

persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange submits that the instant proposal to adopt generic initial and continued listing criteria for options on Section 107 Securities will serve to provide enhanced risk management tools for investors that, to date, have been absent in connection with Section 107 Securities. In addition, the Exchange further believes that the proposed listing criteria together with the Exchange's surveillance procedures will serve to protect investors and the public interest.

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

The proposed rule change does not 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 nor received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The

Exchange requests that the Commission waive the 30-day operative delay so that the Exchange is able to compete with other options exchanges that are currently permitted to list and trade options on Section 107 Securities. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.<sup>12</sup> The Commission notes the proposal is substantively identical to proposals that were recently approved by the Commission, and does not raise any new regulatory issues.<sup>13</sup> For these reasons, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the 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.

### **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-Amex-2008-69 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Amex-2008-69. 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 Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-Amex-2008-69 and should be submitted on or before October 9, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-21761 Filed 9-17-08; 8:45 am]

BILLING CODE 8010-01-P

### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-58513; File No. SR-CBOE-2008-92]

#### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Hybrid Electronic Quoting Fee**

September 11, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 29, 2008, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "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

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of 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. The Exchange has fulfilled this requirement.

<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>13</sup> See Securities Exchange Act Release Nos. 58203 (July 22, 2008), 73 FR 43812 (July 28, 2008) (SR-NYSEArca-2008-57) and 58204 (July 22, 2008), 73 FR 43807 (July 28, 2008) (SR-CBOE-2008-64).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 is proposing to amend its Hybrid Electronic Quoting Fee. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/Legal>), at the Exchange's Office of the Secretary and at the Commission's Public Reference Room.

### **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 those 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 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**

The purpose of this proposed rule change is to amend CBOE's Hybrid Electronic Quoting Fee ("Quoting Fee"), which is applicable to all Market-Makers, DPMs, and e-DPMs (collectively "liquidity providers") in order to promote and encourage more efficient quoting.

Under the current Quoting Fee, CBOE assesses all liquidity providers who are submitting electronic quotations to CBOE in Hybrid option classes a monthly amount of \$450 per membership utilized.<sup>3</sup> CBOE also assesses or credits fees on liquidity providers that vary depending on: (i) the quality of the liquidity provider's quotation (a quotation is a bid and an offer); and (ii) the value of the underlying security and CBOE's bid in the option series. The Quoting Fee provides that a liquidity provider's total credits cannot exceed the total debits assessed. If the total credits were to exceed the total debits, the Quoting Fee assessed to that liquidity provider would be \$450.

CBOE now proposes to amend the Quoting Fee and establish a cap of

\$50,000 on the amount a liquidity provider's total credits can exceed the total debits assessed. If the liquidity provider is a member organization utilizing more than one membership, the \$50,000 cap is applied per member organization. CBOE believes that establishing a cap of \$50,000 will serve as an incentive to liquidity providers to submit competitive quotations, and that the Quoting Fee will continue to promote and encourage more efficient quoting and help to reduce quote traffic.

Additionally, CBOE proposes to make a technical change to Section 17 and delete the reference to "Hybrid 2.0," which CBOE recently deleted from its rules.<sup>4</sup>

The Exchange intends to implement this revised Quoting Fee effective September 1, 2008.

##### **2. Statutory Basis**

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act")<sup>5</sup>, in general, and furthers the objectives of Section 6(b)(4)<sup>6</sup> of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members. In particular, CBOE believes the establishment of a \$50,000 cap on the amount a liquidity provider's total credits can exceed the total debits assessed is an equitable allocation of reasonable dues and fees in that it will serve as an incentive to liquidity providers to submit competitive quotations. CBOE also believes that the Quoting Fee will continue to promote and encourage more efficient quoting and help to reduce quote traffic.

#### **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 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.

<sup>4</sup> See Securities Exchange Act Release No. 34-58153 (7/14/08), 73 FR 41386 (7/18/08), granting immediate effectiveness to SR-CBOE-2008-67.

