

reason, the Commission designates that the proposed rule change become operative immediately.¹⁴

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 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. Please include File No. SR-BSE-2007-41 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 No. SR-BSE-2007-41. 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

¹⁴ For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 will also be available for inspection and copying at the principal office of BSE. 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 No. SR-BSE-2007-41 and should be submitted on or before September 12, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56266; File No. SR-CBOE-2007-97]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of a Pilot Program That Increases the Standard Position and Exercise Limits for Certain Options Traded on the Exchange

August 15, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 7, 2007, 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 and II below, which Items have been prepared by CBOE. The Exchange has filed the proposal as a "non-controversial" rule change pursuant to section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders it effective

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

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

CBOE proposes to extend an existing pilot program that increases the standard position and exercise limits for certain options traded on the Exchange ("Pilot Program"). The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and <http://www.cboe.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, 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. 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 Pilot Program, as previously approved by the Commission, provides for an increase to the standard position and exercise limits for equity option contracts and for options on QQQs for a six-month period.⁵ Specifically, the Pilot Program increased the applicable position and exercise limits for equity options and options on the QQQQ in accordance with the following levels:

⁵ The Pilot Program was approved by the Commission on February 23, 2005. See Securities Exchange Act Release No. 51244 (February 23, 2005), 70 FR 10010 (March 1, 2005) (SR-CBOE-2003-30) ("Pilot Program Order"). The Pilot Program has been extended four times and is due to expire on September 1, 2007. See Securities Exchange Act Release Nos. 52262 (August 15, 2005), 70 FR 48995 (August 22, 2005) (SR-CBOE-2005-61); 53348 (February 22, 2006), 71 FR 10574 (March 1, 2006) (SR-CBOE-2006-11); 54336 (August 18, 2006), 71 FR 50952 (August 28, 2006) (SR-CBOE-2006-69); and 55266 (February 9, 2007), 72 FR 7698 (February 16, 2007) (SR-CBOE-2007-12).

Current equity option contract limit ⁶	Pilot program equity option contract limit
13,500	25,000
22,500	50,000
31,500	75,000
60,000	200,000
75,000	250,000
Current QQQQ Option Contract Limit	Pilot Program QQQQ Option Contract Limit
300,000	900,000

The purpose of the proposed rule change is to extend the Pilot Program for an additional six-month period, through March 1, 2008. The Exchange believes that extending the Pilot Program for six months is warranted due to the positive feedback from members and for the reasons cited in the original rule filing that proposed the adoption of the Pilot Program.⁷ Also, the Exchange has not encountered any problems or difficulties relating to the Pilot Program since its inception. For these reasons, the Exchange requests that the Commission extend the Pilot Program for the aforementioned additional period.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements provided under Section 6(b)(5)⁸ of the Act 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

CBOE 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.

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 forgoing 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 Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.¹¹ However, Rule 19b-4(f)(6)(iii)¹² 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. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and in the public interest because it will allow the Pilot Program to continue uninterrupted. For this reason, the Commission designates that the proposed rule change become operative immediately.¹³

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 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.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 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. CBOE has satisfied the five-day pre-filing requirement.

¹² *Id.*

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

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. Please include File No. SR-CBOE-2007-97 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 No. SR-CBOE-2007-97. 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 will also 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 No. SR-CBOE-2007-97 and should be

⁶ Except when the Pilot Program is in effect.

⁷ See Pilot Program Order, *supra* note 5.

⁸ 15 U.S.C. 78f(b)(5).

submitted on or before September 12, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56276; File No. SR-CBOE-2007-98]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Regarding Expansion of the Penny Pilot Program

August 17, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 14, 2007 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 CBOE. 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 amend its rules relating to an expansion of the Penny Pilot Program. The text of the proposed rule change is available on the Exchange's Web site at (<http://www.cboe.com>), at the offices of 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

CBOE proposes to amend its rules in connection with an expansion of the industry-wide Penny Pilot Program, which commenced on January 26, 2007.³ CBOE believes expanding the Penny Pilot Program as proposed in this rule filing will allow further analysis over a longer period of time as to the impact of quoting and trading in these reduced increments on market participants, transparency, liquidity, market structure, and quote traffic. Currently, thirteen option classes participate in the Penny Pilot Program.⁴ CBOE intends to expand the Penny Pilot Program in two phases. Phase I of the expansion would begin on September 28, 2007, last for six months, and add the following twenty-two option classes to the Penny Pilot Program.⁵

