

Option Pilot Program increases the position and exercise limits for IWM option from 250,000 contracts to 500,000 contracts.<sup>7</sup>

The purpose of the instant proposed rule change is to extend the IWM Option Pilot Program through March 1, 2008. The Exchange is not proposing any other change to the IWM Option Pilot Program. The Exchange believes that extending the IWM Pilot Program is warranted due to the positive feedback received from market participants and for the reasons cited in the original proposed rule changes that proposed the adoption of the IWM Pilot Program. Also, the Exchange has not encountered any problems or difficulties relating to the IWM Option Pilot Program since its inception. For these reasons, the Exchange proposes to extend the IWM Option Pilot Program for the aforementioned additional period.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements provided under Section 6(b)(5) of the Act,<sup>8</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, 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*

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 proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of

investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

CBOE has requested the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission hereby grants CBOE's request<sup>11</sup> and believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the IWM Option Pilot Program was previously extended. In addition, waiver of the 30-day operative period would allow the IWM Option Pilot Program to continue uninterrupted.

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.<sup>12</sup>

## 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-2007-147 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary,

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>12</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on January 8, 2008, the date on which the Exchange filed Amendment No. 1.

Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2007-147. 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-2007-147 and should be submitted on or before February 8, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. E8-861 Filed 1-17-08; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57137; File No. SR-CHX-2007-24]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to the Handling of Clearly Erroneous Transactions

January 14, 2008.

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

<sup>7</sup> Exercise limits for IWM options are equivalent to the position limits prescribed for IWM options in Rule 4.11.07 and the increased exercise limits are only in effect during the IWM Option Pilot Period. See Rule 4.12.02.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 4, 2007, the Chicago Stock Exchange, Inc. ("CHX" 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. On January 7, 2008, the CHX submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to amend its rules regarding the handling of "clearly erroneous" and other transactions. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.chx.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**

The Exchange states that its rules currently allow the Exchange to cancel a trade, or modify the terms of a trade, when the terms of the trade are determined to be "clearly erroneous" or when other circumstances (including a CHX systems problem) require that that action be taken for the maintenance of a fair and orderly market or the protection of investors and the public interest.<sup>3</sup> The Exchange notes that other exchanges have similar rules.<sup>4</sup>

The Exchange states that as it has gained experience in the operation of these rules, it has identified, and is now proposing, several changes to the rules' provisions.

First, the Exchange seeks to extend, from 15 to 30 minutes, the time for filing an initial written request for review of a potentially "clearly erroneous" trade. As part of this change, the Exchange would also eliminate the arguably duplicative requirement that a participant also notify the Exchange by telephone of its intent to seek review. Together, the Exchange believes that these changes would streamline the process for filing a review request under these rules.<sup>5</sup>

Additionally, the Exchange would establish specific thresholds for determining whether or not the terms of a transaction are eligible for review under the clearly erroneous rules. Under these thresholds, a trade would be found to be eligible for review if: (a) For a trade where the price per share is less than \$1.00, the execution price is 20% or more away from the midpoint of the national best bid and offer ("NBBO"); or (b) for a trade where the price per share is equal to or greater than \$1.00, the execution price is 10% or more away from the midpoint of the NBBO. The Exchange believes that these easily applied standards set reasonable thresholds for determining whether or not a transaction should be eligible for review.<sup>6</sup>

Another proposed change to the CHX's rules would eliminate one of the two levels of appeal that can be taken from an initial Exchange determination that the terms of a trade should be modified or that the trade should be cancelled.<sup>7</sup> Under the existing rule, the Exchange's initial decision may be appealed to a subcommittee of the Committee on Exchange Procedure and

the subcommittee's decision may be appealed, in turn, to the full Committee on Exchange Procedure.<sup>8</sup> Through this filing, the Exchange proposes to eliminate the appeal to the full Committee. The Exchange believes that its proposal brings the Exchange's procedures in line with those in other markets.<sup>9</sup>

The Exchange amended its original filing to, among other things, include changes to Article 2, Rule 5, to ensure that this rule language is consistent with the changes proposed in Article 20; describe the composition of a subcommittee of the Committee on Exchange Procedure; and make other more minor adjustments to the rule text. Additional descriptions were added to the narrative, as appropriate, to address changes that were made to the rule text.

Finally, the Exchange would be given the discretion, in situations where it is acting on its own initiative to respond to systems disruptions or extraordinary market conditions or other circumstances, to determine that the number of affected transactions is such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. This determination would provide certainty to participants whose transactions were affected by decisions in these unusual situations.<sup>10</sup>

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

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>12</sup> in particular, in that it is designed to promote just and equitable principles of trade, 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 enhancing, in certain circumstances, a participant's opportunity to make an initial request for review of a transaction he believes to be "clearly erroneous" and allowing the Exchange to more efficiently respond to requests that are made.

<sup>8</sup> A subcommittee of the Committee on Exchange Procedure is composed of members of the full Committee on Exchange Procedure.

<sup>9</sup> See Nasdaq Rule 11890(c) (providing for an appeal to the Market Operations Review Committee); NYSE Arca Rule 7.10(c)(2) (providing for an appeal to the Clearly Erroneous Execution Panel).

