

Pursuant to the proposed rule change, ABCs will undertake responsibilities comparable to those currently held by options specialists with respect to customer orders. For example, an ABC must use due diligence to execute the orders placed in his or her custody at the best prices available to him or her under Exchange rules. In addition, ABCs will assume the obligations related to displaying public customer orders that improve Amex's disseminated quote by maintaining the ANTE Central Book, the Exchange's automated limit order display facility, and keeping it active. Accordingly, the Commission believes that the Exchange's proposal should ensure that customers' orders continue to be represented and handled in a timely fashion on the Exchange. The Commission therefore believes that the proposal will continue to protect customer orders while preventing fraudulent and manipulative acts and practices.

The ABCs also would assume responsibilities related to Linkage orders. An ABC would use an options specialist's account to route P/A Orders and Satisfaction Orders to other participants in the Linkage Plan based on prior written instructions provided by the options specialist to the ABC.<sup>24</sup> The written instructions provided by the options specialist will also include direction as to how the ABC should handle responses to Linkage orders routed to other Linkage Participants that are not responded to in a timely manner.<sup>25</sup> The ABC will also use the options specialist's account to fill any Satisfaction Order that results from a Trade Through that is effected on the Exchange by ABCs. Finally, the ABC will handle all Linkage orders or portions of Linkage orders received by the Exchange that are not automatically executed.

The Commission believes that the proposed rules governing the handling of Linkage orders by the ABC and the use of the options specialist's accounts

<sup>24</sup> The Commission today is also granting the Exchange a conditional exemption from the requirement in Rule 608(c) of Regulation NMS promulgated under the Act that the Exchange comply with and enforce compliance by its members with certain provisions of the Linkage Plan to facilitate the establishment of ABCs and their handling of Linkage Orders. See Letter from Elizabeth K. King, Associate Director, Division of Trading and Markets, Commission, to Jeffrey P. Burns, Vice President and Associate General Counsel, Amex, dated November 16, 2007.

<sup>25</sup> Amex Rule 942(d)(3) specifically addresses the situations in which an Amex member (or, as proposed to be amended, an ABC acting as employee of the Exchange) does not receive a response to a Linkage order within 20 seconds of sending the order.

for routing Linkage orders is consistent with the promotion of a national market system because, among other things, it will allow P/A Orders that reflect the terms of Amex customer orders to be generated by Amex and routed to other Linkage Participant markets, which will allow a Amex customer order to receive possible execution at a price better than the price disseminated by Amex.

#### IV. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>26</sup> that the proposed rule change (File No. SR-Amex-2006-107), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-56808; File Nos. SR-Amex-2007-117; SR-BSE-2007-44; SR-CBOE-2007-121; SR-ISE-2007-92; SR-NYSEArca-2007-109; SR-Phlx-2007-86]**

### **Self-Regulatory Organizations: American Stock Exchange LLC, Chicago Board Options Exchange, Incorporated and International Securities Exchange, LLC: Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Changes; Boston Stock Exchange, Inc.; NYSE Arca, Inc.; and Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Changes, as Amended, Relating to the Elimination of the Class Gate**

November 16, 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 November 1, 2007, September 19, 2007, October 9, 2007, October 1, 2007, October 18, 2007, and November 14, 2007, American Stock Exchange LLC ("Amex"), Boston Stock Exchange, Inc. ("BSE"), Chicago Board Options Exchange, Incorporated ("CBOE"), International Securities Exchange, LLC ("ISE"), NYSE Arca, Inc. ("NYSE Arca"), and Philadelphia Stock

<sup>26</sup> 15 U.S.C. 78s(b)(2).

<sup>27</sup> 27 CFR 200.30-3(a)(12).

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

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

Exchange, Inc. ("Phlx") (each, an "Exchange" and, collectively, the "Exchanges"), respectively, filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in Items I and II below, which Items have been substantially prepared by the Exchanges. On November 13, 2007, November 6, 2007, and November 16, 2007, BSE, NYSE Arca, and Phlx respectively, filed Amendment No. 1 to their proposed rule changes. On November 16, 2007, BSE filed Amendment No. 2 to its proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule changes, as amended, from interested persons and is approving the proposed rule changes, as amended, on an accelerated basis.

