

Number SR-Amex-2007-17 and should be submitted on or before March 30, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>20</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55381; File No. SR-CBOE-2007-18]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Request Permanent Approval of a Pilot Program Relating to Market-Makers Quoting Remotely

March 1, 2007.

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 February 22, 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 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

CBOE proposes to amend CBOE Rule 8.3 to request permanent approval of a pilot program relating to Market-Makers quoting away from CBOE’s trading floor. The text of the proposed rule change is available on CBOE’s Web site (<http://www.cboe.org/Legal>), at the CBOE’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, 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 purpose of the proposed rule change is to request permanent approval of an existing Pilot Program that allows a CBOE Market-Maker to submit electronic quotations away from CBOE’s trading floor in his/her appointed Hybrid Classes and Hybrid 2.0 Classes. In March 2005, CBOE amended its rules relating to Market-Maker appointments and quoting obligations.<sup>5</sup> Among other changes, CBOE amended Rule 8.3 to provide that a Market-Maker may submit electronic quotations from a location outside of his/her appointed trading station.<sup>6</sup> Previously, Market-Makers were only permitted to stream electronic quotations in their appointed Hybrid and Hybrid 2.0 classes when they were physically present in the trading crowd. In making this change, CBOE determined to request that it only be approved on a pilot basis to give CBOE the ability to evaluate the effectiveness of allowing Market-Makers to quote remotely. CBOE extended the Pilot Program for an additional year last March 2006.<sup>7</sup> The current Pilot Program is scheduled to expire on March 24, 2007.

CBOE believes that the Pilot Program has been successful, in that it allows Market-Makers to choose how they

<sup>5</sup> See Securities Exchange Act Release No. 51429 (March 24, 2005), 70 FR 16536 (March 31, 2005) (approving SR-CBOE-2004-58).

<sup>6</sup> Last year, CBOE amended its rules to allow Market-Makers to create a “Virtual Trading Crowd” appointment, and also modified the language in Rule 8.3(c) such that it states a Market-Maker can quote electronically away from CBOE’s trading floor pursuant to the Pilot Program. (See Securities Exchange Act Release No. 54182 (July 20, 2006), 71 FR 42692 (July 20, 2006) (approving SR-CBOE-2006-51).)

<sup>7</sup> See Securities Exchange Act Release No. 53410 (March 3, 2006), 71 FR 12747 (March 13, 2006) (granting immediate effectiveness to SR-CBOE-2006-24).

would like to participate in CBOE’s Hybrid Trading System, *i.e.*, electronically, in open outcry, or both. Although not all Market-Makers have chosen to quote electronically away from CBOE’s trading floor in their appointed Hybrid Classes and Hybrid 2.0 Classes, those Market-Makers that have availed themselves of this Pilot Program continue to provide liquidity and increased competition in their appointed option classes when they quote remotely. CBOE has not experienced any negative effects of allowing Market-Makers to quote from a location away from CBOE’s trading floor. Thus, CBOE believes it would be appropriate and beneficial to permanently approve the Pilot Program, and permit Market-Makers to continue to have the option to quote electronically away from CBOE’s trading floor.

###### 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) of the Act,<sup>9</sup> 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.

##### 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 Act<sup>10</sup> and subparagraph (f)(6) of Rule 19b-4<sup>11</sup>

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

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

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

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>20</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).

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.

#### 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-2007-18 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-2007-18. 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, 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-2007-18 and should be submitted on or before March 30, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55390; File No. SR-DTC-2007-03]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to New York Governing Law

March 2, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 8, 2007, The Depository Trust Company ("DTC") 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 substantially by DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)(i) of the Act<sup>2</sup> and Rule 19b-4(f)(1)<sup>3</sup> thereunder so that the proposal was 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

DTC is adding a new Section 4 to Rule 1 (Definitions) to clarify that the By-Laws, Rules, and Procedures are governed by New York state law.

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

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

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>3</sup> 17 CFR 240.19b-4(f)(1).

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

In its filing with the Commission, DTC 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. DTC 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

DTC is adding a new Section 4 to Rule 1 to clarify that the By-Laws, Rules, and Procedures are governed by New York state law. DTC's participant's and pledgee's agreements currently specify this choice of law, but DTC wishes to add such language explicitly to its rules for transparency purposes and to harmonize DTC's rules with those of its clearing agency affiliates, the Fixed Income Clearing Corporation and the National Securities Clearing Corporation.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>4</sup> and the rules and regulations thereunder applicable to DTC because the proposed change is a clarification that does not adversely affect the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible and does not adversely affect the respective rights or obligations of the clearing agency or its members.

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

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

##### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not solicited or received written comments relating to the proposed rule change. DTC will notify the Commission of any written comments it receives.

<sup>4</sup> 15 U.S.C. 78q-1.