

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56600; File No. SR-CBOE-2007-88)

October 2, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change to Amend the Hybrid Opening System Opening Rotations Rules

On July 25, 2007, the Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to amend its opening rotations rules conducted via the Hybrid Opening System (“HOSS”). The proposed rule change was published in the Federal Register on August 29, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

HOSS is the Exchange’s automated system for initiating trading at the beginning of each trading day. The Exchange proposes to amend HOSS procedures contained in CBOE Rule 6.2B. HOSS procedures currently provide that HOSS initiates an opening rotation for an options class at a randomly selected time within a number of seconds after the primary market<sup>4</sup> for the underlying security opens (or after 8:30 a.m. (Central Time) for index options).<sup>5</sup>

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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> See Securities Exchange Act Release No. 56302 (August 22, 2007), 72 FR 49752.

<sup>4</sup> According to the Exchange, for purposes of CBOE Rule 6.2B, the Exchange has interpreted the “primary market” to be the primary listing market.

<sup>5</sup> According to the Exchange, for purposes of CBOE Rule 6.2B, the Exchange determines when the underlying market “opens”, on a class-by-class basis, to be either the opening trade and/or opening quote (or whichever occurs first). Once the underlying market opens, HOSS initiates the overlying option class opening and sends a Rotation Notice to

The Exchange proposes to permit HOSS to initiate the opening rotation for an options class after the opening of the underlying security on: (1) the primary listing market; (2) the primary volume market;<sup>6</sup> or (3) the first market to open the underlying security. Determinations on the particular configuration for the market for the underlying security would be made on a class-by-class basis by the appropriate Exchange Procedure Committee and announced to the membership via a Regulatory Circular.

After a careful review of the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the regulations thereunder applicable to a national securities exchange.<sup>7</sup> In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>8</sup> which requires that the rules of an exchange be 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 believes that the proposal will provide the Exchange more flexibility to determine when to permit the HOSS opening rotation process to begin, and should contribute to the Exchange's ability to conduct openings in a fair and orderly manner. Further, the Commission notes that it previously approved a similar rule changes for the American Stock Exchange LLC.<sup>9</sup>

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market participants. Thereafter, HOSS would open the series of a class in a random order.

<sup>6</sup> Proposed CBOE Rule 6.2B(b) would define the primary volume market as the market with the most liquidity in that underlying security for the previous two calendar months.

<sup>7</sup> In approving the proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> See Securities Exchange Act Release No. 55272 (February 12, 2007), 72 FR 7779 (February 20, 2007) (approving SR-Amex-2006-77, permitting the American Stock

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-CBOE-2007-88) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

Nancy M. Morris  
Secretary

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Exchange LLC to open its trading rotation once the underlying security has opened for trading in any market).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30–3(a)(12).