#### **I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes**

Each Exchange proposes to eliminate a restriction on Principal Order ("P Order")<sup>3</sup> access through Linkage. The text of the proposed rule changes are available at the Exchanges' Web sites,<sup>4</sup> the Exchanges' principal offices, and at the Commission's Public Reference Room.

#### **II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes**

In its filing with the Commission, each Exchange included statements concerning the purpose of, and basis for, its 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 III below. The Exchanges have prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

<sup>3</sup> See Section 2(16)(b) of the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan").<sup>3</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage ("Linkage") proposed by Amex, CBOE, and ISE. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Phlx, Pacific Exchange, Inc. (n/k/a NYSE Arca), and BSE joined the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

<sup>4</sup> See <http://www.amex.com>, <http://www.bostonstock.com>, <http://www.cboe.com>, <http://www.iseoptions.com>, <http://www.nyse.com>, and <http://www.phlx.com>.

*A. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes*

1. Purpose

The Exchanges propose to eliminate the Linkage Class Gate restriction from their respective rules.<sup>5</sup> These changes will conform the Exchanges' rules to changes recently approved by the Commission to section 7(a)(ii)(C) of the Linkage Plan.<sup>6</sup>

Each Exchange currently has a rule which provides that, once the Exchange automatically executes a P Order in a series of an Eligible Option Class,<sup>7</sup> it may reject any other P Orders sent in the same Eligible Option Class by the same Exchange for 15 seconds after the initial execution unless there is a price change in the receiving Exchange's disseminated offer (bid) in the series in which there was the initial execution and such price continues to be the national best bid or offer. After the 15-second period, and until the sooner of one minute after the initial execution or a change in its disseminated offer (bid), each Exchange's rule provides that the Exchange that provided the initial execution is not obligated to automatically execute any P Orders received from the same Exchange in the same Eligible Option Class. The Exchanges proposed to eliminate the Class Gate provision from their rules, because all Exchanges have removed restrictions on non-customer access to the automatic execution systems, rendering the Class Gate restriction unnecessary.

2. Statutory Basis

The Exchanges believe the proposed rule changes are consistent with the Act and the rules and regulations under the Act applicable to national securities exchanges and, in particular, the requirements of section 6(b) of the Act.<sup>8</sup> Specifically, the Exchanges believe the proposed rule changes are consistent with the requirements of section 6(b)(5) of the Act<sup>9</sup> that the rules of an exchange be designed to prevent fraudulent and manipulative acts, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market

<sup>5</sup> See Amex Rule 941(c)(2); Boston Options Exchange Facility Rule, Chapter XII, Section 2(d)(ii); CBOE Rule 6.81(c)(2); ISE Rule 1901(d)(2); NYSE Arca Rule 6.93(c)(2); and Phlx Rule 1084(d)(2).

<sup>6</sup> See Securities Exchange Act Release No. 56806 (November 16, 2007) (Joint Amendment No. 24 of the Linkage Plan).

<sup>7</sup> See Section 2(8) of the Linkage Plan.

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

and a national market system, and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organizations' Statement on Burden on Competition*

The Exchanges believe that the proposed rule changes would impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others*

The Exchanges have neither solicited nor received comments on these proposals.

**III. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule changes are 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 Numbers SR-Amex-2007-117; SR-BSE-2007-44; SR-CBOE-2007-121; SR-ISE-2007-92; SR-NYSEArca-2007-109; and SR-Phlx-2007-86 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 Numbers SR-Amex-2007-117; SR-BSE-2007-44; SR-CBOE-2007-121; SR-ISE-2007-92; SR-NYSEArca-2007-109; and SR-Phlx-2007-86. These file numbers 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 submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 20549-1090, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal offices of the Exchanges. 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 Numbers SR-Amex-2007-117; SR-BSE-2007-44; SR-CBOE-2007-121; SR-ISE-2007-92; SR-NYSEArca-2007-109; and SR-Phlx-2007-86 and should be submitted on or before December 17, 2007.

**IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Changes**

After careful consideration, the Commission finds that the proposed rule changes, as amended, are consistent with the requirements of the Act and the rules and regulations thereunder, applicable to national securities exchanges.<sup>10</sup> In particular, the Commission finds that the proposals are consistent with the provisions of section 6(b)(5) of the Act<sup>11</sup> in that they are 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.

