

calculated or available; or (3) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing on the Exchange inadvisable. Additionally, the Fund Shares shall not be deemed to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Multiple Fund Shares or Inverse Fund Shares, if the Shares are halted from trading on their primary market or if the Shares are delisted in accordance with the terms of Amex Rule 916 or the value of the index or portfolio on which the Shares are based is no longer calculated or available.

The expansion of the types of investments that may be held by Multiple Fund Shares or Inverse Fund Shares under Commentary .06 to Amex Rule 915 will not have any effect on the rules pertaining to position and exercise limits<sup>6</sup> or margin.<sup>7</sup>

This proposal is necessary to enable the Exchange to list and trade options on the shares of the Ultra Fund, Short Fund and UltraShort Fund of the ProShares Trust.<sup>8</sup> We believe the ability to trade options on Multiple and Inverse Fund Shares will provide investors with greater risk management tools. The proposed amendment to the Exchange's listing criteria for options on Exchange Traded Fund Shares is necessary to ensure that the Exchange will be able to list options on the Funds of the ProShares Trust as well as other Multiple Fund Shares or Inverse Fund Shares that may be introduced in the future.

The Exchange in this proposal also seeks to add "reverse repurchase agreements" within the rule text of Amex Rule 1000A-AEMI(b)(2)(ii) in order to correct the definition of Financial Instruments.

The Exchange represents that its existing surveillance procedures applicable to trading in options are adequate to properly monitor the trading in Multiple Fund Shares options and Inverse Fund Shares options.

## 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) of the Act,<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 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.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change 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 Exchange 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 No. SR-Amex-2007-35 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 No. SR-Amex-2007-35. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. 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-Amex-2007-35 and should be submitted on or before September 27, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-17544 Filed 9-5-07; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56338; File No. SR-CBOE-2007-94]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the ORS Order Cancellation Fee

August 29, 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 August 1, 2007, the Chicago Board Options Exchange, Incorporated (the "CBOE" or the "Exchange") filed with the Securities and Exchange Commission

<sup>11</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>6</sup> See Amex Rules 904 and 905.

<sup>7</sup> See Amex Rule 462.

<sup>8</sup> See *supra*, note 4.

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the CBOE. The CBOE has filed the proposed rule change as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) 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 CBOE proposes to amend its Order Routing System ("ORS") order cancellation fee. The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and <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 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 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**

The CBOE currently assesses an executing clearing member \$1 for each cancelled ORS order in excess of the number of orders that the executing clearing member executes in a month for a customer or for itself. The purpose of the fee is to ease order backlogs on ORS. The fee is not charged if less than 500 ORS orders are cancelled in the month. The following ORS cancellation activity is exempt from the fee: (i) Cancelled ORS orders that improve the Exchange's prevailing bid-offer (BBO) market when received; and (ii) fill and cancellation activity occurring within the first one minute of trading following the opening of each option class.

The Exchange proposes three changes to the fee. First, the Exchange proposes to calculate the fee by counting only public customer (non-broker-dealer) orders. The Exchange believes this change is appropriate since public customer orders in many products traded on the Exchange are not assessed transaction fees while all non-customer orders pay transaction fees, which helps offset cancellation costs.

Second, the Exchange proposes to aggregate and count as one executed order for purposes of the fee, all public customer options orders from the same executing clearing member for itself or for a correspondent firm that are executed in the same series on the same side of the market at the same price within a 30 second period. This proposed change is intended to discourage firms from entering and executing multiple small orders to offset the cancellation of larger orders for purposes of avoiding the fee.

Third, the Exchange proposes to increase the fee from \$1.25 to \$1.50 per cancelled ORS order.

The proposed ORS order cancellation fee is similar to the cancellation fee of the International Securities Exchange. The Exchange intends to implement the proposed fee change on August 1, 2007.

##### **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)<sup>6</sup> of the Act 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**

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of 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 proposed rule change establishes or changes a due, fee,

or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(2)<sup>8</sup> thereunder. At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such proposed 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-2007-94 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-2007-94. 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 also will be available for inspection and copying at

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

<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).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 19b-4(f)(2).

