

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 Exchange proposes to waive transaction fees for all market participants in XSP options beginning on November 19, 2007.

CBOE intends to undertake a marketing "re-launch" of the XSP product due in part to the fact that XSP options are now traded in penny increments in conjunction with the expanded penny pilot program recently approved by the Commission.³ In conjunction with the re-launch, CBOE has decided to waive all XSP transaction fees for an indefinite period of time. The Exchange may determine to reevaluate the fee waiver at a future time.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁴ in general, and furthers the objectives of Section 6(b)(4)⁵ of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities.

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 that is not necessary or appropriate in furtherance of purposes of the Act.

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 rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁶ and

³ See Securities and Exchange Act Release No. 56565 (September 27, 2007), 72 FR 56403 (October 3, 2007).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78s(b)(3)(A).

subparagraph (f)(2) of Rule 19b-4⁷ thereunder. At any time within 60 days of the filing of the 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.⁸

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. Please include File Number SR-CBOE-2007-135 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-2007-135. 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 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 Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 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

⁷ 17 CFR 240.19b-4(f)(2).

⁸ *Id.*

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-2007-135 and should be submitted on or before December 27, 2007.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56860; File No. SR-CBOE-2007-59]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change To Amend the Minimum Quote Size Requirements for Hybrid Opening System Rotations

November 29, 2007.

On September 17, 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 minimum quote size requirements that are applicable to trading rotations conducted via the Hybrid Opening System ("HOSS"). The proposed rule change was published for comment in the **Federal Register** on October 25, 2007.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

Currently, CBOE Rule 8.7 generally requires that the initial size a market maker electronically quotes must be at least ten contracts (undecremented size) (the "10-up" requirement).⁴ The Exchange proposes to amend CBOE Rule 6.2B to modify the minimum quote size requirements applicable to Market-

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 56680 (October 19, 2007), 72 FR 60697 ("Notice").

⁴ If, however, the underlying primary market disseminates a 100-share best bid or offer quote (which is the equivalent of one option contract), a Market-Maker's undecremented quote may be for as low as one contract ("1-up") if the process is automated and the quote automatically returns to at least 10-up when the underlying market no longer disseminates a 100-share quote. See, e.g., CBOE Rule 8.7(d)(ii)(B).

Makers, Remote Market-Makers, Designated Primary Market-Makers, Electronic Designated Primary Market-Makers and Lead Market-Makers (collectively referred to as "Market-Makers")⁵ with respect to opening rotations in CBOE Hybrid Trading System ("Hybrid") classes. Specifically, the 10-up requirement would continue to apply, except that a Market-Maker would be permitted to enter an opening quote for as low as one contract if the underlying primary market⁶ disseminates less than a 1000-share best bid or offer quote (which is the equivalent of ten contracts) immediately prior to an option series opening. In contrast to the intra-day quoting requirements under CBOE Rule 8.7, this exception would not require that the opening quote process be automated or that the Market-Maker's quote size automatically return to at least 10-up when the underlying primary market no longer disseminates a minimum 1000-share quote.

The Commission notes that, while the Exchange believes that the existing opening quote size requirement imposes a reasonable obligation on Market-Makers who receive certain benefits for satisfying this and other obligations, the Exchange also believes that there are instances where requiring Market-Makers to quote 10-up during an opening rotation imposes a heightened level of risk on them.⁷ Accordingly, CBOE's proposal would provide limited relief from this quoting requirement during the opening rotation only.

The Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act⁸ 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 that a national securities exchange's rules be

⁵ Currently, Designated Primary Market-Makers, Electronic Designated Primary Market-Makers and Lead Market-Makers are required to enter opening quotes in accordance with CBOE Rule 6.2B in 100% of the series of each appointed class; other Market-Makers and Remote Market-Makers are permitted, but not required, to enter opening quotes in accordance with CBOE Rule 6.2B. See CBOE Rules 6.2B, 8.15A (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, and 8.93.

⁶ CBOE Rule 1.1(v) defines the term "primary market" of an underlying security as "the principal market in which the underlying security is traded."

⁷ See Notice, *supra* note 3, at 60698.

⁸ 15 U.S.C. 78(f)(b).

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

¹⁰ 15 U.S.C. 78f(b)(5).

designed to facilitate transactions in securities, to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. The Commission notes that Market-Makers hedge their options transactions by buying and/or selling the underlying securities. When the underlying primary market for the particular equity security on which a CBOE option is based disseminates less than a 1000-share quote during CBOE's opening rotation in the respective option series, the amount of readily-accessible liquidity available to a CBOE Market-Maker in the underlying security on that particular side of the market to hedge a 10-up quote in the respective option may potentially be limited. Correspondingly, Market-Makers' ability to hedge their positions at the open might be restricted, increasing their financial exposure and risk, particularly when the Market-Maker is required to quote over multiple series during the typically active open rotation period.¹¹

While the Commission continues to believe that CBOE's existing quote size requirements are appropriate, given the benefits that are provided to Market-Makers such as favorable margin treatment, the Commission also believes that it is reasonable to allow a limited exception for Market-Makers to lower their quote sizes to as low as one contract during opening rotations on HOSS when there is a diminished amount of liquidity in the underlying primary market. By permitting Market-Makers to limit their exposure at the opening, the Commission believes that this proposal may encourage Market-Makers to quote more competitively during HOSS opening rotations.¹² The Commission notes that CBOE's proposal would permit Market-Makers to submit an opening quote for as low as one contract only in connection with opening rotations on HOSS, though a Market-Maker would be free to quote more if it so choose. Further, the proposal would permit a Market-Maker to maintain its 1-up quote during the opening rotation until it is decremented or the Market-Maker updates its quote, at which point CBOE's continuous quoting obligation rules would apply. Finally, the Commission believes that the proposal should not detract from

¹¹ According to the Exchange, an options exchange may list 20 or more options series for an underlying stock. For example, if a Market-Maker posts 10-up markets in twenty series, that Market-Maker would provide liquidity equivalent to 20,000 shares.

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

CBOE's ability to maintain fair and orderly openings on HOSS because, to the extent that there may be a market order imbalance on the opening, such imbalances would continue to be addressed in the same manner as they are currently handled under existing CBOE rules.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-CBOE-2007-59) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56863; File No. SR-DTC-2007-06]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Amend the Hearing Procedures Afforded to an Interested Person and Harmonize Them With Similar Rules of Its Affiliates

November 29, 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 April 30, 2007, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks (1) to modify DTC's rules regarding hearing procedures afforded to Interested Persons³ and (2) where practicable or beneficial, to harmonize them with similar rules of DTC's affiliates, the National Securities Clearing Corporation

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ "A Participant or Pledgee, [or] applicant to become a Participant or Pledgee or issuer of a Security." Rule 22, Section 1.