

more than 50% of the weight of the securities in the Fund are now subject to a CSSA.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (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>17</sup> Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) Act<sup>18</sup> requirements 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

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.

### 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

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>19</sup> and Rule 19b-4(f)(6) thereunder.<sup>20</sup>

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>21</sup> However, Rule 19b-

4(f)(6)(iii)<sup>22</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay, to permit the Exchange to list options on the Fund immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The proposal is substantially similar to a proposal recently submitted by CBOE and approved by the Commission,<sup>23</sup> and it raises no new regulatory issues. The Commission notes that the Pilot, which would otherwise expire December 31, 2007, is no longer needed now that the Fund complies with Commentary .06(b)(i) to Amex Rule 915. For these reasons, the Commission designates the proposed rule change to be operative upon filing with the Commission.<sup>24</sup>

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.

## 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-Amex-2007-139 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-Amex-2007-139. This file number should be included on the

<sup>22</sup> *Id.*

<sup>23</sup> See Securities Exchange Act Release No. 56448 (September 17, 2007), 72 FR 54304 (September 24, 2007) (SR-CBOE-2007-111).

<sup>24</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 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-2007-139 and should be submitted on or before January 29, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57082; File No. SR-CBOE-2007-153]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 6.14 (Hybrid Agency Liaison)

January 2, 2008.

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 December 28, 2007, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities

<sup>25</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>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f)(6).

<sup>21</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has requested and the Commission has determined to waive this five-day pre-filing notice requirement.

and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by CBOE. 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> which renders the proposal effective upon receipt of this filing by the Commission. 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 modify the application of its Hybrid Agency Liaison (“HAL”) system. The text of the rule proposal 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 these 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 aspects of such statements.

#### *A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

##### **1. Purpose**

CBOE Rule 6.14 governs the operation of the Exchange’s HAL system. HAL provides automated order handling in designated classes trading on Hybrid for qualifying electronic orders that are not automatically executed. The purpose of this filing is to modify the HAL eligibility and order handling process for non-marketable limit orders that improve the Exchange’s disseminated quote.

##### **Description of HAL**

CBOE Rule 6.14 provides that the Exchange, with input from the appropriate Floor Procedure Committee, shall designate the classes in which

HAL shall be activated.<sup>5</sup> For these designated classes, HAL currently (i) processes market and limit orders that are marketable against the Exchange’s disseminated quotation while that quotation is not the National Best Bid or Offer (“NBBO”), (ii) processes limit orders that are marketable against the NBBO when CBOE is not the NBBO, and (iii) processes limit orders that improve CBOE’s disseminated quotation.<sup>6</sup>

The HAL order handling process operates as follows.<sup>7</sup> HAL flashes an eligible order to gauge if there is any interest from any Market-Maker or member acting as agent for orders at the top of the Exchange’s book (“Qualifying Member”) to trade the order at the flash price. For orders that are marketable against the Exchange’s disseminated quote or the NBBO, the flash price is the NBBO price. For limit orders that “middle” the Exchange’s disseminated quote and that are not marketable against the NBBO, the flash price is the limit price of the order(s). This flash/exposure period is configurable but cannot exceed 1.5 seconds. If, during the exposure period, a Market-Maker or Qualifying Member commits to trade with any portion of the order, then the exposure period ends and an allocation period begins. The allocation period, when combined with the flash period, cannot exceed three seconds.

Exposed orders are filled at the conclusion of the allocation period in accordance with the allocation algorithm in effect for the option class pursuant to Rule 6.45A or Rule 6.45B. There is no participation entitlement applicable to exposed orders, and the response size is limited to the size of the exposed order for allocation purposes. If no responses are received during the exposure period, then a linkage order is routed to the NBBO market on behalf of the exposed order in cases where the exposed order is marketable against the NBBO, or if there remains an unexecuted portion of a limit order that is not marketable at the conclusion of the allocation period, then the limit order or remaining balance is entered into the electronic book.

