

Finally, the Commission received two comment letters on CBOE's proposal to quote and trade XSP and DJX in the same minimum increments as the SPY and DIA options, for consistency and competitive reasons.³⁰ One commenter argues that it is inconsistent with the Pilot Program and the purpose and objectives of the Act to permit CBOE to quote singly-listed products in penny increments.³¹ Specifically, the commenter believes that it is inconsistent with the Pilot Program and the advancement of competition to allow CBOE to unilaterally expand the Pilot Program by including two products subject to exclusive licensing agreements.³²

The Commission does not believe that the issue of exclusive licensing agreements is raised by this proposed rule change. CBOE already lists and trades XSP and DJX options, pursuant to Commission approval, and is only proposing in this filing to change the minimum price variation for those options. The Commission believes that, because XSP and DJX are designed to track the same indexes as multiply-listed options included in the Pilot, CBOE's proposal to quote and trade XSP and DJX in the same minimum increments as classes in the Pilot is consistent with the Act.

The commenter also believes that, based on CBOE's rationale for quoting XSP and DJX in the same increments as SPY and DIA, the Exchange should have proposed to also quote the S&P 500 index (SPX) in smaller increments because it is a "related" product.³³ CBOE argues that the XSP and DJX are competitive products to the SPY and DIA, not merely that they are "related products." The Commission does not believe that CBOE's decision not to propose reducing the minimum increment in SPX (or any other product that is based on the same index as a class included in the Pilot) makes its proposal to reduce the minimum increment for XSP and DJX inconsistent with the Act. Moreover, the Commission does not believe that CBOE's proposal to quote two additional singly-listed classes in smaller increments impedes the ability of any exchange or the Commission to evaluate the Pilot

Program. The Commission also notes that it would consider other proposals by exchanges to reduce the minimum quoting increment for other options, whether for the same reasons put forth by CBOE in its proposal, or other reasons.

For the reasons discussed above, the Commission believes that the proposed rule change is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁴ that the proposed rule change (SR-CBOE-2007-98), be, and hereby is, approved on a pilot basis, which will end on March 27, 2009.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁵

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56532; File No. SR-CBOE-2006-104]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Codify the Hybrid Price Check Parameter

September 26, 2007.

I. Introduction

On December 7, 2006, 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 6.13, CBOE Hybrid System's Automatic Execution Feature, to codify an automated system feature that prevents executions at potentially erroneous prices ("price check parameter functionality"). On August 1, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on August 20, 2007.³ The

Commission received no comments regarding the proposal.

II. Description of the Proposal

The proposed rule change would amend CBOE Rule 6.13 to adopt the price check parameter functionality, which the Exchange would activate, on a series by series basis for a given option class, to prevent an automatic execution of a market order through CBOE's Hybrid System if such execution would occur outside a prescribed market width. Specifically, the functionality would be triggered to block an execution of a market order if the width between the Exchange's best bid and best offer is not within an "acceptable price range." The applicable acceptable price range for each series of an option class would be determined by the appropriate Exchange Procedure Committee and could be no less than 1.5 times the corresponding bid/ask differentials in CBOE Rule 8.7(b)(iv)(A).⁴ The acceptable price range for each series of an option class would be announced to the CBOE membership via Regulatory Circular at least one day in advance.

When the price check parameter functionality is triggered for a particular market order, such market order no longer would be eligible for automatic execution and would be routed on a class by class basis to PAR (the public automated routing system) or BART (the booth automated routing terminal) or, at the order entry firm's discretion, to the order entry firm's booth printer.

The Exchange also proposed that the senior official in CBOE's Control Room or two Floor Officials could grant intra-day relief by widening the acceptable price range for one or more option series. If such intra-day relief is granted, it would be announced via verbal message to the trading crowd, printer message to member organizations on the trading floor, and electronic message to members that request to receive such messages. The granting of such intra-day relief would be for no more than the duration of the particular trading day. Any decision to extend relief beyond an intra-day basis would be announced to the membership via Regulatory Circular.

⁴ CBOE Rule 8.7(b)(iv)(A) sets forth the bid/ask differentials for open outcry trading, which are as follows: No more than \$0.25 between the bid and offer for each option contract for which the bid is less than \$2.00; no more than \$0.40 where the bid is at least \$2.00 but does not exceed \$5.00; no more than \$0.50 where the bid is more than \$5.00 but does not exceed \$10; no more than \$0.80 where the bid is more than \$10 but does not exceed \$20; and no more than \$1.00 where the bid is more than \$20.

