

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act⁶ and subparagraph (f)(2) of Rule 19b-4⁷ thereunder. 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. Please include File Number SR-CBOE-2008-10 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-2008-10. 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 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-2008-10 and should be submitted on or before March 5, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57286; File No. SR-CBOE-2007-122]

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

February 7, 2008.

On October 31, 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")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend CBOE Rule 24.16 ("Rule 24.16" or "Rule"), 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 ("HOLDRS"), to change the manner in which the Rule applies the obvious

price error provision to transactions occurring as part of the Hybrid Opening System ("HOSS") process. On December 14, 2007, the CBOE submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on December 28, 2007.³ The Commission received no comment letters on the proposal. This order approves the proposed rule change, as amended.

Currently, Rule 24.16 provides that an obvious price error will 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 the prescribed minimum error amount, as set forth in the Rule. 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 proposes to revise the definition of fair market value 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 on the final settlement day. According to CBOE, 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 proposes to add a condition that the option contract quantity subject to nullification or adjustment cannot exceed the size of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). Any nullification or adjustment would occur on a *pro rata* basis and would take into account the overall size of the HOSS opening trade.

With respect to HOSS rotations in index options series that are used to calculate the final settlement price of a volatility index on the final settlement day, the Exchange proposes to add a condition that the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s) must be for at least the overall size of the HOSS opening trade. If the size of the quote is less than the overall size of the HOSS opening trade, then the obvious price error provision shall not apply.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 57005 (December 20, 2007), 72 FR 73919.

rules and regulations thereunder applicable to a national securities exchange⁴ and, in particular, the requirements of section 6(b) of the Act⁵ and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,⁶ in that the proposal is designed to promote just and equitable principles of trade, remove impediments and perfect the mechanisms of a free and open market, and to protect investors and the public interest.

The Commission considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an "obvious error" may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether an "obvious error" has occurred and the process for reviewing such a determination should be based on specific and objective criteria and subject to specific and objective procedures.

The Commission believes that the Exchange's proposal to revise Rule 24.16 by modifying the manner in which the Rule applies its obvious price error provision to transactions in index options, options on ETFs, and options on HOLDRS that occur as part of the HOSS process during regular opening rotations and during opening rotations on the final settlement day for volatility indexes is appropriate. The proposal provides for an objective standard because in each of the foregoing situations, the fair market value calculation must take into account the size of the quote.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-CBOE-2007-122), as amended, is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Florence E. Harmon,

Deputy Secretary.

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

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57283; File No. SR-DTC-2007-11]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Amendment No. 1 to Proposed Rule Change To Amend Its Operational Arrangements as It Applies to Structured Securities

February 6, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder² notice is hereby given that on September 7, 2007, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on November 26, 2007.³ The Commission received four comments on the original proposal.⁴ On December 14, 2007, DTC filed Amendment No. 1 to the proposed rule change.⁵ The filing, as amended, is described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks approval to amend DTC's "Operational Arrangements Necessary for an Issue to Become and Remain Eligible for DTC Services" ("Operational Arrangements") as it applies to Structured Securities. DTC's Operational Arrangements is a contractual agreement between DTC, issuers, and paying agents that outlines the procedural and operational

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-56795 (November 15, 2007), 72 FR 66009.

⁴ Simon Griffiths, Vice President, JP Morgan (December 10, 2007); Tom Migneron, Principal, Edward Jones (December 11, 2007); Dan W. Schneider, Baker & McKenzie LLP, Counsel to the Association of Global Custodians, Chicago, Illinois (December 12, 2007); Norman Eaker, Chairman, Securities Industry and Financial Markets Association, Operations Committee, Gussie Tate, President, Securities Industry and Financial Markets Association, Dividend Division, and Thomas Hamilton, Vice Chairman, Securities Industry and Financial Markets Association, MBS and Securitized Products Division Executive Committee (December 19, 2007).

⁵ Amendment No. 1 replaces and supersedes the original filing in its entirety. Amendment No. 1 corrects an inadvertent reference to "issuer" instead of "underwriter" in Section 2(ii).

requirements for an issue to become and remain DTC eligible.

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 these statements.⁶

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change seeks to amend DTC's Operational Arrangements as it applies to Structured Securities in order to: extend the deadline by which paying agents of such securities must submit periodic payment rate information to DTC; establish an exception processing fee applied to certain Structured Securities whose features prevent paying agents from complying with the extended deadline; and provide that DTC track and make publicly available reports on paying agent performance as it relates to timeliness and accuracy of Structured Securities payment rate information submitted to DTC.

1. Background

On September 7, 2007, DTC filed with the Commission proposed rule change DTC-2007-11. Amendment No. 1 removes reference to the imposition of a processing fee on January 1, 2008, and corrects the identity of the party that will identify an issue as conforming or non-conforming and will submit a written attestation giving the reason for non-conformance.

A Structured Security, such as a collateralized mortgage obligation or asset-backed security ("ABS"), is a bond backed by a pool of underlying financial assets. The underlying assets generally consist of receivables such as mortgages, credit card receivables, or student or other bank loans for which the timing of principal payments by the underlying obligors may be variable and unpredictable. A Structured Security may also incorporate credit enhancements or other rights that affect

⁶ The Commission has modified the text of the summaries prepared by DTC.