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

CBSX is CBOE's stock trading facility. One of the aims of CBSX is to provide an effective and efficient platform for CBOE members to execute stock trades. This includes the hedging activity of CBOE option Market-Makers. Many CBOE option Market-Makers generate stock orders using systems from third-party technology providers that integrate options pricing and position management functions with functionality that generates stock orders for hedging purposes. The practice has typically been for these Market-Maker hedging orders to be routed to a stock broker for further routing to an exchange, including CBSX, or other venue for execution. To better facilitate the ability of CBOE Market-Makers to access CBSX, CBOE and CBSX are now making available to CBOE Market-Makers a direct connection between CBSX and the most prevalent of the market-making systems in use on CBOE that will enable the Market-Makers using that system to transmit stock orders directly to CBSX in their capacity as CBSX members.[5] Similar to member connectivity fees charged by CBOE, CBSX is establishing a connectivity charge for members that desire to utilize this connection (and any similar connection that CBOE/CBSX may make available in the future) to directly route orders to CBSX. CBSX intends to charge $50 per calendar quarter; however, to promote usage, the fee will be waived through the first quarter of 2009.

[5] Since CBSX is a facility of CBOE, CBOE members are eligible to trade on CBSX as ''members.''

2. Statutory Basis

The proposed rule change is consistent with the requirements of Section 6(b) of the Act,[6] in general, and Section 6(b)(4) of the Act,[7] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities.

*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 proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and Rule 19b–4(f)(2) thereunder,[9] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the Exchange. 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–2008–63 on the subject line.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

*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–2008–63. 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, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also 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 No. SR–CBOE–2008–63 and should be submitted on or before July 21, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8–14761 Filed 6–27–08; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–57996; File No. SR–CBOE–2008–59]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change To Amend CBOE Rule 8.7 Related to the Obligations of Market-Makers

June 20, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

[10] 17 CFR 200.30–3(a)(12).

(''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on June 11, 2008, the Chicago Board Options Exchange, Incorporated (the ''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 substantially prepared by the Exchange. 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 8.7 (Obligations of Market-Makers). 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 these statements may be examined at the places specified in Item IV below. CBOE 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 the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to add an interpretation to CBOE Rule 8.7 (Obligations of Market-Makers) to clarify that the in-person requirements set forth in CBOE 8.7.03B may be satisfied by market-makers either individually or collectively with market-makers of the same member organization. The Exchange recently amended CBOE Rule 8.1 (Market-Maker Defined) expanding the definition of market-maker to include member organizations.[3] In view of the recent amendment of CBOE Rule 8.1, the Exchange believes that the in-person requirements set forth in CBOE Rule 8.7.03B may be satisfied by market-makers either individually or collectively with market-makers of the same member organization. The Exchange notes that CBOE Rule 8.7.03B only applies to Hybrid 3.0 option classes.[4] Currently, there are three Hybrid 3.0 option classes: Standard & Poor's 500 Index (SPX), Standard & Poor's 100 Index (OEX) and Morgan Stanley Retail Index (MVR).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it would promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and protect investors and the public interest. Specifically, the Exchange believes that the proposed rule change will strengthen its ability to carry out its oversight responsibilities as a self-regulatory organization and reinforce its surveillance and enforcement functions.

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

CBOE does not believe that the proposed rule change will result in 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*. Please include File Number SR–CBOE–2008–59 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–2008–59. 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 at (*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 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–2008–59 and should be submitted on or before July 21, 2008.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 57615 (April 3, 2008), 73 FR 19537 (April 10, 2008) (SR–CBOE–2007–120).

[4] CBOE Rule 8.7.03B applies to both non-Hybrid and Hybrid 3.0 option classes. However, there currently are not any non-Hybrid options classes. Telephone conference between Andrew Spiwak, Assistant Corporate Secretary, CBOE and Ronesha A. Butler, Special Counsel, Division of Trading and Markets, Commission dated June 19, 2008.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8–14762 Filed 6–27–08; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–57997; File No. SR–CBOE–2008–30]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Relating to the Hybrid Opening System

June 20, 2008.

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 June 5, 2008, 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. 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 revise its Hybrid Opening System (''HOSS'') procedures. The text of the proposed rule change is available at the Exchange, on the Exchange's Web site (*http://www.cboe.org/Legal*), and in 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.