³⁰ See Amex Letter and NYSE Arca Letter, *supra* note 4.

³¹ See Amex Letter, *supra* note 4.

³² NYSE Arca also believes that the proposal is not wholly consistent with the Pilot. See NYSE Arca Letter, *supra* note 4.

³³ See Amex Letter, *supra* note 4. NYSE Arca also believes that CBOE's proposal is incomplete because it did not propose to also quote options on the Nasdaq 100 Index (NDX), and options on the Russell 2000 Index (RUT) in smaller increments. See NYSE Arca Letter, *supra* note 4.

³⁴ 15 U.S.C. 78s(b)(2).

³⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 56245 (August 14, 2007), 72 FR 46525.

III. Discussion

The Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁵ In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,⁶ which requires that the rules of an exchange be designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest. In the Commission's view, CBOE's price check parameter functionality potentially would benefit customers whose market orders otherwise would receive an automatic execution at a price that is outside of an acceptable price range that is established by the Exchange and based on criteria set forth in CBOE Rule 6.13. Because such orders would be routed to PAR, BART, or the order-entry firm's booth, customers potentially could receive a more favorable price than the price then available through CBOE's Hybrid System.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-CBOE-2006-104), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56552; File No. SR-DTC-2007-10]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Implement the New Issue Information Dissemination Service for Municipal Securities

September 27, 2007.

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 August 16, 2007, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on September 12, 2007, amended³ the proposed rule change 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 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 implement the New Issue Information Dissemination System ("NIIDS") for municipal securities. NIIDS is an automated system developed by DTC at the request of the Securities Industry and Financial Markets Association ("SIFMA")⁴ in order to improve the mechanism for disseminating new issue information regarding municipal securities.

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.⁵

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

Currently, Municipal Securities Rulemaking Board ("MSRB") Rule G-14 generally requires municipal securities dealers to report municipal securities transactions to the MSRB within 15 minutes of the time of the trade.⁶ Inter-dealer trades eligible for comparison by a clearing agency are required to be submitted through NSCC's Real Time Trade Matching System ("RTTM") within the time frame in Rule G-14. They are subsequently reported to the MSRB by NSCC. NSCC requires certain

securities information in order to process and report transactions involving those securities. Therefore, it is necessary that dealers trading newly issued municipal securities have the securities information needed for trade submission by the time the trade reporting is required.

Pursuant to current practice in the municipal securities market, each information vendor works separately to obtain information from offering documents and underwriters. Each information vendor's success depends in large part upon the voluntary cooperation of the underwriters. It is not unusual for information vendors to have inconsistent information or for some information vendors to receive information before others. Consequently, critical new issue information may be missing or inaccurate in the automated trade processing systems used by dealers to report the initial trades in new issues. This can result in late trade reports or trade reports that must be canceled and resubmitted or amended because they contain with inaccurate data.

NIIDS is designed to improve the process by which new issue information is provided by underwriters to information vendors by collecting information about a new issue from underwriters or their representatives in an electronic format and making that data available immediately to information vendors. NIIDS is designed to ensure that information is disseminated as quickly and efficiently as possible after the information is made available by the underwriters.

To address concerns that dealers often lack timely access to electronically formatted securities information necessary to process and report municipal securities transactions in real-time, MSRB Rule G-14 includes a three-hour exemption available to dealers transacting in "when, as, and if issued" municipal securities that are not syndicate managers or members, that have not traded the issue, and that do not have the CUSIP information or indicative data for that issue in their securities master file ("Reporting Exemption").⁷ The Reporting Exemption will expire on December 31, 2007. In order to prepare for the Reporting Exemption's expiration, SIFMA asked DTC to incorporate a centralized automated mechanism for the collection and dissemination on a real-time basis of the required information as part of the planned reengineering of DTC's underwriting system. DTC built NIIDS to help make

⁵ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The amendment changed a misplaced word in a footnote.

⁴ The request originated from The Bond Market Association ("BMA"), which has since merged with the Securities Industry Association to form SIFMA.

⁵ The Commission has modified the text of the summaries prepared by DTC.

⁶ MSRB Rule G-14 RTRS Procedures (a)(ii).

⁷ MSRB Rule G-14 RTRS Procedures (a)(ii)(C).