

the Original AAO will fill the remaining 25 contracts of the market order to sell at \$1.01. Even though the Original AAO has time priority over the 2nd AAO, the 2nd AAO will be filled first because it has a higher AAO Maximum Improvement Price (\$1.04 vs. \$1.03) than the Original AAO.

*Example 5.* For this example, assume that while the Original AAO is resting on the BOX Book, but prior to an Improvement Auction commences, another AAO to sell 80 XYZ is entered into the Trading Host at \$1.01 (referred to in this example and in Example 6 as the "2nd AAO"). These two orders will immediately be matched and traded at \$1.02, the mid-point of the two AAO Maximum Improvement Prices. The remaining 20 contracts from the Original AAO will remain on the BOX Book with its original time price priority.

*Example 6.* For this example, assume everything is the same as in Example 5 except the 2nd AAO to sell 80 XYZ is entered into the Trading Host at \$1.02. The executions will remain the same as in Example 5 except the price will be rounded (the midpoint of \$1.02 and \$1.03 is \$1.025) to the nearest penny increment towards the favor of the Original AAO. Since the Original AAO was already on the BOX Book, the trade will execute at \$1.02. The remaining 20 contracts from the Original AAO will remain on the BOX Book with its original time price priority.

#### Conclusion

As shown by the above examples, the AAO causes no detriment to customers or the markets as a whole, will increase the number of Improvement Orders that will be available to participate in an Improvement Auction and thus creates a greater possibility for better execution prices on all orders placed on BOX.

#### 2. Statutory Basis

The proposal is consistent with the requirements of Section 6(b) of the Act,<sup>6</sup> in general, and Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it makes it easier for non-professional customers to participate in Improvement Auctions, it is generally 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

The Exchange 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 has neither solicited nor received comments on 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 BSE consents, the Commission shall: (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 No. SR-BSE-2006-56 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BSE-2006-56. 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 BSE. 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-BSE-2006-56 and should be submitted on or before March 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

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

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55235; File No. SR-BSE-2007-05]

#### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove All References to a Specific Regulation NMS Trading Phase Date

February 2, 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 January 31, 2007, the Boston Stock Exchange ("BSE" 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. The Exchange has designated the proposed rule change as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(1) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule 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)(1).

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

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

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

The BSE is proposing to remove references in Chapters XXXVII and XXXVIII of the BSE Rules to February 5, 2007, which was the Regulation NMS Trading Phase Date as of the date of Commission approval of the proposed rule change relating to the second phase of the BeX trading system, and replace all such references with the phrase "Regulation NMS Trading Phase Date." The Regulation NMS Trading Phase Date is the final date for full operation of Regulation NMS-compliant trading systems of all automated trading centers (both SRO trading facilities and ADF participants) that intend to qualify their quotations for trade-through protection under Rule 611 of Regulation NMS, as determined by the Commission. The text of the proposed rule change is available at [www.bostonstock.com](http://www.bostonstock.com), at the BSE, 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 BSE 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. BSE 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

On June 13, 2006 the Exchange filed Amendment No. 3 to SR-BSE-2006-22 (the "BeX Facility Filing"), a rule filing submitted in connection with the implementation of the first of two phases of BeX, a fully automated electronic book for the display and execution of orders in securities. On August 25, 2006 SR-BSE-2006-22 was approved by the Commission.<sup>5</sup> On August 3, 2006 the BSE filed, in connection with the implementation of the second phase of the BeX trading system and in connection with satisfying the requirements of Regulation NMS, SR-BSE-2006-30. On

September 29, 2006 the Commission approved SR-BSE-2006-30.<sup>6</sup>

The purpose of this filing is to remove references in Chapters XXXVII and XXXVIII of the BSE Rules to February 5, 2007 as the Regulation NMS Trading Phase Date and to replace all references to that specific date with the phrase "Regulation NMS Trading Phase Date." The Regulation NMS Trading Phase Date is the final date for full operation of Regulation NMS-compliant trading systems of all automated trading centers (both SRO trading facilities and ADF participants) that intend to qualify their quotations for trade-through protection under Rule 611 of Regulation NMS, as determined by the Commission. In other words, the BSE Rules will no longer reference a date certain for the Regulation NMS Trading Phase Date and any occurrence that could have taken place or that would have been triggered on February 5, 2007, such as the ability for certain order types to be submitted on the BeX, will be postponed to coincide with the revised Regulation NMS Trading Phase Date scheduled by the Commission. Further, this filing replaces all specific references to the February 5, 2007 date contained in BSE-2006-30 as modified by Amendment 2 to that filing with the phrase Regulation NMS Trading Phase Date.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for 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

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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

Because the foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(1) thereunder.<sup>10</sup>

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 Exchange 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-BSE-2007-05 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-BSE-2007-05. 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

<sup>5</sup> See Securities Exchange Act Release No. 54365 (August 25, 2006), 71 FR 52192 (September 1, 2006).

<sup>6</sup> See Securities Exchange Act Release No. 54546 (September 29, 2006), 71 FR 59161 (October 6, 2006).

<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)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(1).

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 BSE.

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-BSE-2007-05 and should be submitted on or before March 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon**

*Deputy Secretary*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55243; File No. SR-CBOE-2007-06]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend CBOE Rules Relating To CBOE's Determination To Trade Options on the iShares Russell 2000 Index Fund (IWM) on the Hybrid 2.0 Platform

February 5, 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 January 12, 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 and II below, which Items have been prepared 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

CBOE proposes to amend its rules relating to CBOE's determination to trade options on the iShares Russell 2000 Index Fund (IWM) on the Hybrid 2.0 Platform. The text of the proposed rule change is available on CBOE's Web site (<http://www.cboe.com>), at the CBOE'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 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 purpose of this rule change is to amend CBOE Rule 8.3 and Rule 8.4 in connection with CBOE's determination to trade options on the iShares Russell 2000 Index Fund (IWM) on the Hybrid 2.0 Platform.<sup>5</sup> IWM options currently have an appointment cost of .50. CBOE intends to maintain that appointment cost when IWM options trade on the Hybrid 2.0 Platform. As a result, IWM options will be classified as an "AA" Tier option class. CBOE intends to trade IWM options on the Hybrid 2.0 Platform beginning on January 16, 2007.

###### 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>6</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) of the Act,<sup>7</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 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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and subparagraph (f)(6) of Rule 19b-4<sup>9</sup> thereunder because it 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; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. 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.

Under Rule 19b-4(f)(6) of the Act, the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.<sup>10</sup> The Exchange has requested

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

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

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

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> Rule 19b-4(f)(6) also requires the self-regulatory organization to give the Commission notice of its intention to file the proposed rule

<sup>11</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)(iii).

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

<sup>5</sup> CBOE Rule 1.1(aaa) defines Hybrid Trading System and Hybrid 2.0 Platform.