

SECURITIES AND EXCHANGE COMMISSION  
Release No. 34-58513; File No. SR-CBOE-2008-92

September 11, 2008

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 29, 2008, the Chicago Board Options Exchange, Incorporated ( “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. 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 is proposing to amend its Hybrid Electronic Quoting Fee. The text of the proposed rule change is available on the Exchange’s Web site ([www.cboe.org/Legal](http://www.cboe.org/Legal)), at the Exchange’s Office of the Secretary and at the Commission’s Public Reference Room.

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 those statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the 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 ("Quoting Fee"), which is applicable to all Market-Makers, DPMs, and e-DPMs (collectively "liquidity providers") in order to promote and encourage more efficient quoting.

Under the current Quoting Fee, CBOE assesses all liquidity providers who are submitting electronic quotations to CBOE in Hybrid option classes a monthly amount of \$450 per membership utilized.<sup>3</sup> CBOE also assesses or credits fees on liquidity providers that vary depending on: (i) the quality of the liquidity provider's 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. The Quoting Fee provides that a liquidity provider's total credits cannot exceed the total debits assessed. If the total credits were to exceed the total debits, the Quoting Fee assessed to that liquidity provider would be \$450.

CBOE now proposes to amend the Quoting Fee and establish a cap of \$50,000 on the amount a liquidity provider's total credits can exceed the total debits assessed. If the liquidity provider is a member organization utilizing more than one membership, the \$50,000 cap is applied per member organization. CBOE believes that establishing a cap of \$50,000 will serve as an incentive to liquidity providers to submit competitive quotations, and that the Quoting Fee will continue to promote and encourage more efficient quoting and help to reduce quote traffic.

Additionally, CBOE proposes to make a technical change to Section 17 and delete the

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<sup>3</sup> See Securities Exchange Act Release No. 34-56927 (12/7/07), 72 FR 70912 (12/13/07), granting immediate effectiveness to SR-CBOE-2007-145.

reference to “Hybrid 2.0,” which CBOE recently deleted from its rules.<sup>4</sup>

The Exchange intends to implement this revised Quoting Fee effective September 1, 2008.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (“Act”)<sup>5</sup>, in general, and furthers the objectives of Section 6(b)(4)<sup>6</sup> 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. In particular, CBOE believes the establishment of a \$50,000 cap on the amount a liquidity provider’s total credits can exceed the total debits assessed is an equitable allocation of reasonable dues and fees in that it will serve as an incentive to liquidity providers to submit competitive quotations. CBOE also believes that the Quoting Fee will continue to promote and encourage more efficient quoting and help to reduce quote traffic.

### 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.

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<sup>4</sup> See Securities Exchange Act Release No. 34-58153 (7/14/08), 73 FR 41386 (7/18/08), granting immediate effectiveness to SR-CBOE-2008-67.

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(4).

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and subparagraph (f)(2) of Rule 19b-4<sup>8</sup> thereunder. 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.

### 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2008-92 on the subject line.

#### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2008-92. 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

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 C.F.R. 240.19b-4(f)(2).

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 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-2008-92 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.<sup>9</sup>

Florence E. Harmon  
Acting Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).