

Commission's Order Handling Rules. Members would be required to continue to comply with the firm quote rule, the OATS rules, and the Commission's order routing and execution quality disclosure rules.

If it were determined that a supplemental MPID was being used improperly, Nasdaq would withdraw its grant of the supplemental MPID for all purposes for all securities. In addition, if a market maker or ECN were no longer to fulfill the conditions appurtenant to its primary MPID (e.g., by being placed into an unexcused withdrawal), it would not be permitted to use any supplemental MPID for any purpose in that security.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,<sup>4</sup> in general and with Section 6(b)(5) of the Act,<sup>5</sup> in particular, in that it is designed 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. There no longer remains any market or technological need to restrict the number of MPIDs market participants can request.

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

Nasdaq 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

Written comments were neither solicited nor received.

## 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 (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-NASDAQ-2008-004 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-NASDAQ-2008-004. 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 at (<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 Nasdaq. 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-NASDAQ-2008-004 and

should be submitted on or before February 22, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57181; File No. SR-Amex-2007-132]

### Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving a Proposed Rule Change as Modified by Amendment No. 1 Thereto To Include Volume Executed by Remote Quoting Towards the Earning of Remote Quoting Rights

January 22, 2008.

On November 30, 2007, the American Stock Exchange LLC ("Amex" 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 amend Amex Rule 994-ANTE to include the volume executed remotely by specialists and registered options traders ("ROTs) towards the earning of remote quoting rights in the Exchange's remote registered options trader ("RROT") program ("RROT Program"). On December 13, 2007, Amex filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on December 21, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

The Exchange's RROT Program currently allows members or member organizations designated by the Exchange to be awarded remote quoting rights to enter bids and offers electronically from locations other than the trading crowd where the applicable options class is traded on the Exchange's physical trading floor.<sup>4</sup> ROTs and specialists are currently awarded remote quoting rights based on

<sup>6</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. 56974 (December 17, 2007), 72 FR 72803.

<sup>4</sup> See Securities Exchange Act Release No. 53652 (April 13, 2006), 71 FR 20422 (April 20, 2006) (approving the Exchange's RROT Program).

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

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

quantitative criteria set forth in Amex Rule 994-ANTE. Specifically, specialists are awarded remote quoting rights based on Exchange floor volume executed, and their percentage of industry market share in the options in which they specialize. ROTs are awarded remote quoting rights based solely on floor volume executed.

Currently, volume executed as a result of quoting remotely is not included in the calculation of remote quoting rights in Rule 994-ANTE. However, according to the Exchange, since the implementation of the RROT Program in May of 2006, volume is increasingly executed as a result of remote quotes entered by ROTs and specialists. The Exchange believes it is appropriate to reward those ROTs and specialists for the volume they execute as a result of quoting remotely, by including such volume towards the earning of additional remote quoting rights.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>6</sup> which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. Volume executed as a result of quoting remotely, as well as volume executed on the floor, contributes to liquidity in a class. The Commission therefore believes that it is appropriate and consistent with the Act for the Exchange to include volume executed remotely by specialists and ROTs in the calculation of remote quoting rights on the Exchange.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (SR-Amex-2007-132), as modified by Amendment No. 1 thereto, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57197; File No. SR-CBOE-2008-06]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Fees for CBOE Stock Exchange Permit Applicants

January 24, 2008.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”) and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 15, 2008, the Chicago Board Options Exchange, Incorporated (“CBOE” 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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with 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

The Exchange proposes to modify its fees applicable to CBOE Stock Exchange (“CBSX”) permit applicants. The text of the proposed rule change is available at the Exchange, at the Commission’s Public Reference Room, and on the Exchange’s Internet Web site at <http://www.cboe.org/legal>.

#### 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 proposed rule change is to amend the CBSX fee schedule to allow for a stand-alone fee for CBSX permit applicants. CBOE Rule 3.26 established the CBSX Permit Program which allows the Exchange to issue up to 100 trading permits that confer the ability to transact on CBSX without the necessity of acquiring a regular Exchange membership through purchase, lease, or otherwise. The CBSX fee schedule lists the fees applicable to CBSX users. Initially, CBSX permit applicants were charged application fees consistent with the CBOE Fee Schedule for new membership applications. The Exchange now seeks to establish a stand-alone CBSX permit application fee of \$1000 that would cover all aspects of the application process. This fee amount provides a cost savings to CBSX permit applicants because it is less than the current costs assessed to CBOE new member applicants. The proposed rule change will be implemented Wednesday, January 16, 2008.

##### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>6</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities.

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

The Exchange 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.

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

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

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<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.

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

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

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).