##### *Proposed Changes*

This filing makes two HAL changes. First, for all non-Hybrid 3.0 Classes, limit orders that better the Exchange’s quote but that are not-marketable (orders that fall under 6.14(a)(iii)) will no longer be flashed through HAL. Instead, these orders will route directly

and automatically to the electronic book. Second, non-marketable limit orders that would improve the Exchange’s disseminated quote in Hybrid 3.0 Classes will be flashed and handled under normal HAL processing, except when the eligible order is entered on the same side of the market as a manual quote. In that case, the eligible limit order will automatically route into the electronic book instead of being processed by HAL, and the manual quote will automatically cancel, so that the Exchange’s disseminated quote will be represented by the limit order’s bid/offer. This is consistent with how the limit order would currently be processed in Hybrid 3.0 Classes when a manual quote is present.

The Exchange proposes the first change in connection with a recent fee change it submitted (SR-CBOE-2007-152) which provides a rebate, under certain circumstances, to Market-Makers that “step-up” to trade orders flashed in HAL. The rebate program is meant to reduce the number of orders that route to away exchanges. Thus, the rebate is geared more toward encouraging matching better priced quotes on other markets than it is toward trading middle market limit orders. Therefore, the Exchange proposes to directly book those middle market limit orders and not submit them for HAL processing. This way, rebates are not provided for stepping-up to trade orders that will otherwise book. Additionally, direct booking allows a wider range of users to trade against the order sooner.

The second change allows the Exchange to introduce the HAL process in Hybrid 3.0 Classes. By initiating HAL in Hybrid 3.0 Classes, the Exchange will provide further automation to the order handling process by allowing Market-Makers appointed to the relevant option class to electronically participate on such orders.

In all other respects, HAL shall operate as it currently operates today.

##### **2. Statutory Basis**

The Exchange believes the proposed rule change to amend CBOE Rule 6.14 to modify the eligibility and order handling process for limit orders that improve the Exchange’s disseminated quote when HAL is activated is 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 Exchange believes the proposed rule change is consistent with

<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> See CBOE Rule 6.14(a).

<sup>6</sup> See CBOE Rule 6.14(a).

<sup>7</sup> See CBOE Rule 6.14(b).

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

the section 6(b)(5)<sup>9</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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*

CBOE does not believe that the proposed rule change will result in 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 neither solicited nor received comments on the proposal.

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

Because the foregoing proposed rule change 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, if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

Normally, a proposed rule change filed under 19b-4(f)(6) may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)<sup>12</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. In its filing, the Exchange noted that waiver of the 30-day operative delay, and immediate implementation of the described rule change, would allow the Exchange to (i) implement

direct-booking of non-marketable non-Hybrid 3.0 Classes concurrent with related fee changes, which were filed with the Commission for immediate effectiveness on December 21, 2007 and which take effect on January 1, 2008; and (ii) immediately utilize HAL in Hybrid 3.0 Classes, which will allow Market-Makers appointed to the relevant Hybrid 3.0 option class to electronically participate on qualifying flashed orders.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The proposed rule change will allow a greater number of users to trade against certain orders sooner. In addition, initiating HAL for Hybrid 3.0 Classes provides further automation to order handling by allowing Market-Makers to electronically participate on such orders. Accordingly, consistent with the protection of investors and the public interest, the Commission designates the proposed rule change to be operative upon filing with the Commission.<sup>13</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 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-CBOE-2007-153 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-2007-153. This file

<sup>13</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 CBOE. 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-2007-153 and should be submitted on or before January 29, 2008.

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. 34-57078; File No. SR-CHX-2007-28]

#### **Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Trade Processing Fees**

December 31, 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 December 21, 2007, the Chicago Stock Exchange, Inc. ("Exchange" or "CHX") filed with the Securities and Exchange

<sup>14</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>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that CBOE has satisfied the five-day pre-filing notice requirement.

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).