

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56927; File No. SR-CBOE-2007-145)

December 7, 2007

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 30, 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),<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> 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>.

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

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

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

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

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.

Under the current fee, CBOE assesses 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.<sup>5</sup> CBOE also assesses or credits fees on liquidity providers that vary 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.<sup>6</sup> The fee varies slightly in "high premium series"<sup>7</sup> with respect to Market-Makers and RMMs on the

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<sup>5</sup> See Securities Exchange Act Release No. 56602 (October 3, 2007), 72 FR 57620 (October 10, 2007) (SR-CBOE-2007-116).

<sup>6</sup> 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.

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

one hand, and DPMs and e-DPMs on the other hand due to the difference in their quoting obligations.

CBOE believes that the quote mitigation strategies it has implemented, including the Hybrid Electronic Quoting Fee, have been effective in mitigating quotations. Some liquidity providers have modified their quoting processes in response to the Hybrid Electronic Quoting Fee. Accordingly, CBOE believes that it would be appropriate to reduce slightly certain of the fees and, thus, reduce the total amount of revenue that CBOE collects from the Hybrid Electronic Quoting Fee. At the same time, CBOE believes that it would be beneficial to increase the amounts that are credited for competitive quotations that improve or match the NBBO, as an incentive to liquidity providers to submit competitive quotations. Specifically, CBOE proposes to amend certain of the fees that are imposed as part of the Hybrid Electronic Quoting Fee as follows:

- Increase the amount that a liquidity provider will be credited if its quotation improves the NBBO on at least one side of the market from \$.02 to \$.10 per 1,000 quotes.
- Increase the amount that a liquidity provider will be credited if its quotation matches the NBBO on both sides of the market from \$.01 to \$.03 per 1,000 quotes.
- Decrease the amount that a liquidity provider will be assessed if its quotation matches the NBBO on only one side of the market from \$.02 to \$0.00.
- In high premium series, decrease the amount that a Market-Maker or RMM will be assessed if its quotation matches the CBOE BBO (which is not the NBBO) on at least one side of the market from \$.05 to \$.04 per 1,000 quotes.

- Decrease the amount that a liquidity provider will be assessed if its quotation is a duplicate quote, or if it does not satisfy any of the above conditions, from \$.05 to \$.04 per 1,000 quotes.

The Exchange believes that the Hybrid Electronic Quoting Fee, as amended, is fair and reasonable and will continue to promote and encourage more competitive and efficient quoting and help to reduce quote traffic. The fee encourages and rewards liquidity providers that quote competitively, and imposes costs on liquidity providers that do not. CBOE intends to monitor the fee and may amend the fee in the future.

As before, the Hybrid Electronic Quoting Fee will be assessed by liquidity provider acronym. In the event a liquidity provider is utilizing more than one membership and submits electronic quotations for all of the memberships under the same acronym, the Hybrid Electronic Quoting Fee will be assessed per membership utilized by the liquidity provider. Because a liquidity provider's total credits cannot exceed the total debits assessed according to the schedule of credits and debits set forth in the two tables in Item 17 of the CBOE Fees Schedule, if the total credits were to exceed the total debits, the Hybrid Electronic Quoting Fee assessed to that liquidity provider would be \$450.

If a liquidity provider is assessed the Hybrid Electronic Quoting Fee, the liquidity provider does not pay a member dues fee. The Exchange intends to implement this revised Hybrid Electronic Quoting Fee effective Monday, December 3, 2007.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and

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<sup>8</sup> 15 U.S.C. 78f(b).

further the objectives of Section 6(b)(4) of the Act,<sup>9</sup> 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 the 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>11</sup> since it establishes or changes a due, fee or other charge imposed by the Exchange. 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 the 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:

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<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

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-2007-145 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-2007-145. 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 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 No. SR-CBOE-2007-145 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Florence E. Harmon  
Deputy Secretary

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