

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-Amex-2007-96 and should be submitted on or before September 19, 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. 34-56302; File No. SR-CBOE-2007-88]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change To Amend its Rule Regarding the Hybrid Opening System Opening Rotations

August 22, 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 July 25, 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 by the Exchange. 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 is proposing to amend its rule related to opening rotations conducted via the Hybrid Opening System ("HOSS"). The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com>), at the Office of the Secretary, CBOE and at the Commission.

#### 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 self-regulatory organization 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

The Exchange is proposing to amend its HOSS procedures contained in CBOE Rule 6.2B. HOSS is the Exchange's automated system for initiating trading at the beginning of each trading day. The HOSS procedures currently provide that an opening rotation for an options class shall be initiated by HOSS at a randomly selected time within a number of seconds after the primary market<sup>3</sup> for the underlying security opens (or after 8:30 a.m. (Central Time) for index options).<sup>4</sup>

The Exchange is proposing to amend Rule 6.2B to permit the opening rotation for an options class to be initiated by HOSS after the opening of the underlying security on either the primary listing market, the primary

<sup>3</sup> For purposes of CBOE Rule 6.2B, the Exchange has interpreted the "primary market" to be the primary listing market.

<sup>4</sup> For purposes of CBOE Rule 6.2B, when the underlying market "opens" is determined, on a class-by-class basis, to be either the opening trade and/or opening quote (or whichever occurs first). Once the underlying market open occurs, HOSS initiates the overlying option class opening and sends a Rotation Notice to market participants. Thereafter, HOSS will open the series of a class in a random order.

volume market<sup>5</sup> or the first market to open the underlying security. Determinations on the particular configuration for the market for the underlying security would be made on a class-by-class by the appropriate Exchange Procedure Committee and announced to the membership via Regulatory Circular. The Exchange believes that the proposed rule change will provide it with more flexibility to determine when to permit the HOSS opening rotation process to begin, which should contribute to the Exchange's ability to conduct openings in a fairly and orderly manner.

###### 2. Statutory Basis

By allowing for more flexibility in the manner in which HOSS is programmed to initiate an opening rotation, the Exchange is enhancing its ability to conduct fair and orderly openings, and, as such, the Exchange believes this proposed rule change is consistent with section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to 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

CBOE 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

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

<sup>5</sup> For purposes of CBOE Rule 6.2B, the primary volume market will be defined as the market with the most liquidity in that underlying security for the previous two calendar months.

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

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

<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.

(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-2007-88 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-2007-88. 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-2007-88 and should be submitted on or before September 19, 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. 34-56306; File No. SR-ISE-2007-74]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to an Extension of the Penny Pilot Program

August 22, 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 August 21, 2007, the International Securities Exchange, LLC ("ISE" 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 ISE. On August 22, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. 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 ISE is proposing to expand a pilot program to quote and trade certain options in pennies. The text of the proposed rule change is available at <http://www.ise.com>, at the Exchange, 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

On January 24, 2007, the Commission approved ISE's rule filing, SR-ISE-2006-62, which allowed 13 option classes to quote in penny increments in connection with the implementation of an industry-wide, six month pilot program (the "Penny Pilot Program").<sup>3</sup> Under the Penny Pilot Program, the minimum price variation for all 13 option classes, except for the Nasdaq-100 Index Tracking Stock ("QQQs"), is \$0.01 for all quotations in option series that are quoted at less than \$3 per contract and \$0.05 for all quotations in options series that are quoted at \$3 per contract or greater. The QQQs are quoted in \$0.01 increments for all options series. A recent extension of the Penny Pilot Program is scheduled to expire on September 27, 2007.<sup>4</sup> ISE now proposes to expand the Penny Pilot Program in two phases.

In both phases, the 13 options classes currently in the Penny Pilot Program would continue to be quoted as they are today. In addition, Phase I of the expansion would begin on September 28, 2007 and would continue for six months. This phase would include the 22 additional option classes noted in Exhibit 5. These 22 option classes are among the most actively traded, multiply-listed option classes based on national average daily volume, and together with the existing 13 option classes that are currently in the Penny Pilot Program, represent approximately 35% of the total industry volume.

Phase II of the expansion would begin on March 28, 2008 and continue for one year until March 27, 2009. It is currently anticipated that an additional 28 option classes would be added to the Penny Pilot Program on March 28, 2008, bringing the total number of option classes in the Penny Pilot Program to 63. These 28 new option classes would also be among the most actively traded, multiply-listed option classes. ISE intends to submit a proposed rule change pursuant to section (b)(3)(A) of

<sup>3</sup> See Securities Exchange Act Release No. 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR-ISE-2006-62) (the "Initial Filing").

<sup>4</sup> See Securities Exchange Act Release No. 56151 (July 26, 2007), 72 FR 42452 (August 2, 2007) (SR-ISE-2007-68).

<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.