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

<sup>6</sup> 15 U.S.C. 78ff(b)(4).

### **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) of the Act<sup>7</sup> and subparagraph (f)(2) of Rule 19b-4<sup>8</sup> thereunder. 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.

### **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-2008-92 on the subject line.

#### **Paper Comments**

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2008-92. 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 Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m.

<sup>3</sup> See Securities Exchange Act Release No. 34-56927 (12/7/07), 72 FR 70912 (12/13/07), granting immediate effectiveness to SR-CBOE-2007-145.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

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-2008-92 and should be submitted on or before October 9, 2008.

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

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-21759 Filed 9-17-08; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58519; File No. SR-CBOE-2008-84]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 8.3A Pertaining to Class Quoting Limits

September 11, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 8, 2008, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III 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 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 Exchange 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 (<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

In its filing with the Commission, the self-regulatory organization 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 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. The purpose of this rule change is to amend Interpretations .01 and .03 of CBOE Rule 8.3A.

First, CBOE proposes to amend Interpretation .01(b) which generally provides that CBOE's President may increase the CQL when "exceptional circumstances" warrant. Interpretation .01(b) states that "exceptional circumstances" refers to substantial trading volume, whether actual or expected (*e.g.*, in the case of a new product or a major news announcement). Interpretation .01(b) also provides that when the "exceptional circumstances" cease, the President can reduce the CQL, and includes fair procedures for how such a reduction would occur. CBOE believes that there may be circumstances in which it would be appropriate to increase the CQL in a particular product even though it may not be apparent that there has been, or will be, a substantial change in trading volume in the product. For example, there may be circumstances in which a product is not experiencing a substantial change in trading volume and yet additional members may want to quote electronically in the product. Provided CBOE's trading systems can handle the increase and CBOE's President determines that it would be appropriate, CBOE should be permitted to increase

the CQL in that product.<sup>5</sup> Similarly, CBOE believes that the President should be allowed to decrease the CQL in appropriate circumstances, particularly in those cases where the CQL previously has been increased and provided such increase is no longer needed.

Accordingly, CBOE proposes to amend Interpretation .01(b) to provide that CBOE's President (or his designee) can increase or decrease the CQL in an existing or new product when he/she determines it would be appropriate. One of the factors that would be considered is the trading volume of the product. CBOE believes that amending Interpretation .01(b) as proposed is procompetitive, as it provides more flexibility in determining when to increase the CQL and thus allow more electronic quotes in a particular product. It is also consistent with the purpose of maintaining a CQL, which is to limit the number of members that are quoting electronically in a particular product to ensure that the Exchange has the ability to effectively handle all quotes generated by members. CBOE's President certainly can determine whether CBOE's systems can effectively handle the increase in quote message traffic caused by an increase in the CQL when the President determines that the increase would be appropriate. CBOE is not proposing to change the procedures for decreasing a CQL that are currently contained in Interpretation .01(b).

Second, CBOE proposes to clarify and amend Interpretation .03, which provides that in the event a Market-Maker has not submitted any electronic quotations in an appointed option class during the preceding 30 calendar days, then the Market-Maker's appointment in that option class will be terminated effective immediately. Interpretation .03 expressly states that it only applies to those option classes in which the CQL for the option class is full and there is a wait-list of member(s) requesting the ability to quote electronically in the option class, and that CBOE will notify the Market-Maker prior to terminating its appointment.

In adopting the interpretation, it was not CBOE's intention to allow a Market-Maker, who has chosen not to submit any electronic quotations in an appointed option class during the preceding 30 calendar days, to be able to preserve the Market-Maker's appointment in the option class by submitting one or more electronic quotes and then to discontinue quoting, thereby avoiding the termination.

<sup>5</sup> CBOE notes that it increases the CQL in products infrequently, and when it does, members on the wait-list have first priority.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<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).