

consistent with the protection of investors and in the public interest because it will allow the Pilot Program to continue uninterrupted.¹⁴

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 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. Please include File No. SR-BSE-2007-04 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 No. SR-BSE-2007-04. 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 will also be available for inspection and copying at the principal office of BSE. All comments received will be posted

¹⁴ For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 No. SR-BSE-2007-04 and should be submitted on or before March 8, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55263; File No. SR-CBOE-2005-111]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Multiple Representation Exception Procedures

February 9, 2007.

On December 16, 2005, 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")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt additional exceptions to the prohibition on multiple representation by Market Makers contained in CBOE Rule 6.55.³ On October 17, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on December 6, 2006.⁴ The Commission received no comments regarding the proposal.

Rule 6.55 is intended to ensure that Market Makers are not disproportionately represented in the trading crowd. The general prohibition of Rule 6.55 provides, in relevant part, that no Market-Maker shall enter or be present in a trading crowd while a Floor Broker present in the trading crowd is holding an order on behalf of the Market Maker's individual account or an order

initiated by the Market-Maker for an account in which the Market-Maker has an interest.⁵

The proposed rule change would add to the Rule's current exceptions by permitting a Market-Maker to enter or be present in a trading crowd in which a Floor Broker is present who holds either a solicited order on behalf of the Market Maker's individual or joint account or a solicited order initiated by the Market-Maker for an account in which the Market Maker has an interest—provided that the Market-Maker advises the Floor Broker of his or her intention to enter or be present in the trading crowd and also refrains from trading in-person on the same trade as the original order.⁶ The proposed rule change would further permit a Market-Maker to enter or be present in a trading crowd in which a Floor Broker is present who holds an order on behalf of the Market Maker's individual account or an order the Market Maker initiated for an account in which the Market Maker has an interest (*i.e.*, even when that order is not a solicited order)—provided that the Market-Maker advises the Floor Broker of his or her intention to enter or be present in the trading crowd and also refrains from trading in-person on the same trade as the order being represented by the Floor Broker.

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, and in particular, with Section 6(b)(5) of the Act,⁷ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to 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.⁸

⁵ Rule 6.55 also provides that regulatory circulars concerning joint accounts should be consulted in connection with procedures governing the simultaneous presence in the trading crowd of participants in and orders for the same joint account. These circulars, among other things, extend the prohibition against multiple representation to cover joint account activity in certain circumstances.

⁶ In the case of joint accounts, it would be the responsibility of the Market-Maker to ascertain whether solicited orders for his or her joint account had already been entered with a Floor Broker in a trading crowd prior to his or her trading for the joint account in-person.

⁷ 15 U.S.C. 78f(b)(5).

⁸ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The proposed rule change would also make revisions to certain procedures in Rule 6.55 that have become outdated.

⁴ See Securities Exchange Act Release No. 54823 (November 28, 2006), 71 FR 70810.

The Commission notes that, under each of the proposed new exceptions, the Market Maker would be required to make the Floor Broker aware of his or her intention to enter or be present in the trading crowd, and the Market Maker would also be required to refrain from trading in-person on the same trade as the relevant order being represented by the Floor Broker. The Commission believes that these provisions are appropriately designed to prevent a Market-Maker from being disproportionately represented in the trading crowd, consistent with the original purpose of the prohibition in CBOE Rule 6.55. The Commission, therefore, believes that the proposed rule change is consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-CBOE-2005-111), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Nancy M. Morris,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55262; File No. SR-CBOE-2007-09]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto to Amend CBOE Rules Relating to CBOE's Determination to Trade Options on the NASDAQ 100 Index (NDX) on the Hybrid 2.0 Platform and Options on the S&P 100 (XEO) on the Hybrid Trading System

February 8, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 26, 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 Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Exchange filed Amendment No. 1 to the proposed rule change on February 7, 2007. 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 NASDAQ 100 Index (NDX) on the Hybrid 2.0 Platform and options on the S&P 100 (XEO) on the Hybrid Trading System. The text of the proposed rule change is available on CBOE's Web site (www.cboe.org/Legal), 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 in connection with CBOE's determination to trade options on the NASDAQ 100 Index (NDX) on the Hybrid 2.0 Platform.⁵ Additionally, CBOE proposes to amend Rule 8.3 in connection with CBOE's determination to trade options on the S&P 100 (XEO) on the Hybrid Trading System.

NDX currently has an appointment cost of 1.0. CBOE intends to lower NDX's appointment cost to .50 when NDX trades on the Hybrid 2.0 Platform. As a result, NDX will be classified in Tier AA. CBOE intends to trade NDX on the Hybrid 2.0 Platform beginning on February 6, 2007.

CBOE proposes to amend Rule 8.3(c)(ii) to specifically reference XEO as an option class trading on the Hybrid Trading System.⁶ Presently, XEO and options on the S&P 100 (OEX) collectively have an appointment cost of 1.0. CBOE proposes to maintain the same appointment cost when XEO trades on the Hybrid Trading System. CBOE intends to trade XEO on the Hybrid Trading System beginning on January 30, 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.⁷ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act,⁸ 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 Act⁹ and subparagraph (f)(6) of Rule 19b-4¹⁰ thereunder because it does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (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

⁶ Reference to XEO will also be deleted in the table listing the non-Hybrid option classes and their related appointment costs. (See Rule 8.3(c)(iv).)

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(6).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ CBOE Rule 1.1(aaa) defines Hybrid Trading System and Hybrid 2.0 Platform.