

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55826; File No. SR-CBOE-2007-47)

May 29, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Permanent Approval of the Preferred Market Maker Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 15, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

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

The Exchange proposes to make the Preferred Market Maker Program permanent. The text of the proposed rule change is available on CBOE’s Web site at <http://www.cboe.org/legal>, at the Exchange’s principal office, 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Item III 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

In June, 2005, CBOE obtained approval of a filing adopting a Preferred DPM Program.³ This allowed order providers to send orders to the Exchange designating a Preferred DPM from among the DPM complex. If the Preferred DPM was quoting at the NBBO at the time the order was received by CBOE, the Preferred DPM was entitled to the entire DPM participation entitlement. The Exchange subsequently modified the applicable participation entitlement percentages under the program⁴ and, then expanded the scope of the program to apply to qualifying Market Makers (as opposed to just DPMs).⁵ At that time the program was renamed the Preferred Market Maker Program.

The Preferred Market Maker Program has been operating on a pilot basis. The pilot is due to expire on June 2, 2007. Since the Pilot was put into operation it has been positively received by the options trading community. There has not been any adverse or unanticipated negative impact on the market by the presence of the Preferred Market Maker Program. Further, CBOE believes that the pilot program helps generate greater order flow for the Exchange which in turn adds depth and liquidity to CBOE's markets.

³ See Securities Exchange Act Release No. 51779 (June 2, 2005), 70 FR 33564 (June 8, 2005) (approving SR-CBOE-2004-71).

⁴ See Securities Exchange Act Release Nos. 51824 (June 10, 2005), 70 FR 35476 (June 20, 2005) (approving SR-CBOE-2005-45); and 52021 (July 13, 2005), 70 FR 41462 (July 19, 2005) (approving SR-CBOE-2005-50).

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with the Act⁶ 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.⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ requirements that an exchange have rules that are 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.

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.

III. 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:

⁵ See Securities Exchange Act Release No. 52506 (September 23, 2005), 70 FR 57340 (September 30, 2005) (approving SR-CBOE-2005-58).

⁶ 15 U.S.C. 78a *et seq.*

⁷ 15 U.S.C. 78(f)(b).

⁸ 15 U.S.C. 78(f)(b)(5).

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-2007-47 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-2007-47. 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. Copies of such 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-2007-47 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act⁹ and the rules and regulations thereunder applicable to a national securities exchange¹⁰, and, in particular, the requirements of Section 6(b)(5) of the Act.¹¹ Section 6(b)(5) requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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 notes that the Exchange's Preferred Market Maker Program was approved on a pilot basis approximately two years ago.¹² The Exchange has asked the Commission to approve the Exchange's Preferred Market Maker Program on a permanent basis. For the reasons noted by the Commission when it initially approved the Exchange's Preferred Market Maker Program on a pilot basis, the Commission continues to believe that the Exchange's Preferred Market Maker Program does not jeopardize market integrity or the incentive for market participants to post competitive quotes.¹³ Accordingly, the Commission finds that the proposal is consistent with the Act.

The Exchange has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the Federal

⁹ 15 U.S.C. 78f.

¹⁰ 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).

¹¹ 15.U.S.C. 78f(b)(5).

¹² See notes 3 to 5, supra.

Register. The Commission believes that granting accelerated approval of the proposed rule change would allow the Exchange's Preferred Market Maker to continue without disruption beyond the June 2, 2007 expiration date of the current pilot program. Accordingly, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹⁴ for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the Federal Register.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁵ that the proposed rule change (SR-CBOE-2007-47), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Florence E. Harmon
Deputy Secretary

¹³ See note 3, *supra*.

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 17 CFR 200.30-3(a)(12).