

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).

*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 proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) have the effect of limiting the access to or availability of an existing order entry or trading system of the Exchange, the foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>11</sup> and Rule 19b-4(f)(5)<sup>12</sup> thereunder. 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 the furtherance of the purposes of the Act.<sup>13</sup>

**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-CHX-2007-01 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CHX-2007-01. 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 such filing also will be available for inspection and copying at the principal offices of CHX. 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-CHX-2007-01 and should be submitted on or before March 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

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

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-55323; File No. SR-NASDAQ-2007-009]

**Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Intermarket Sweep Orders**

February 21, 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 February 16, 2007, the NASDAQ Stock Market LLC ("Nasdaq") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II, below, which Items have been substantially prepared by Nasdaq. Nasdaq has designated the proposed rule change as constituting a "non-

controversial" rule change under Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) 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 the Substance of the Proposed Rule Change**

Nasdaq is proposing to modify Rule 4759 to permit Nasdaq members to submit Intermarket Sweep Orders ("ISOs") to Nasdaq if they have simultaneously sent an ISO (or comparable order) for the full displayed size of the top of the book of every other ITS participant displaying a better-priced quotation. The text of the proposed rule change is available at Nasdaq, the Commission's Public Reference Room, and <http://nasdaq.complinet.com>.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change**

In its filing with the Commission, Nasdaq 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. Nasdaq 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

As part of its rollout of its new Single Book execution system, Nasdaq is preparing to launch additional features of its compliance with Regulation NMS ("Reg. NMS"). Specifically, Nasdaq is preparing to accept ISOs. Like other markets, Nasdaq is proposing to accept ISOs prior to the Trading Phase Date, currently March 5, 2007, in order to ensure a smooth transition to the Single Book System functionality for compliance with Reg. NMS.

Like other markets that have received approval to accept ISOs prior to the Trading Phase Date,<sup>5</sup> Nasdaq seeks to

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>12</sup> 17 CFR 240.19b-4(f)(5).

<sup>13</sup> For the purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on February 20, 2007, when Amendment No. 1 was filed.

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

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

<sup>5</sup> See, e.g., Securities Exchange Act Release No. 55210 (January 31, 2007), 72 FR 5777 (February 7, 2007) (SR-NYSE-2007-08). Nasdaq notes that its proposed rule change is identical to the New York Stock Exchange LLC's rule change.