The Commission recognizes that, at the time of the creation of the Linkage, certain Exchanges had restrictions on non-customer access to their automatic execution systems. The Class Gate restriction in the Exchanges' rules served to protect those Exchanges that did not limit non-customer access against being obligated to automatically execute an unlimited number of P Orders. Since the implementation of the Linkage, all Exchanges have removed restrictions on non-customer access to their automatic execution systems. All of the Exchanges, therefore, allow access to their trading platforms orders on behalf of non-member market makers. The Commission believes that the greater access to automatic execution systems has rendered the Class Gate

<sup>10</sup> In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

provision unnecessary and that its elimination should facilitate a more efficient operation of the options markets.

The Commission also finds good cause, consistent with section 19(b)(2) of the Act<sup>12</sup> for approving the proposal prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. Granting accelerated approval would facilitate the implementation of these changes in conjunction with Joint Amendment No. 24 to the Linkage Plan.<sup>13</sup>

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (SR-Amex-2007-117; SR-BSE-2007-44; SR-CBOE-2007-121; SR-ISE-2007-92; NYSEArca-2007-109; and SR-Phlx-2007-86), as amended, are hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56816; File No. SR-CBOE-2007-130]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Amend its Rule 4.20 Regarding Anti-Money Laundering

November 19, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 2, 2007, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the CBOE. On November 9, 2007, CBOE 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

CBOE proposes to amend CBOE Rule 4.20, codifying the Anti-Money Laundering Compliance Program (the "AML Program"), to: (1) Establish independent testing for compliance be conducted at least annually by members with a public business, or every two years if no public business is conducted; and (2) clarify the persons designated to implement and monitor the Anti-Money Laundering Compliance Rule. The text of the proposed rule change is provided below. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/Legal>), at the Exchange'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, CBOE 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. CBOE 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

Financial institutions, including broker-dealers, must develop and implement AML Programs pursuant to the Bank Secrecy Act,<sup>3</sup> as amended by Section 352 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001 ("PATRIOT Act").<sup>4</sup> Consistent with the Department of Treasury's ("Treasury") regulation 31 CFR 103.120 under the Bank Secrecy Act, CBOE Rule 4.20 requires that each member organization and each member not associated with a member organization develop and implement a written AML program and specifies the minimum requirements for these programs.

The AML program must include the development of internal policies, procedures and controls; the designation of a person to implement and monitor the day-to-day operations and internal controls of the program (commonly referred to as an "AML Officer"); ongoing training for appropriate persons; and an independent testing function for overall compliance.

In order to provide interpretive clarity to the requirements under CBOE Rule 4.20 with respect to independent testing and AML Officers, as well as to clarify references to the Bank Secrecy Act, CBOE proposes the following amendments to CBOE Rule 4.20.

#### References to Bank Secrecy Act

The proposed rule change would delete references to certain sections of the Bank Secrecy Act and a reference to USA PATRIOT Act to more clearly reflect the requirements under CBOE Rule 4.20.

#### Timeframes for Independent Testing

The proposed rule change would require that independent testing of AML programs be conducted, at a minimum, on an annual (calendar-year) basis by members or member organizations, unless the member or member organization does not execute transactions for customers or otherwise hold customer accounts or act as an introducing broker with respect to customer accounts (e.g., engages solely in proprietary trading, or conducts business only with other broker-dealers), in which case such independent testing is required every two years (on a calendar-year basis). CBOE believes these timeframes are reasonable in that they require more frequent testing of AML programs designed to monitor a business with customers from the general public, which may be more susceptible to money laundering schemes than a strictly proprietary business involving transactions with other broker-dealers. Further, the one-year time frame for testing is consistent with standard industry practice in that it is similar to generally accepted guidelines for conducting tests in the context of, for instance, general audits and branch office visits. However, the proposed rule change establishes only a minimum requirement and makes clear that members should undertake more frequent testing when circumstances warrant (e.g. should the business mix of the member or member organization materially change; in the event of a merger or acquisition; in light of systemic weaknesses uncovered via

<sup>12</sup> 15 U.S.C. 78s(b)(2).

<sup>13</sup> See note 6, *supra*.

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 31 U.S.C. 5311 *et seq.*

<sup>4</sup> Pub. L. 107-56, 115 Stat. 272 (2001).