

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58281; File No. SR-CBOE-2008-59)

August 1, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change to Amend CBOE Rule 8.7 Related to the Obligations of Market-Makers

On June 11, 2008, Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) 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 CBOE Rule 8.7 (Obligations of Market-Makers). The proposed rule change was published for comment in the Federal Register on June 30, 2008.³ The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

The Exchange recently amended CBOE Rule 8.1 (Market-Maker Defined) to expand the definition of market-maker by including member organizations.⁴ In view of this change, the proposed rule change adds an interpretation to CBOE Rule 8.7 to clarify that the in-person requirements set forth in CBOE Rule 8.7.03B may be satisfied by market-makers either individually or collectively with market-makers of the same member organization.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 57996 (June 20, 2008), 73 FR 36937.

⁴ See Securities Exchange Act Release No. 57615 (April 3, 2008), 73 FR 19537 (April 10, 2008) (SR-CBOE-2007-120).

⁵ CBOE Rule 8.7.03B applies to both Hybrid 3.0 and non-Hybrid option classes. Currently, there are three Hybrid 3.0 classes and no non-Hybrid classes.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.⁶ In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁷ in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that under the proposal the total amount of transactions that the rule would require to be executed in-person would not change, because a member organization that is registered as a market-maker would have to take into account the transactions of all its individual associated market-makers when determining the total transactions for which it would have to meet the in-person requirements. Further, the proposed rule change helps to ensure a more consistent application of the definition of market-maker within CBOE rules.

⁶ In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-CBOE-2008-59) be, and it hereby is, approved.

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

Florence E. Harmon
Acting Secretary

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).