

Section 6(b)(5) of the Act,<sup>28</sup> in that they are designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, 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 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 the self-regulatory organization 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-2007-106 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-2007-106. 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 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-2007-106 and should be submitted on or before October 18, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>29</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-56487; File No. SR-CBOE-2007-04]

### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Amending Its Obvious Error Rule for Equity Options**

September 20, 2007.

#### **I. Introduction**

On February 21, 2007, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend CBOE Rule 6.25, Nullification and Adjustment of Equity Options Transactions, to revise its obvious error provision related to "no bid series" and to make a non-substantive change by adding a cross-reference within the text of Rule 6.25. On July 2, 2007, the CBOE submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on August 9, 2007.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change as modified by Amendment No. 1.

#### **II. Description of the Proposed Rule Change**

The Exchange proposes to amend Rule 6.25 by modifying the nullification provisions for "no bid series" options.<sup>4</sup> Currently, Rule 6.25 provides that electronic transactions in series that are quoted no bid are subject to nullification if at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at the time of execution. Under the proposed revision to Rule 6.25, electronic transactions in a series quoted no bid on the Exchange could be nullified if: (i) The bid in that series immediately preceding the execution was, and for five (5) seconds prior to the

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

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

<sup>3</sup> Securities Exchange Act Release No. 56190 (August 2, 2007), 72 FR 44892.

<sup>4</sup> The proposed rule change also would add a cross-reference to paragraph (a)(5) to the introductory language of Rule 6.25. According to the CBOE, this proposed change is non-substantive because the text of Rule 6.25(a)(5) currently provides that the provision is not applicable to trades executed in open outcry.

<sup>28</sup> 15 U.S.C. 78f(b)(5).

<sup>29</sup> 17 CFR 200.30-3(a)(12).

execution remained, zero; and (ii) at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at the time of execution.

The proposed rule change would require that for purposes of the “no bid series” provision, bids and offers of the parties to the subject trade that are in any of the series in the same options class would not be considered. In addition, the proposed rule change would provide that each group of series in an options class with a non-standard deliverable would be treated as a separate options class. Finally, the proposed rule change would clarify that the “no bid series” provision is intended to apply to series quoted no bid on the Exchange (as opposed to series for which the national best bid is quoted no bid).<sup>5</sup>

### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>6</sup> and, in particular, the requirements of Section 6(b) of the Act<sup>7</sup> and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>8</sup> in that the proposal promotes just and equitable principles of trade, prevents fraudulent and manipulative acts, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

The Commission considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an “obvious error” may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission’s view, the determination of whether an “obvious error” has occurred should be based on specific

and objective criteria and subject to specific and objective procedures.

The Exchange represented that the proposed changes to the “no bid series” provision are intended to address the Exchange’s experience in applying this provision to particular trading scenarios that have occurred. The Commission believes that the proposed rule change is designed to clarify the application of Rule 6.25 to “no bid series” options and thus is an appropriate modification of the Exchange’s obvious error rule.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-CBOE-2007-04), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Florence E. Harmon,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56491; File No. SR-FINRA-2007-015]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Changes in the Functionality of the NASD/NYSE Trade Reporting Facility

September 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 September 19, 2007, the Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a the National Association of Securities Dealers, Inc. (“NASD”)) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared substantially FINRA. FINRA has submitted the proposed rule change under Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the

Commission.<sup>5</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

FINRA proposes to amend its rules to reflect a change in the functionality of the NASD/NYSE Trade Reporting Facility (the “NASD/NYSE TRF”)<sup>6</sup> to permit Participants to submit trades to the NASD/NYSE TRF for submission to the National Securities Clearing Corporation (“NSCC”) for clearance and settlement.

The text of the proposed rule change is available at <http://www.finra.org>, at the principal offices of FINRA, 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, FINRA 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. FINRA 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 NASD/NYSE TRF provides FINRA members with a mechanism for reporting locked-in trades in NMS stocks, as defined in Rule 600(b)(47) of Regulation NMS under the Act,<sup>7</sup> effected otherwise than on an exchange. NASD Rules 6130E(a) and 6140E currently provide that the NASD/NYSE TRF will not submit trades to clearing and, where appropriate, Participants must have a valid Qualified Service Representative (“QSR”) agreement with the NSCC or similar arrangement to

<sup>5</sup> Consistent with the existing provisions, for a nullification to be granted, any member or person associated with a member that believes it participated in a transaction that falls within the “no bid series” parameters must also satisfy the notification procedures set forth in paragraph (b) of Rule 6.25.

<sup>6</sup> In approving this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

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

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</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)(6).

<sup>5</sup> FINRA has asked the Commission to waive the 30-day operative delay provided in Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> Effective July 30, 2007, FINRA was formed through the consolidation of NASD and the member regulatory functions of NYSE Regulation, Inc. Accordingly, the NASD/NYSE TRF is now doing business as the FINRA/NYSE TRF. The formal name change of each of FINRA’s Trade Reporting Facilities (“TRFs”) is pending and, once completed, FINRA will file a separate proposed rule change to reflect those changes in the Manual.

<sup>7</sup> 17 CFR 242.600(b)(47).