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-2007-94 and should be submitted on or before September 27, 2007.

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. 34-56332; File No. SR-NYSE-2007-76]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Relating To Requirements for Listing of Commodity-Linked Securities and Currency-Linked Securities

August 29, 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 August 22, 2007, the New York Stock Exchange LLC ("NYSE" 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 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 amend Section 703.22 of the NYSE Listed Company Manual (the "Manual"), which permits the listing of commodity-linked securities ("Commodity-Linked Securities") and currency-linked securities ("Currency-Linked Securities"), among other securities. The text of the proposed rule change is available at NYSE, the Commission's Public Reference Room, and <http://www.nyse.com>.

<sup>9</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.

#### 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 Exchange proposes to amend Section 703.22(B)(II)(1)(b) and Section 703.22(B)(III)(1)(b) of the Manual to permit the listing and trading of Commodity-Linked Securities and Currency-Linked Securities, respectively, where the underlying Commodity Reference Asset<sup>3</sup> or Currency Reference Asset,<sup>4</sup> as the case may be, may include components representing not more than 10% of the dollar weight of such Commodity Reference Asset or Currency Reference Asset, for which the pricing information is derived from markets which do not meet the general requirements of the respective rule, as described below. In addition, the Exchange proposes that no single component of a Commodity Reference Asset or Currency Reference Asset, as the case may be, subject to the foregoing proposed exception may exceed 7% of the dollar weight of such Commodity Reference Asset or Currency Reference Asset.

Under Section 703.22(B)(II)(1) of the Manual, an issuance of Commodity-Linked Securities currently cannot be listed unless either:

- The Commodity Reference Asset to which the security is linked shall have been reviewed and approved for the trading of Commodity Trust Shares or options or other derivatives by the Commission under Section 19(b)(2)<sup>5</sup> of

<sup>3</sup> Commodity Reference Asset is defined as one or more physical commodities or commodity futures, options or other commodity derivatives or Commodity Trust Shares (as defined in NYSE Rule 1300B) or a basket or index of any of the foregoing. See Section 703.22 of the Manual.

<sup>4</sup> Currency Reference Asset is defined as one or more currencies, options or currency futures or other currency derivatives or Currency Trust Shares (as defined in NYSE Rule 1300A) or a basket or index of any of the foregoing. See *id.*

<sup>5</sup> 15 U.S.C. 78s(b)(2).

the Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements ("CSSAs"), continue to be satisfied; or

- The pricing information for each component of a Commodity Reference Asset is derived from a market which is an Intermarket Surveillance Group ("ISG") member or affiliate or with which the Exchange has a CSSA. Notwithstanding the previous sentence, pricing information for gold and silver may be derived from the London Bullion Market Association.

Similarly, under Section 703.22(B)(III)(1) of the Manual, an issuance of Currency-Linked Securities currently cannot be listed unless either:

- The Currency Reference Asset to which the security is linked shall have been reviewed and approved for the trading of Currency Trust Shares or options or other derivatives by the Commission under Section 19(b)(2) of the Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to CSSAs, continue to be satisfied; or
- The pricing information for each component of a Currency Reference Asset must be (1) the generally accepted spot price for the currency exchange rate in question or (2) derived from a market which is (a) an ISG member or affiliate or with which the Exchange has a CSSA and (b) the pricing source for components of a Currency Reference Asset that has previously been approved by the Commission.

The Exchange proposes to amend the requirements as to the source of pricing information for components of Commodity-Linked Securities and Currency-Linked Securities so as to permit the listing of such securities where a maximum of 10% of the dollar weight of the Commodity Reference Asset or Currency Reference Asset, as the case may be, is made up of components that do not meet the respective general pricing information requirements. In addition, the Exchange proposes that no single component subject to the proposed exception may exceed 7% of the dollar weight of the Commodity Reference Asset or Currency Reference Asset, as the case may be.

The Exchange states that many commodity and currency markets are not members or affiliates of ISG, and the Exchange frequently experiences difficulty entering into CSSAs with such markets. The Exchange believes that its surveillance procedures are not materially hampered as long as it has access to trading information of underlying components that constitute