

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57568; File No. SR-CBOE-2008-32)

March 26, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Off-Floor DPMs

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 24, 2008, the Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “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 proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.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

The Exchange proposes to amend CBOE rules relating to DPMs. The text of the proposed rule change is available at the Exchange, at the Commission’s Public Reference Room, and at 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, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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

Last year, CBOE amended its rules to provide DPMs with the flexibility to operate remotely away from CBOE’s trading floor as a so-called “Off-Floor DPM.”⁵ At the time, CBOE stated that a DPM could function as an Off-Floor DPM in equity option classes. CBOE now proposes to amend its rules to provide DPMs with the same flexibility to operate as an Off-Floor DPM in any option class traded on the Hybrid Trading System and Hybrid 2.0 Platform. Specifically, CBOE proposes to amend CBOE Rule 8.80 and CBOE Rule 8.83, which describe the option classes in which an Off-Floor DPM can function.⁶

CBOE proposes to clarify that an Off-Floor DPM can function in option classes traded on the Hybrid 2.0 Platform⁷ in addition to the Hybrid Trading System.⁸ At the time CBOE’s rule filing to allow Off-Floor DPMs was approved, CBOE’s trading platforms included the Hybrid Trading System and the Hybrid 2.0 Platform, the latter of which was encompassed in the definition of Hybrid Trading System under CBOE Rule 1.1(aaa). Later in 2007, however, CBOE

⁵ See Securities Exchange Act Release No. 55531 (March 26, 2007), 72 FR 15736 (April 2, 2007) (SR-CBOE-2006-94) (the “original filing”).

⁶ CBOE also proposes to amend CBOE Rule 6.45B to clarify, as it did CBOE Rule 6.45A in the original filing, that the DPM participation entitlement for orders represented in open outcry is only applicable to an On-Floor DPM. See CBOE Rules 8.83 and 8.87.

⁷ The Hybrid 2.0 Platform is an enhanced platform that allows remote quoting by authorized categories of members.

⁸ See CBOE Rule 1.1(aaa)

established a new trading platform -- the Hybrid 3.0 Platform.⁹ Accordingly, CBOE wishes to clarify that Off-Floor DPMs can function in the Hybrid Trading System and the Hybrid 2.0 Platform, but not the Hybrid 3.0 Platform.

By expanding the types of option classes in which an Off-Floor DPM can function, CBOE believes that the rule change will provide flexibility to member organizations that may wish to function remotely in various types of option classes. It will further provide flexibility to CBOE when allocating option classes, as CBOE could determine to allocate non-equity option classes to a DPM or an Off-Floor DPM. Expanding the category of option classes in which a DPM can function as an Off-Floor DPM also removes a potential operational issue for a DPM that has been allocated equity and non-equity option classes. Absent this change to CBOE's rules, a DPM organization that is approved to function as an Off-Floor DPM would need to maintain a presence on the trading floor as a DPM for its non-equity option classes, while being permitted to function as an Off-Floor DPM in its equity option classes. Accordingly, CBOE believes that the proposed rule change is designed to promote just and equitable principles of trade and also promotes efficiency.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act¹¹ that the rules of an

⁹ See Securities Exchange Act Release No. 55874 (June 7, 2007), 72 FR 32688 (June 13, 2007) (SR-CBOE-2006-101).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

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 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 neither solicited nor received comments on the proposal.

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

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 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, provided that the self-regulatory organization has given the Commission written notice of its intent to file 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³ At any time within 60 days of the filing of such 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.

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(6). Rule 19b-4(f)(6) under the Act requires a self-regulatory organization to give written notice of a proposed rule change filed pursuant to this subsection at least five business days prior to filing. CBOE complied with this requirement.

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-2008-32 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-2008-32. 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 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office

of the Exchange. 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-2008-32 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Florence E. Harmon
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).