

This approval order is based on the Exchange's representations.

#### *Acceleration*

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>15</sup> for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission notes that the present proposal is similar to prior proposals that the Commission has approved,<sup>16</sup> is consistent with current Amex listing requirements, and received no comments following publication in the **Federal Register**. The Commission does not believe that the proposed rule change, as amended, raises novel regulatory issues. Consequently, the Commission believes that it is appropriate to permit investors to benefit from these additional investment choices without delay.

Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act,<sup>17</sup> to approve the proposal, as amended, on an accelerated basis.

#### **V. Conclusion**

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>18</sup> that the proposed rule change (SR-Amex-2007-98), as amended, be, and is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Nancy M. Morris,**

*Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-56824; File No. CBOE-2007-134]

### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Relating to the Continuous Quoting Obligations of DPMs**

November 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>

notice is hereby given that on November 9, 2007, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared substantially by CBOE. 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 8.85 relating to the continuous quoting obligations of Designated Primary Market-Makers ("DPMs"). The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and <http://www.cboe.com/legal>.

#### **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 Statutory Basis for, the Proposed Rule Change*

###### **1. Purpose**

CBOE proposes to modify the continuous electronic quoting obligation of DPMs in multiply-listed option classes, and make them consistent with the continuous quoting obligation of e-DPMs<sup>3</sup> and Lead Market-Makers ("LMMs") in Hybrid option classes.<sup>4</sup> CBOE is not proposing to change the continuous electronic quoting obligation of DPMs in classes listed solely on CBOE.

Currently, DPMs are required to provide continuous electronic quotations in 100% of the series of each option class allocated to the DPM. E-DPMs and LMMs, on the other hand, are required to provide continuous electronic quotes in 90% of the series of each appointed option class. CBOE believes that it would be appropriate

and reasonable to reduce the continuous electronic quoting obligation of DPMs in multiply-listed option classes from 100% of the series to 90% of the series. The participation entitlement for DPMs has been reduced over the past several years, and presently the participation entitlement is allocated between DPMs and e-DPMs under Rule 8.87. Specifically, if the DPM and one or more e-DPMs are quoting at the best bid/offer on CBOE, one-half of the entitlement is allocated to the DPM, and the other half is divided equally among the e-DPMs quoting at the best bid/offer on CBOE. In addition, in 2005 CBOE implemented a Preferred Market-Maker Program which provides that in instances where a Preferred Market-Maker receives a participation entitlement, then the DPM and e-DPM participation entitlement shall not apply to any order.<sup>5</sup>

CBOE believes that reducing the continuous electronic quoting obligations of DPMs in multiply-listed option classes may also mitigate quotations. In the event that an order is received in a series of a multiply-listed option class in which CBOE is not disseminating a quotation, CBOE would process the order in accordance with the provisions of Rule 6.14—the Hybrid Agency Liaison. As a result, CBOE does not believe there would be any negative effect on the handling of orders.

###### **2. Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and 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*

No written comments were either solicited or received with respect to the proposed rule change.

<sup>5</sup> See CBOE Rule 8.13.

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

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

<sup>16</sup> See *supra*, note 12.

<sup>17</sup> 15 U.S.C. 78s(b)(5).

<sup>18</sup> 15 U.S.C. 78s(b)(2).

<sup>19</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 CBOE Rule 8.93.

<sup>4</sup> See CBOE Rule 8.15A.

### 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-2007-134 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-2007-134. 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 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-2007-134 and should be submitted on or before December 20, 2007.

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

**Nancy M. Morris,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56833; File No. SR-CHX-2007-26]

### Self-Regulatory Organizations; The Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Number 1 Thereto Relating to Participant Fees and Credits

November 21, 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> notice is hereby given that on October 31, 2007, The Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On November 19, 2007, CHX filed Amendment No. 1 to the proposed rule change. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

<sup>8</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> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

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

The CHX proposes to amend its Schedule of Participant Fees and Credits (the "Fee Schedule") to: (a) Provide that port fees would not be charged to participant firms that provide a certain amount of liquidity to the "Matching System"<sup>5</sup>; (b) modify the "provide" credits associated with trades in Tape B securities to create an incentive to send orders in these and other securities to the Matching System; (c) modify the fees for the receipt of orders through the CHX Connect network; and (d) add new fees in connection with the processing of away-market trades that are sent to clearing through the Exchange's facilities. The text of the proposed rule change is available at the Exchange's Web site, [http://www.chx.com/rules/proposed\\_rules.htm](http://www.chx.com/rules/proposed_rules.htm), the Exchange, and 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, CHX 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. CHX 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

Through this filing, the Exchange would amend its Fee Schedule in several ways. First, the Exchange would amend the Fee Schedule to provide that port fees would not be charged to participant firms that provide a certain amount of liquidity to the Matching System.<sup>6</sup> Specifically, port fees would not be charged to a participant firm for any month in which that firm executes an average daily volume of 5 million or more provide shares in the Matching

<sup>5</sup> See generally, CHX Rules, Article 20.

<sup>6</sup> Under the Exchange's Fee Schedule, port charges of \$400 per month currently are assessed for each participant give-up that has access through a participant connection to the Matching System. Port charges are not assessed for access to the Matching System through the Exchange's Brokerplex system.