

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56943; File No. SR-CBOE-2007-133)

December 12, 2007

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

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 29, 2007, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) 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. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 CBOE proposes to amend CBOE Rule 8.3A pertaining to Class Quoting Limits. 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.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

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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)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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 proposed rule change. The text of those 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE Rule 8.3A, Interpretation and Policy .01, establishes the upper limit, *i.e.*, Class Quoting Limit ("CQL"), on the number of members that may quote electronically in a particular product traded on CBOE's Hybrid Trading System or Hybrid 2.0 Platform. CBOE determined to establish the current CQLs in 2005 to ensure that it has the ability to effectively handle all quotes generated by its members, and because CBOE does not have systems bandwidth capacity to support an unlimited number of electronic quoters in every class.<sup>5</sup> The CQLs that CBOE established varied from 25 to 40, with the CQL for all Hybrid Trading Classes being 25, and the CQLs for products trading on the Hybrid 2.0 Platform ranging from 25 to 40 depending on the trading volume of the product in the preceding calendar quarter.

CBOE now proposes to amend Rule 8.3A, Interpretation and Policy .01, to increase to fifty the CQL for products trading on the Hybrid Trading System or Hybrid 2.0 Platform.<sup>6</sup> CBOE does not believe maintaining the existing CQL levels is appropriate and necessary,

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<sup>5</sup> See Securities Exchange Act Release No. 51366 (March 14, 2005), 70 FR 13217 (March 18, 2005) (approving SR-CBOE-2004-75).

<sup>6</sup> Presently, all products traded on CBOE except three are traded on the Hybrid 2.0 Platform.

and represents that it has the systems bandwidth capacity to support this increase in the CQLs. Additionally, CBOE believes that establishing a CQL level of 50 for products traded on CBOE's Hybrid Trading System or Hybrid 2.0 Platform will alleviate the operational burden of having to calculate and assign different CQLs each quarter for products traded on the Hybrid 2.0 Platform based on revised trading volume statistics, and maintaining lists of classes that have "increased CQLs" because the number of quoters in a product on the last trading day of the quarter exceeded the product's new CQL.

If CBOE's President previously had determined to increase the CQL in a particular product due to exceptional circumstances in accordance with Interpretation and Policy .01(c) of Rule 8.3A, then the product will continue to maintain the increased CQL notwithstanding this rule change provided the increased CQL exceeded 50. If the increased CQL was less than 50, then pursuant to this rule change the product's CQL would now be set at 50.<sup>7</sup>

Finally, because paragraph (a)(ii) of Interpretation .01 of Rule 8.3A is proposed to be deleted in connection with this rule change, CBOE proposes to incorporate the language of paragraph (a)(ii) in new paragraph (b) of Interpretation .01 which pertains to the authority of the President to increase the CQL in a particular class due to exceptional circumstances. In that regard, if the President (or his designee) later determines to reduce the CQL upon cessation of the exceptional circumstances, any reduction must be undertaken in accordance with the following procedure. If a member changes his/her appointment and ceases quoting electronically in that class after the President (or his designee) has determined to decrease the

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<sup>7</sup> See Securities Exchange Act Release No. 56772 (November 8, 2007), 72 FR 64261 (November 15, 2007) (increasing the CQL in fourteen option classes due to exceptional circumstances). The CQL in Goldman Sachs Group will continue to be 60, whereas the CQL in the other option classes will now be set at 50 pursuant to this rule filing.

CQL, the “increased” CQL will decrease by one until such time that the number of remaining members quoting electronically in the product equals the “reduced CQL.” From that point forward, the number of members quoting electronically in the product may not exceed the “reduced CQL.”

## 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.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) Act<sup>9</sup> requirements that the rules of an 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 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

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,

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

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,<sup>10</sup> the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup> 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.

Under Rule 19b-4(f)(6) of the Act,<sup>13</sup> the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange represents that there currently is a waitlist in some option classes traded on the Exchange and that the Exchange has not filed a proposed rule change to increase the CQL in these classes in light of the current filing.<sup>14</sup> The Exchange has requested that the Commission waive the 30-day operative date, so that the proposal may become operative upon filing, enabling parties currently on the waitlist to begin quoting an option without delay. The Commission agrees

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<sup>10</sup> CBOE fulfilled this requirement.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> Id.

<sup>14</sup> Telephone conversation between Patrick Sexton, Associate General Counsel, CBOE, and Sonia Trocchio, Special Counsel, Division of Trading and Markets, Commission (December 6, 2007).

and, consistent with the protection of investors and the public interest, has determined to waive the 30-day operative date so that the proposal may become operative upon filing.<sup>15</sup>

#### 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-2007-133 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-2007-133. 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

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<sup>15</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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-2007-133 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>16</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).