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

1. Purpose

CBOE proposes to amend CBOE Rule 6.2B, *Hybrid Opening System (''HOSS''),* which pertains to trading rotations for series trading on the CBOE Hybrid Trading System (''Hybrid''), in order to allow the Exchange to permit Hybrid Agency Liaison (''HAL'') functionality to be available on the openings in designated classes.[3]

The current HOSS method for opening chooses a single ''market clearing'' price that will leave bids and offers which cannot trade with each other.[4] *However, one or more series of a class may not open if one of the following conditions is met:*

- If no opening quote that complies with the legal width quote requirements of Rule 8.7(b)(iv) has been entered by at least one Market-Maker appointed to the class (or by the Designated Primary Market-Maker or Lead Market-Maker, if applicable for the particular class) (the ''opening quote condition'');
- The opening price is not within an acceptable range (as applicable for the particular class) compared to the lowest quote offer and the highest quote bid (the ''acceptable opening range condition''); or
- The opening trade would leave a market order imbalance (*i.e.*, there are more market orders to buy or to sell for the particular series than can be satisfied by the limit orders, quotes and market orders on the opposite side) (the ''market order imbalance condition'').

Under the current HOSS procedures, if the open quote condition or acceptable opening range condition is present, the senior official in the Exchange's control room may authorize the opening of the affected series where necessary to ensure a fair and orderly market. If the opening range condition is present, HOSS will not open the series but will send a notification to market participants indicating the reasons. If the market order imbalance condition is present, a notification will be sent to market participants indicating the size and direction (buy or sell) of the market order imbalance. HOSS will not open the series until the condition causing the delay is satisfied. HOSS will repeat the process until the series is open.

Under the proposed rule change, the Exchange could designate the classes in which HAL would be activated for HOSS openings. For such designated classes, additional steps would be automatically taken using HAL functionality to address the opening quote, acceptable opening range, and market order imbalance conditions discussed above, as well as to address instances where CBOE's opening trade would be at a price that is not the current national best bid or offer (the ''NBBO condition''). In particular, in classes where HAL is activated for HOSS openings, the following procedures would apply if one of the following conditions is met:

- If the opening quote condition is present, HOSS would check to see if there is an NBBO quote on another market that falls within the acceptable opening range. If such an NBBO quote is present, the series would open and expose the marketable order(s) at the NBBO price. If such an NBBO quote is not present, HOSS would not open the series and would send a notification to market participants indicating the reason.[5]
- If the acceptable opening range condition is present, HOSS would match orders and quotes to the extent possible at a single clearing price[6] within the acceptable opening range and then expose the remaining marketable order(s) at the widest price point within the acceptable opening range or the NBBO price, whichever is better.[7]

[3] *See* CBOE Rule 6.14, governing the operation of HAL.

[4] In determining the priority of orders and quotes to be traded, HOSS gives priority to market orders first, then to limit orders and quotes whose price is better than the opening price, and then to resting orders and quotes at the opening price. *See* Rule 6.2B(c)(iv).

[5] For example, if there is no Market-Maker quote present but an NBBO market is present that meets CBOE's acceptable opening range parameter (*e.g.*, the NBBO is $2.50–$2.80 25 x 25, while CBOE's pre-opening BBO is $1.00–$5.00 25 x 25 and there is a market order to buy 10 contracts), HOSS will open without a trade and expose the market order to buy 10 contracts at $2.80.

[6] In determining the priority of orders and quotes to be traded on the opening trade or through the subsequent exposure process, HOSS would give priority to public customer market orders first (with multiple orders ranked based on time priority), then to non-public customer market orders second (with multiple orders being ranked based on time priority), then to limit orders and quotes whose price is better than the opening price (with multiple orders and quotes being ranked in accordance with the allocation algorithm in effect for the option class pursuant to Rule 6.45A, *Priority and Allocation of Equity Option Trades on the CBOE Hybrid System,* or 6.45B, *Priority and Allocation of Trades in Index Options and Options on ETFs on the CBOE Hybrid System),* and then to limit orders and quotes at the opening price (with multiple orders and quotes being ranked in accordance with the allocation algorithm in effect for the option class pursuant to Rule 6.45A or 6.45B). *See* proposed Interpretation and Policy .03(c)(i) to Rule 6.2B.

[7] For example, if the opening price would be outside of CBOE's acceptable opening range

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