<sup>10</sup> The Exchange notes that other markets have included a similar provision in their rules. See Nasdaq Rule 11890(c)(1); NYSE Arca Rule 7.10(c)(2).

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> See CHX Rules, Article 20, Rule 10 ("Handling Clearly Erroneous Transactions" and Rule 11 ("Systems Disruptions and Malfunctions").

<sup>4</sup> See, e.g., Nasdaq Rule 11890 ("Clearly Erroneous Transactions"); NYSE Arca Equities Rule 7.10 ("Clearly Erroneous Transactions").

<sup>5</sup> The Exchange notes that extending the time for filing a complaint to 30 minutes is consistent with the rules of at least one other exchange. See Nasdaq Rule 11890(a)(2)(A)(ii) (giving members 30 minutes to submit written complaints for transactions that are executed before 9:30 a.m. (Eastern Time) and at or after 10 a.m. (Eastern Time)).

<sup>6</sup> These eligibility requirements would only apply to trades for regular-way settlement during regular trading hours. See Proposed CHX Article 20, Rule 10(b). Among other things, the application of these standards would give participants certainty about whether or not a particular transaction would be eligible for review under the clearly erroneous rules and would allow the Exchange to focus its resources on addressing situations where more significant harm has potentially occurred.

<sup>7</sup> See Proposed Article 20, Rule 10(d). The Exchange also would make corresponding changes to Article 2, Rule 5, relating to appellate rights arising from subcommittee decisions, to confirm that the decision of the subcommittee is final and that the Exchange's initial decision is not stayed pending any appeal to the subcommittee.

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

The Exchange 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 solicited or received by the Exchange 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 the Exchange consents, the Commission will:

A. By order approve the 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-CHX-2007-24 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-CHX-2007-24. 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 am and 3 pm. 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-CHX-2007-24 and should be submitted on or before February 8, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-57140; File No. SR-CHX-2007-23]

### **Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Approving a Proposed Rule Change To Allow the Exchange To Open at 8:30 a.m. (Chicago Time) Without Regard to the Opening on the Primary Market**

January 14, 2008.

#### **I. Introduction**

On October 2, 2007, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to allow the Exchange to open at 8:30 a.m. (Chicago time) without regard to the opening on the primary market. To accommodate its implementation schedule for this proposal, the Exchange extended the time for Commission

action to January 14, 2008. The **Federal Register** published the proposed rule change for comment on November 1, 2007.<sup>3</sup> The Commission received no comments on the proposal.

#### **II. Description**

Under existing rules, the Exchange generally opens for trading in a security once the primary market has done so.<sup>4</sup> If the primary market announces that it will not open, or if the primary market has delayed its opening for reasons other than a regulatory halt, the rules permit two senior CHX officials to open the market.<sup>5</sup> The Exchange has proposed to amend its rules to permit trading to begin at 8:30 a.m. (Chicago time), except for trading in specified exchange-traded funds, which would begin at 7:20 a.m. (Chicago time).<sup>6</sup>

In conjunction with this change to the opening time of the Exchange's market, the Exchange also proposes two other changes to its rules. First, the Exchange would eliminate the opening cross order type. According to the Exchange, these cross orders, which are designed to execute at the primary market opening price, likely could no longer be effectively executed on the Exchange, once the proposed change is made to the time of the Exchange's opening.<sup>7</sup> In addition, the Exchange would add a new rule that prevents immediate or cancel ("IOC") market orders from being accepted until either (i) the primary market in a security has opened trading in that security or (ii) two senior officers of the Exchange have determined that it is appropriate for the Exchange to accept IOC market orders.<sup>8</sup> The

<sup>3</sup> Securities Exchange Act Release No. 56698 (October 24, 2007), 72 FR 61919.

<sup>4</sup> See CHX Rules, Article 20, Rule 1(b).

<sup>5</sup> See CHX Rules, Article 20, Interpretation and Policy .01.

<sup>6</sup> See Proposed CHX Rules, Article 20, Rule 1(b). The Exchange represents that Exchange-traded funds that begin trading at 7:20 a.m. would be announced, from time to time, by the Exchange in a customer service notification or other type of update. The only exchange-traded fund currently trading at 7:20 a.m. is the streetTRACKS® Gold Trust. Telephone conversation between Ellen Neely, President and General Counsel, CHX, Richard Holley III, Senior Special Counsel, Division of Market Regulation ("Division"), Commission, and Sonia Trocchio, Special Counsel, Division, Commission (October 18, 2007).

<sup>7</sup> If the Exchange's systems allow its participants to begin trading before the primary market opens trading in a particular security, an opening cross order (which must execute at the primary market opening price) might violate the protected quotations of other markets. To avoid this potential result, the Exchange believes that it is appropriate to eliminate this order type.

<sup>8</sup> See Proposed CHX Rules, Article 1, Rule 2(n) and Article 20, Rule 4(b)(13). For purposes of this rule, another exchange would be considered to have opened for trading in a security when the first trade

Continued

<sup>13</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.