

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51459; File No. SR-CBOE-2005-27)

March 31, 2005

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Hybrid Opening System

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 24, 2005, 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 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

The proposed rule change would amend the Hybrid Opening System (“HOSS”) procedures and the rule relating to the obligations of electronic designated primary market makers (“e-DPMs”). The text of the proposed rule change is available on the CBOE’s Web site (www.cboe.com), at the CBOE’s Office of the Secretary, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 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 Exchange is proposing to amend its rules relating to HOSS procedures and the rules relating to e-DPMs to require all e-DPMs to submit opening quotes during the HOSS opening rotation for every series in each Hybrid class to which any e-DPM is allocated. Currently, CBOE rules only require DPMs to submit opening quotes in option classes listed and traded on the Exchange. The Exchange believes that requiring e-DPMs to submit opening quotes along with DPMs would enhance the opening process for Hybrid option classes by providing greater liquidity during opening rotations, which would in turn lessen the possibility that a Hybrid option class might be unable to open.

To illustrate, under current CBOE rules, only a DPM is required to submit opening quotes in a series³ and, if the DPM's quoted size at the open is below the total size of the market orders on the other side of the market and no other quotes are on the open, there is a market order imbalance and, under CBOE rules, HOSS will not open that

³ See Rule 6.2B(a).

series.⁴ If all e-DPMs are now required to add size to the opening quote for each series in the option classes allocated to e-DPMs, the incidence of market order imbalances is likely to decrease.

As such, HOSS rules⁵ and the rules relating to e-DPM and DPM obligations, respectively,⁶ will be amended to require both e-DPMs and DPMs to enter opening quotes in accordance with HOSS rules in 100% of the series of each class allocated to that DPM or e-DPM.⁷

2. Statutory Basis

By enhancing HOSS opening procedures and making an e-DPM's HOSS obligations consistent with those of a DPM's, the Exchange believes that this proposed rule change is consistent with Section 6(b) of the Act,⁸ in general, and further the objectives of Section 6(b)(5)⁹ in particular, in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not

⁴ See Rule 6.2B(e)(iii).

⁵ Rule 6.2B.

⁶ DPM obligations are provided under Rule 8.85(a) and e-DPM obligations are provided under Rule 8.93.

⁷ Under current CBOE rules, DPMs already are required to submit opening quotes in all of its allocated classes, but this rule filing proposes to adopt rule language that will apply uniformly to both DPMs and e-DPMs.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the CBOE consents, the Commission will:

- (A) by order approve such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

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-2005-27 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-CBOE-2005-27. 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 Section, 450 Fifth Street, NW, Washington, DC 20549. 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-2005-27 and should be submitted on or before [insert date 21 days after the date of publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland
Deputy Secretary

⁶ 17 CFR 200.30-3(a)(12).