

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57519; File No. SR-CBOE-2008-29)

March 18, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend Two Pilot Programs

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 March 13, 2008, 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 and II below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder, which renders it effective upon filing with the Commission.⁴ 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 rules to extend for an additional year, until March 14, 2009, two existing pilot programs.

The text of the proposed rule change is available on the CBOE’s Web site (<http://www.cboe.org/Legal>), at the Exchange’s Office of Secretary, and at the Commission’s Public Reference Room.

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)(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, CBOE 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 these 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 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 rule change is to extend for an additional year, until March 14, 2009, two existing pilot programs.

First, CBOE proposes to amend CBOE Rules 8.4(c)(i), 8.85, 8.91 and 8.93(vii) to extend, until March 14, 2009, the pilot programs that allow a Remote Market Maker ("RMM"), an Off-Floor DPM, and an e-DPM to have up to one separate affiliated Market-Maker physically present in the trading crowds where it operates as an RMM, Off-Floor DPM, or e-DPM, respectively. (Such Market-Makers would be required to trade on a separate membership.)⁵

Second, CBOE proposes to amend Rules 8.3(c)(viii) and Rule 8.4(c)(ii) to extend, until March 14, 2009, the pilot program which allows a CBOE member or member firm to have

⁵ These pilot programs previously were extended for one year until March 14, 2008. See Securities Exchange Act Release No. 55438 (March 9, 2007), 72 FR 12642 (March 16, 2007) (SR-CBOE-2007-19) (granting immediate effectiveness to SR-CBOE-2007-19). See also Securities Exchange Act Release No. 55531 (March 26, 2007), 72 FR 15736 (April 2, 2007) (SR-CBOE-2006-94) (order allowing DPM's to operate away from CBOE's trading floor).

multiple aggregation units operating as separate Market-Makers or RMMs within the same class, provided they satisfy certain criteria set forth in CBOE Rule 8.4(c)(ii)(A)-(C).⁶

CBOE initially proposed to extend these two pilot programs in its pending rule filing, SR-CBOE-2007-120, which filing proposes to amend CBOE rules relating Market-Makers and RMMs in various respects.⁷ SR-CBOE-2007-120 has been published for comment in the Federal Register, and the comment period expires on March 21, 2008.⁸ Because these pilot programs are scheduled to expire prior to when the comment period expires on SR-CBOE-2007-120 and the time by when the SEC may approve SR-CBOE-2007-120, CBOE determined to seek a one-year extension of the two pilot programs in this rule filing.

As noted in SR-CBOE-2007-120, CBOE believes that both of these two pilot programs have been successful, and CBOE has not experienced any negative effects with respect to the pilot programs. Accordingly, CBOE believes that the proposed rule change is designed to promote just and equitable principles of trade, and will enhance competition and liquidity in the option classes in which the market participants who participate in the pilot programs trade.

Finally, CBOE notes that these pilot programs were initially adopted, in part, due to CBOE's usage of an algorithm that allocates electronic trades, in whole or in part, in an equal percentage based on the number of market participants quoting at the best bid or offer – specifically CBOE's ultimate matching algorithm, "UMA." In January 2008, CBOE determined

⁶ This pilot program previously was extended for one year until March 14, 2008. See Securities Exchange Act Release No. 55474 (March 15, 2007), 72 FR 13324 (March 21, 2007) (SR-CBOE-2007-20) (granting immediate effectiveness to SR-CBOE-2007-20).

⁷ Among other changes, SR-CBOE-2007-120 proposes to delete reference to RMMs in CBOE's rules, amend CBOE Rules 8.3 and 8.7 relating to the appointment of Market-Makers and Market-Maker obligations, respectively, and update or delete outdated provisions in other rules, including CBOE Rule 8.3A relating to Class Quoting Limits.

⁸ See Securities Exchange Act Release No. 57367 (February 21, 2008), 73 FR 11168 (February 29, 2008) (SR-CBOE-2007-120).

to utilize a pro-rata algorithm, instead of UMA, as the applicable matching algorithm in all Hybrid classes. In the event CBOE determines to utilize the UMA algorithm in the future in a Hybrid option class, CBOE commits to providing data to the Commission relating to the pilot programs which allow an RMM, an Off-Floor DPM, and an e-DPM to have up to one separate affiliated Market-Maker physically present in the trading crowds where it operates as an RMM, Off-Floor DPM, or e-DPM, respectively.

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

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.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) 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 the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁴ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. CBOE has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes the waiver of this period will allow it to continue the pilot programs without undue delay, which it believes is in the public interest as it will avoid inconvenience and interruption to the public. The Commission believes such waiver is consistent with the protection of investors and the public interest because it presents no new issues and will allow

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ Rule 19b-4(f)(6) also requires the Exchange to give the Commission written notice of its intent to file the proposed rule change along with a brief description and text of 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. The Exchange has satisfied the pre-filing requirement.

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

the pilot programs to operate without interruption. For this reason, the Commission designates the proposal to be operative upon filing with the Commission.¹⁵

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.

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-2008-29 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-2008-29. 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

¹⁵ For purposes only of waiving the 30-day pre-operative period, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of 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-2008-29 and should be submitted on or before [insert date 21 days after publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Florence E. Harmon
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).