

All submissions should refer to File Number SR-Amex-2007-14. 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 the filing also will be available for inspection and copying at the principal office of the Amex. 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-Amex-2007-14 and should be submitted on or before March 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55326; File No. SR-CBOE-2006-107]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval to Proposed Rule Change Regarding a Permit Program for CBSX

February 21, 2007.

#### I. Introduction

On December 18, 2006, 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 establish a permit program for CBSX, the Exchange's proposed stock-trading facility ("Permit Program"). The proposed rule change was published for comment in the **Federal Register** on December 29, 2006.<sup>3</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

CBSX will be a facility of the Exchange and will serve as the Exchange's vehicle for trading non-option securities. The Exchange proposed to modify its Constitution and Rules to establish the Permit Program and thereby allow non-CBOE seat holders access to CBSX. The Exchange noted that expanding access to CBSX beyond CBOE's options user base would enhance liquidity on CBSX and make it a more attractive stock trading venue. The principal features of the Permit Program are as follows:

- The permits may only be used for trading stock on CBSX. A Permit does not entitle the holder to trade options on CBOE or to physically enter an option trading post on the trading floor;
- Up to 100 permits may be issued;
- The Permit Program could be terminated by the Exchange pursuant to a rule filing approved by the Commission. This provision is incorporated in the Exchange's Constitution to allow the CBSX Permit Program to be terminated without a corresponding membership vote (*i.e.*, the Exchange's membership has already approved the notion that a future termination of the Permit Program could occur without another membership vote);

- Permit holders would be deemed statutory members of CBOE. Accordingly, they would have the same petition and voting rights as regular members except for matters relating to Exchange ownership (specifically, matters relating to demutualization, mergers, consolidations, dissolution, liquidation, transfer, or conversion of assets of the Exchange), and except for matters relating to the Chicago Board of Trade exercise right;

- Permit holders would have no interest in the assets or property of CBOE and would have no right to share in any distribution by the Exchange;

- Permit holders (or an executive officer of a Permit holder) would be eligible to run for an at-large director

position and a Nominating Committee position;

- Permit holders would have to be registered broker-dealers;
- Permits would not be transferable; and
- All Permits would expire every October and would be eligible for renewal.

If there are fewer available CBSX Permits than qualified applicants, the Exchange will determine which of the applicants to approve by lot. Applicants that are affiliated will be deemed one applicant in cases where there are fewer available CBSX Permits than qualified applicants.

A Permit holder and its associated persons must comply with and be subject to CBOE Rules to the same extent that Exchange members and their associated persons are obligated to comply with and are subject to Exchange Rules. A Permit holder and its associated persons shall also be subject to the disciplinary, appeals, and arbitration jurisdiction and rules of the Exchange and entitled to the procedural rights under those rules to the same extent that Exchange members and their associated persons are subject to such jurisdiction and rules and entitled to such procedural rights.

#### III. Discussion

The Commission finds that the Exchange's proposal relating to CBSX Permits is consistent with Section 6(b)(3) of the Act,<sup>4</sup> which requires that the rules of the exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The Commission notes that, for purposes of the Act, Permit holders would be considered members of CBOE. Permit holders would be eligible to be nominated for an at-large position on CBOE's Board of Directors and to serve on the Exchange's Nominating Committee and would have the same petition and voting rights as CBOE members except for matters relating to Exchange ownership (specifically, matters relating to demutualization, mergers, consolidations, dissolution, liquidation, transfer, or conversion of assets of the Exchange), and except for matters relating to the Chicago Board of Trade exercise right.<sup>5</sup>

<sup>4</sup> 15 U.S.C. 78f(b)(3).

<sup>5</sup> Further, the Exchange has represented that Permit holders would be eligible to sit on disciplinary panels and on any committee(s) that

<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.

<sup>3</sup> See Securities Exchange Act Release No. 54987 (December 20, 2006), 71 FR 78481.

The Commission also finds that the Exchange's proposal relating to the Permit Program is consistent with Section 6(b)(5) of the Act,<sup>6</sup> which requires that the rules of the exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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 of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange has imposed various requirements and limitations in connection with the issuance of CBSX Permits. In this regard, the Commission notes that although the number of Permits to be issued is limited to a maximum of 100 Permits, the Exchange will allocate Permits by lot if demand for them exceeds 100 Permits.<sup>7</sup>

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-CBOE-2006-107) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55319; File No. SR-CHX-2007-01]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Use of a "SOLD" Indicator

February 20, 2007.

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

develop trading rules. Telephone conversation between Angelo Evangelou, Assistant General Counsel, CBOE and David Michehl, Special Counsel, Commission, Division of Market Regulation, on February 16, 2007.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> In approving this proposed rule change the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</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 January 30, 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. The CHX has filed this proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(5) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. On February 20, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>5</sup> 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 to specify that a "SOLD" indicator must only be affixed to a trade to the extent required by applicable intermarket trade reporting plans.

The text of the proposed rule change is available on the CHX's Web site at <http://www.chx.com>, the Exchange's principal office, 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 CHX 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 CHX 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange's institutional brokers may execute transactions in the Exchange's Matching System or may report transactions through the Exchange's Brokerplex system.<sup>6</sup> Under

<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)(5).

<sup>5</sup> See Form 19b-4 dated February 20, 2007 ("Amendment No. 1").

<sup>6</sup> The Exchange's Brokerplex system currently can be used by CHX institutional brokers to receive and

Article 17, Rule 3(e) of the Exchange's rules, if institutional brokers use the Brokerplex system's trade reporting functionality, these brokers are required to use their best efforts to report transactions within 10 seconds after execution. A "SOLD" indicator must be affixed to the trade if this 10-second window is exceeded.<sup>7</sup>

The CHX had established this 10-second time frame for affixing the "SOLD" indicator as part of its new trading model rules in the belief that the CTA Plan would be amended to contain a similar provision. At this point, however, the CTA Plan has not been amended to reflect this shorter time frame.<sup>8</sup>

This proposal would change the Exchange's rules to specify that the "SOLD" indicator must only be affixed to a trade to the extent that the indicator is required by an intermarket trade reporting plan, such as the CTA Plan.

###### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act<sup>9</sup> in general and furthers the objectives of Section 6(b)(5)<sup>10</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

enter orders, manage their orders, route orders to the Exchange's Matching System and other destinations for execution and report executed trades.

<sup>7</sup> A "SOLD" indicator is used, when reporting trades in Tape A and B securities, to identify trades that are being reported late (*i.e.*, after some delay from the time of execution) and out of sequence. The Consolidated Tape Association Plan (the "CTA Plan"), which governs trade reporting in Tape A and B securities, provides that a market should "designate as 'late' any last sale price not collected and reported" within 90 seconds after the execution occurs.

<sup>8</sup> The CTA Plan and specifications currently provide that the indicator must be placed on trades reported more than 90 seconds after they are executed.

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).