underlying security is greater than \$100 and CBOE's bid is less than or equal to 15% of the underlying security, then:

- A liquidity provider's quotation that improves the NBBO on at least one side of the market will be credited \$0.02 per 1,000 quotes.
- A liquidity provider's quotation that matches the NBBO on both sides of the market will be credited \$0.01 per 1,000 quotes.
- A liquidity provider's quotation that matches the NBBO on only one side of the market will be assessed a fee of \$0.02 per 1,000 quotes.
- A liquidity provider's quotation that matches the CBOE BBO (which is not the NBBO) on at least one side of the market will be assessed a fee of \$0.02 per 1,000 quotes.
- A liquidity provider's quotation that is a duplicate quote,⁸ or that does

⁶ The value of the underlying security is the closing price of the underlying security on the preceding trading day. The bid is the closing bid in the option series at CBOE on the preceding trading day.

⁷ For purposes of this fee, "high premium series" are those series in which the value of the underlying security is less than or equal to \$100 and CBOE's bid is greater than \$10, or those series in which the value of the underlying security is greater than \$100 and CBOE's bid is greater than 15% of the underlying security.

⁸ A "duplicate quote" is one where there is no change in bid and offer price and size. See proposed Item 17 of the Fees Schedule, at note 5, as set forth in CBOE's Form 19b-4.

⁹ See Securities Exchange Act Release No. 55272 (February 12, 2007), 72 FR 7779 (February 20, 2007) (approving SR-Amex-2006-77, permitting the American Stock Exchange LLC to open its trading rotation once the underlying security has opened for trading in any market).

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ Because the Hybrid Quoting Fee is only applicable in Hybrid and Hybrid 2.0 option classes, it does not apply to LMMs, which currently only function in Hybrid 3.0 option classes. Therefore, the Exchange is proposing to delete the reference to LMMs in the Hybrid Electronic Quoting Fee section of Item 17 of the Fees Schedule.