

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Open Meeting scheduled for Tuesday, June 12, 2007 at 9 a.m. will be:

The Commission will hold a roundtable discussion regarding selective mutual recognition of foreign jurisdictions. The discussion will address the implications of granting foreign market participants access to U.S. investors under an abbreviated registration system, provided those entities are supervised in a foreign jurisdiction that has a securities regulatory regime substantially comparable (but not necessarily identical) to that in the United States. The roundtable will explore whether selective mutual recognition would benefit U.S. investors by providing greater cross-border access to foreign investment opportunities while preserving investor protection.

The subject matter of the Open Meeting scheduled for Wednesday, June 13, 2007 at 10 a.m. will be:

1. The Commission will consider whether to adopt amendments to the grandfather provision of Rule 203 of Regulation SHO and the market decline limitation of Rule 200(e)(3).

2. The Commission will consider whether to re-propose amendments to the options market maker exception to the close-out requirement of Regulation SHO and the marking requirements of Rule 200(g) of Regulation SHO.

3. The Commission will consider whether to adopt amendments to the short sale price test of Rule 10a-1. In addition, the Commission will consider whether to adopt an amendment to the "short exempt" marking requirement of Regulation SHO.

4. The Commission will consider whether to adopt amendments to Rule 105 of Regulation M that would further safeguard the integrity of the capital raising process and protect issuers from manipulative activity that can reduce issuers' offering proceeds and dilute security holder value.

The subject matter of the Closed Meeting scheduled for Thursday, June 14, 2007 will be:

Formal orders of investigations;  
Institution and settlement of injunctive actions;  
Institution and settlement of administrative proceedings of an enforcement nature;  
Resolution of litigation claims;  
Other matters related to enforcement proceedings; and  
An adjudicatory matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: June 6, 2007.

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55853; File No. SR-CBOE-2007-56]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Market-Maker Obligations

June 4, 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 May 30, 2007, the Chicago Board Options Exchange, Incorporated ("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 prepared substantially by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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's rules relating to Market-Maker obligations. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com>), 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, 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 those 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 parts of such statements.

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

##### 1. Purpose

On January 23, 2007, the Commission approved CBOE's proposed rule change to permit thirteen option classes to trade in penny increments in connection with the Penny Pilot Program.<sup>5</sup> In its proposed rule change, CBOE discussed the various quote mitigation strategies that it had already implemented and intended to implement. One of the quote mitigation strategies was to amend Rule 8.7 to modify the continuous electronic quoting obligation of Market-Makers and Remote Market-Makers ("RMMs"). Specifically, CBOE amended these obligations to provide that Market-Makers and RMMs shall provide continuous electronic quotes in 60% of the series of his/her appointed class that have a time to expiration of less than nine months. CBOE noted that this was consistent with its Rule 5.8.

Because CBOE's rule filing relating to the Penny Pilot Program was only approved on a six-month pilot basis (which is scheduled to expire on July 26, 2007), including apparently the proposed change to the continuous electronic quoting obligation of Market-Makers and RMMs, CBOE requests that the change to continuous electronic quoting obligations be approved on a permanent basis.<sup>6</sup> CBOE notes that this quote mitigation strategy is similar to Phlx Rule 1014(b)(ii)(D)(4).<sup>7</sup>

##### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act 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.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) Act<sup>9</sup> requirements

<sup>5</sup> See Securities Exchange Act Release No. 55154, 72 FR 4743 (February 1, 2007).

<sup>6</sup> It is unclear from the approval order whether the proposed change to the continuous electronic quoting obligation of Market-Makers and RMMs was intended to be approved only on a six-month pilot basis, as opposed to the changes to the minimum increments for the thirteen option classes participating in the Penny Pilot Program.

<sup>7</sup> See Securities Exchange Act Release No. 55689 (May 1, 2007), 72 FR 26192 (May 8, 2007) (granting immediate effectiveness to SR-Phlx-2007-36).

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

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

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

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 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*

The Exchange neither solicited nor received comments on the proposal.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing rule 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>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup> At any time within 60 days of the filing of such 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2007-56 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-2007-56. 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 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-2007-56 and should be submitted on or before July 2, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-55832; File No. SR-NASDAQ-2007-040]

#### **Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval to a Proposed Rule Change Relating to the Waiver of Fees upon Relisting of Companies Removed for Late Filings**

May 31, 2007.

On April 4, 2007, The NASDAQ Stock Market LLC ("Nasdaq") 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 waive fees upon the relisting of companies removed for late filings. The proposed rule change was published for comment in the **Federal Register** on April 25, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

In its filing, Nasdaq proposed to allow, in certain circumstances, a company to relist without paying a new entry and application fee if the company was delisted solely for the failure to file a required periodic report with the Commission or other appropriate regulatory authority. In addition, Nasdaq proposed to delete separate, duplicative provisions in its rules.

Nasdaq has proposed to waive the entry and application fee for any company that was suspended<sup>4</sup> and/or delisted from the Nasdaq Stock Market solely for its failure to file a required periodic report with the Commission or other appropriate regulatory authority, if the company regains compliance with this requirement and applies to relist on Nasdaq within one year of the date it was delisted from Nasdaq.<sup>5</sup> In addition,

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

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

<sup>3</sup> See Securities Exchange Act Release No. 55645 (April 19, 2007), 72 FR 20572.

<sup>4</sup> Nasdaq Rule 4802(f) requires a security to meet the requirements for initial listing (which include the requirement to pay the applicable listing fees) if the security has been the subject of a decision to delist by a Listing Qualifications Panel, the Nasdaq Listing and Hearing Review Council or the Nasdaq Board.

<sup>5</sup> The Commission notes that Nasdaq has the authority under its rules to waive fees on a case-by-case basis. See Securities Exchange Release No. 28731 (January 2, 1991), 56 FR 906 (January 9, 1991) (SR-NASD-90-61). The Commission notes that it is not, as a general matter, appropriate to allow for the waiver of fees to one class of non-members, while excluding other non-members from such class, without first providing interested persons an opportunity to comment on the proposed rule change pursuant to section 19(b)(2) under the Act.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). The Exchange provided the Commission with written notice of its intention to file the proposed rule change on May 16, 2007.

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