

as if that rule applied to closed-end investment companies. The Funds also will disclose EWCs in accordance with the requirements of Form N-1A concerning CDSLs. Applicants further state that the Funds will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d-1 under the Act.

Asset-Based Distribution Fees

1. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d-1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d-3 under the Act provides an exemption from section 17(d) and rule 17d-1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b-1 under the Act. Applicants request an order under section 17(d) and rule 17d-1 under the Act to permit the Funds to impose asset-based distribution fees. Applicants have agreed to comply with rules 12b-1 and 17d-3 as if those rules applied to closed-end investment companies.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c-10, 11a-3, 12b-1, 17d-3, 18f-3 and 22d-1 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the NASD Sales Charge Rule, as amended from time to time.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56307; File No. SR-Amex-2007-96]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change Relating to an Extension of the Options Penny Quoting Pilot Program

August 22, 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 21, 2007, the American Stock Exchange LLC ("Amex" 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 Amex.³ 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 (i) Expand the current pilot program for the quoting of a limited number of options classes in pennies (the "Penny Quoting Pilot Program" or "Pilot Program") and (ii) extend the Pilot Program through March 27, 2009. The text of the proposed rule change is available at <http://www.amex.com>, at 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission notes that the proposed rule change submitted by the Exchange contained non-substantive errors, which, for the purpose of this notice, have been corrected. The Exchange has committed to address these errors formally in an amendment to the proposed rule change following publication of this notice. Telephone conversation between Jeffrey Burns, Vice President and Associate General Counsel and Jennifer Colihan, Special Counsel, Division of Market Regulation, Commission on August 22, 2007.

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 Amex is proposing to expand the current Penny Pilot Quoting Pilot Program⁴ which commenced on January 26, 2007. The Exchange believes that expanding the current Pilot Program, as proposed in this rule filing, will allow further analysis and review of the impact of penny quoting based on a greater number of actively-traded options classes.

The current Penny Quoting Pilot Program includes thirteen (13) options classes. The Pilot Program was recently extended by the Exchange through September 27, 2007.⁵ The Exchange intends to roll-out the proposed expansion of the Pilot Program in two (2) phases.

First, commencing on September 28, 2007, the Exchange will include the twenty-two (22) most actively-traded, multiply-listed options classes (excluding Google (GOOG), Nasdaq-100 Index (NDX) and the Russell 2000 Index (RUT)) in the Penny Quoting Pilot Program. The Exchange also proposes to set forth in a Regulatory Circular the list of the options classes subject to the proposed expansion of the Pilot Program. In addition to the thirteen (13) options classes that are currently part of the Pilot Program, this would expand the Penny Quoting Pilot Program to include approximately 35% of total industry options volume.

Second, the Exchange on March 28, 2008 would further commence an expansion of the Pilot Program to last for one (1) year through March 27, 2009. Amex anticipates that an additional twenty-eight (28) option classes will be added to the Penny Quoting Pilot Program at that time such that the Pilot would include the Top 50 multiply-listed options classes by national volume. As a result, the Pilot Program would then consist of sixty-three (63) options classes. The Exchange will

⁴ See Securities Exchange Act Release No. 55162 (January 24, 2007), 72 FR 4738 (February 1, 2007).

⁵ See Securities Exchange Act Release No. 56159 (July 27, 2007), 72 FR 43300 (August 3, 2007).

submit a proposed rule change pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 identifying the options classes to be included in the second phase of the Pilot Program expansion.

The Exchange believes that the proposed expansion is a measured increase to the existing Pilot Program given system capacity constraints and concerns that exist industry-wide. As set forth in the Exchange's original rule filing in connection with the Pilot Program, the Amex believes that a considerate and measured expansion is required because quoting options in pennies is expected to increase quote message traffic. The Exchange believes that the proposed expansion of options classes that may quote in pennies under the Pilot Program is reasonable given the system capacity constraints and quote mitigation strategies in place at the Amex as well as the other options exchanges.