SPDR S&P 500 (SPY/SPY)
NYSE Euronext (NYX/NYX)
Apple Inc. (AAPL/AAQ)
Cisco Systems (CSCO/CYQ)
Altria Group, Inc. (MO/MO)
Financial Select Sector SPDR (XLF/XLF)
Dendreon Corp. (DNDN/UKO)
AT&T, Inc. (T/T)
Amgen Inc. (AMGN/AMQ)
Citigroup, Inc. (C/C)
Yahoo! Inc. (YHOO/YHQ)
Amazon.com Inc. (AMZN/ZQN)
Qualcomm Inc. (QCOM/QAQ)
Motorola Inc. (MOT/MOT)
General Motors (GM/GM)
Research in Motion Ltd. (RIMM/RUL)
Energy Select Sector SPDR (XLE/XLE)
Freeport-McMoRan Copper & Gold, Inc. (FCX/DPJ)
Diamonds Trust (DIA/DIA)
ConocoPhillips (COP/COP)
Oil Services HLDRS (OIH/OIH)
Bristol-Myers Squibb Co. (BMY/BMY)

These twenty-two option classes are among the most actively traded multiply-listed option classes based on national average daily volume, and together with the existing thirteen Pilot classes, represent approximately 35% of the total industry volume.

³ See Securities Exchange Act Release No. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR-CBOE-2006-92).

⁴ CBOE recently extended the Penny Pilot Program in the thirteen classes until September 27, 2007. See Securities Exchange Act Release No. 56139 (July 26, 2007), 72 FR 42159 (August 1, 2007) (SR-CBOE-2007-86).

⁵ CBOE also intends to issue a Regulatory Circular, which will be published on its Web site, identifying these twenty-two option classes.

Phase II of the expansion would begin on March 28, 2008 and last for one year until March 27, 2009. It is currently anticipated that an additional twenty-eight option classes would be added to the Penny Pilot Program on March 28, 2008, bringing the total number of classes in the Pilot Program to 63. These twenty-eight new classes would be among the most active, multiply-listed option classes. CBOE intends to submit a proposed rule change pursuant to Section (b)(3)(A) of the Exchange Act announcing the names of these twenty-eight option classes prior to the beginning of Phase II.

The minimum increments for all classes in the Penny Pilot, except for the QQQs, would continue to be \$0.01 for all option series below \$3 (including LEAPS), and \$0.05 for all option series \$3 and above (including LEAPS). For QQQs, the minimum increment would remain \$0.01 for all option series. In connection with the expansion of the Penny Pilot Program, CBOE proposes to amend Rule 6.42(3) to specify in the rule text the minimum increments for the Pilot classes.

Additionally, because SPDR options (SPY) and options on Diamonds (DIA) will participate in the Penny Pilot Program beginning on September 28, 2007, CBOE proposes to quote and trade two index option classes—Mini-SPX Index Options (XSP) and options on the Dow Jones Industrial Average (DJX), respectively, in the same minimum increments as SPY options and DIA options (*i.e.*, \$0.01 for all option series below \$3, and \$0.05 for all option series \$3 and above). SPY options are options on the SPDR exchange-traded fund (ETF) which is designed to track the performance of the S&P 500® Index. XSP options are options based on the S&P 500® Index. DIA options are options on an ETF that is designed to track the performance of the Dow Jones Industrial Average. DJX options are options based on the Dow Jones Industrial Average. CBOE believes it is important that these products, DIA and DJX, and SPY and XSP, have the same minimum increments for consistency and competitive reasons. Proposed new Interpretation .03 to Rule 6.42 addresses the minimum increments for the XSP and DJX option classes when SPY and DIA, respectively, participate in the Penny Pilot Program.

CBOE intends to submit to the SEC reports analyzing the Penny Pilot Program for the following time periods:

- May 1, 2007–September 27, 2007
- September 28, 2007–January 31, 2008
- February 1, 2008–July 31, 2008
- August 1, 2008–January 31, 2009

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.