

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55438; File No. SR-CBOE-2007-19)

March 9, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend Two Pilot Programs that Allow RMMs and e-DPMs to have up to One Affiliated Market-Maker Physically Present in the Trading Crowd

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 February 22, 2007, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) filed with the Securities and Exchange Commission (“Commission” or “SEC”) the proposed rule change as described in Items I and II below, which Items have been 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 Act³ and Rule 19b-4(f)(6) thereunder,⁴ 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 extend two pilot programs allowing Remote Market-Makers (“RMMs”) and Electronic DPMs (“e-DPMs”) to have up to one separate affiliated Market-Maker physically present in the trading crowd. The CBOE proposes to extend the pilots until March 14,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

2008. The text of the proposed rule change is available on CBOE's Web site (www.cboe.org/Legal), at the CBOE'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

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 these 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 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 proposes to amend CBOE Rules 8.4(c)(i) and 8.93(vii) to extend the pilot programs allowing an RMM and e-DPM the option to have up to one separate affiliated Market-Maker physically present in the trading crowds where it operates as an RMM or e-DPM, respectively (such Market-Makers would be required to trade on a separate membership).⁵ The pilots would be extended from March 14, 2007 until March 14, 2008.

In July of 2003, the SEC approved the e-DPM program, including the pilot program.⁶ The pilot allows e-DPM firms to maintain a physical presence in the trading crowd through an

⁵ The SEC previously extended the pilot programs for 6 months, from September 14, 2006 until March 14, 2006. See Securities Exchange Act Release No. 54443 (September 14, 2006), 71 FR 55237 (September 21, 2006) (granting immediate effectiveness to SR-CBOE-2006-77).

⁶ See Securities Exchange Act Release No. 50003 (July 12, 2004), 69 FR 43028 (July 19, 2004) (approving SR-CBOE-2004-24).

affiliated Market-Maker who would also be able to stream a quote. The pilot, however, limits the number of separate affiliates per trading crowd to one.

In March of 2005, the SEC approved the RMM program, including the pilot program.⁷ The pilot allows RMM firms to maintain a physical presence in the trading crowd through an affiliated Market-Maker who would also be able to stream a quote. The pilot limits the number of separate affiliates per trading crowd to one.

CBOE has provided the Commission, under separate cover, data relating to these Pilot Programs, which the SEC staff is reviewing.⁸ The Exchange has committed to providing by September 14, 2007, data required by the Pilots.

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.⁹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) of the Act,¹⁰ which requires 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.

⁷ See Securities Exchange Act Release No. 51366 (March 14, 2005), 70 FR 13217 (March, 18, 2005) (approving SR-CBOE-2004-75).

⁸ The Exchange has committed to providing by September 14, 2007, updated data required by the Pilots. Telephone conversation between Patrick Sexton, Associate General Counsel, CBOE and Sonia Trocchio, Special Counsel, Division of Market Regulation, Commission (March 7, 2007).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

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)(iii) of the Act¹¹ and subparagraph (f)(6) of Rule 19b-4¹² thereunder because it does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. 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,¹³ 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 has requested that the

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ Id.

Commission waive the 30-day operative date, so that the pilots may continue without interruption. The Commission believes that the proposed rule change does not raise any new regulatory issues and, consistent with the protection of investors and the public interest, has determined to waive the 30-day operative date.¹⁴

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-2007-19 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-2007-19. 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

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For purposes only of waiving 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).

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. 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-2007-19 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Florence E. Harmon
Deputy Secretary

¹⁵ 17 CFR 200.30-3(a)(12).