

necessary systems capacity to handle the additional traffic associated with the listing and trading of Range Options as proposed herein. The Exchange does not anticipate that there will be any additional quote mitigation strategy necessary to accommodate the trading of Range Options.

(n) *Surveillance Program.*

The Exchange represents that it will have in place adequate surveillance procedures to monitor trading in Range Options prior to listing and trading such options, thereby helping to ensure the maintenance of a fair and orderly market for trading in Range Options.

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. Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) Act<sup>11</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

CBOE believes that the proposed rule change will 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 or received with respect to the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which CBOE consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**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-2007-104 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR-CBOE-2007-104. 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-CBOE-2007-104 and should be submitted on or before January 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-25181 Filed 12-27-07; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-56997; File No. SR-CBOE-2007-129]

**Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change Regarding the CBSX Floor Post**

December 19, 2007.

On November 2, 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" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposal to eliminate from the rules of the CBOE Stock Exchange ("CBSX") the requirement that CBSX maintain a space on the CBOE trading floor to allow for in-person price discovery in CBSX securities (the "Floor Post") and the requirement that CBSX Designated Primary Market-Makers ("DPMs") staff the Floor Post. The proposal was published for comment in the **Federal Register** on November 14, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

CBSX is the Exchange's stock trading facility. It is an all-electronic trading platform. In connection with the establishment of CBSX, the Exchange established a Floor Post on the CBOE trading floor (apart from the equity option trading posts) to allow for in-person price discovery. All CBSX DPMs currently are required to maintain personnel at the Floor Post to respond to price discovery inquiries from brokers. Any resulting orders/trades are entered and processed electronically. There is no open-outcry trading on CBSX.

The Exchange proposes to modify Rule 51.12 to state that CBSX "may" maintain a Floor Post. Currently, Rule 51.12 states that CBSX "will" maintain a Floor Post. The Exchange stated that

<sup>12</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> See Securities Exchange Act Release No. 56762 (November 7, 2007), 72 FR 64096.

<sup>11</sup> 15 U.S.C. 78f(b)(5).

it intends to continue to maintain the Floor Post; however, this change will permit the Exchange to remove the Floor Post if at a later time the Exchange deems such action prudent.

The Exchange also proposes to eliminate the requirement that CBSX DPMs maintain personnel at the Floor Post. As proposed, it would be optional for CBSX DPM firms to staff the Floor Post. The Exchange stated that some CBSX DPMs have requested this change to allow them to more efficiently allocate resources.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>4</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>5</sup> which requires that the Exchange's rules 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 to protect investors and the public interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (File No. SR-CBOE-2007-129) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-25182 Filed 12-27-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57005; File No. SR-CBOE-2007-122]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Amending Its Obvious Error Rule for Options on Indices, ETFs, and HOLDERS

December 20, 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>

<sup>4</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</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.

notice is hereby given that on October 31, 2007, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") 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. On December 14, 2007, the CBOE submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, 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 24.16, which is the Exchange's rule applicable to the nullification and adjustment of transactions in index options, options on exchange-traded funds ("ETFs"), and options on Holding Company Depository Receipts ("HOLDERS"). The Exchange is proposing to amend the rule to change the manner in which it applies the obvious price error provision to transactions occurring as part of the Hybrid Opening System ("HOSS") process. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.cboe.com>.

#### 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 is proposing to amend CBOE Rule 24.16, which is its obvious error rule pertaining to index options, options on ETFs, and options on HOLDERS. The proposal would revise the obvious price error provision that pertains to transactions occurring as part of the HOSS opening rotation

process. Currently, Rule 24.16 provides that an obvious price error would be deemed to have occurred when the execution price of a buy (sell) transaction is above (below) the fair market value of the option by at least a prescribed minimum error amount.<sup>3</sup> For purposes of transactions occurring on HOSS, "fair market value" is currently defined as the midpoint of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). The Exchange is proposing to revise the fair market value calculation to provide additional conditions that would apply during regular HOSS rotations and during HOSS rotations in index options series that are being used to calculate the final settlement price of volatility indexes. The additional conditions are intended to reasonably factor the amount of available liquidity into the fair market value calculation during these rotations.

With respect to regular HOSS rotations, the Exchange is proposing to add a condition that the option contract quantity subject to nullification or adjustment would not exceed the size of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).<sup>4</sup> For example, assume that the opening transactions in series XYZ totaled 200 contracts at a price \$0.75. Also assume that a member representing non-CBOE Market-Maker A sold 200 contracts, trading 100 contracts with CBOE Market-Maker B and 100 contracts with non-CBOE Market-Maker C. Finally, assume that the first quote after the transaction in question that does not reflect the erroneous transaction is bid 100 contracts for \$0.95 and offered 150 contracts at \$1.15. In this scenario, an erroneous sell transaction would be deemed to have occurred in accordance with the obvious price error provision because the \$0.75 price received by non-CBOE Market-Maker A is at least \$0.125 lower than the fair market value of \$1.05.<sup>5</sup> In addition, because the size of the bid in the first quote after that does not reflect the erroneous transaction is for 100 contracts, up to 100 contracts executed on the opening on behalf of non-CBOE Market-Maker A would be subject to

<sup>3</sup> For example, for series trading with normal bid-ask differentials as established in CBOE Rule 8.7(b)(iv), the prescribed minimum error amount is as follows: \$0.125 if the fair market value is below \$2, \$0.20 if the fair market value is \$2 to \$5, \$0.25 if the fair market value is above \$5 to 10, \$0.40 if the fair market value is above \$10 to 20, and \$0.50 if the fair market value is above \$20. See CBOE Rule 24.16(a)(1).

<sup>4</sup> For erroneous sell transactions, the size of the bid would be used. For erroneous buy transactions, the size of the offer would be used.

<sup>5</sup> \$1.05 is the midpoint of \$0.95 and \$1.15.