The Exchange represents that it will submit reports analyzing the Pilot Program for the following time periods: (i) May 1, 2007 through September 27, 2007; (ii) September 28, 2007 through January 31, 2008; (iii) February 1, 2008 through July 31, 2008; and (iv) August 1, 2008 through January 31, 2009. The Pilot Reports will be submitted to the Commission within thirty (30) days of the end of such time periods. The Exchange expects the Pilot Reports, among other things, to assess the impact of the Pilot Program during the relevant time period comparing quotation and trading activity as follows: (1) Quotation spread, quotation size, average daily volume and other relevant factors; (2) the number of quotations in the Penny Quoting Pilot Program and the effect on Amex system's capacity; and (3) an assessment of trade-throughs and how they were addressed.

The quoting requirements in connection with the Penny Quoting Pilot Program will continue to provide for (i) A minimum price variation ("MPV") of \$0.01 for options with premiums of up to \$3 or (ii) a MPV of \$0.05 for options with premiums of \$3 or greater, except for QQQQ options which trade at an MPV of \$0.01 for all premiums.

As part of the Penny Quoting Pilot Program, the Exchange implemented quote mitigation strategies due to concerns regarding system capacity. The Exchange believes that the quote mitigation strategies in place since the introduction of the Pilot Program continue to be effective. Therefore, in this filing, the Exchange is also proposing to further extend the

effectiveness of the quote mitigation strategies through March 27, 2009.

Finally, the Exchange believes that an additional extension of the Penny Quoting Pilot Program through March 27, 2009 is warranted and appropriate for the purpose of implementing the proposed expansion.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,⁶ in general, and furthers the objectives of section 6(b)(5) of the Act,⁷ in particular, in that the proposed rule change 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 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 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. The Commission also requests and

encourages interested persons to submit comments on the following specific questions:

- Whether there are circumstances under which options classes included in the Penny Pilot should be removed from the Pilot?

- If so, what factors should be considered in making the determination to remove an option class from the Penny Pilot?

- Should an objective standard be used? For instance, should an option class come out of the Penny Pilot if its trading volume drops below a threshold amount? If so, what should that threshold be? Or, should an option class come out of the Penny Pilot if it is no longer among the most actively-traded options? If so, what should be considered the most-actively traded options? What statistics or analysis should be used to support a determination to remove an options class?

- Should a more subjective analysis be allowed? If so, what factors should be taken into account?

- What concerns might arise by removing an option from the Penny Pilot? How could such concerns be ameliorated?

- How frequently should the analysis be undertaken (e.g., annually, bi-annually, quarterly), or should the evaluation be an automated process?

- If a determination is made that an option should be removed from the Penny Pilot, how much notice should be given to market participants that the quoting increment will change?

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 Number SR-Amex-2007-96 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-2007-96. 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

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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 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 Number SR-Amex-2007-96 and should be submitted on or before September 19, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56302; File No. SR-CBOE-2007-88]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change To Amend its Rule Regarding the Hybrid Opening System Opening Rotations

August 22, 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 July 25, 2007, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") 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 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 is proposing to amend its rule related to opening rotations conducted via the Hybrid Opening System ("HOSS"). The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com>), at the Office of the Secretary, CBOE and at the Commission.

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 self-regulatory organization 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 those 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 parts 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 is proposing to amend its HOSS procedures contained in CBOE Rule 6.2B. HOSS is the Exchange's automated system for initiating trading at the beginning of each trading day. The HOSS procedures currently provide that an opening rotation for an options class shall be initiated by HOSS at a randomly selected time within a number of seconds after the primary market³ for the underlying security opens (or after 8:30 a.m. (Central Time) for index options).⁴

The Exchange is proposing to amend Rule 6.2B to permit the opening rotation for an options class to be initiated by HOSS after the opening of the underlying security on either the primary listing market, the primary

³ For purposes of CBOE Rule 6.2B, the Exchange has interpreted the "primary market" to be the primary listing market.

⁴ For purposes of CBOE Rule 6.2B, when the underlying market "opens" is determined, on a class-by-class basis, to be either the opening trade and/or opening quote (or whichever occurs first). Once the underlying market open occurs, HOSS initiates the overlying option class opening and sends a Rotation Notice to market participants. Thereafter, HOSS will open the series of a class in a random order.

volume market⁵ or the first market to open the underlying security. Determinations on the particular configuration for the market for the underlying security would be made on a class-by-class by the appropriate Exchange Procedure Committee and announced to the membership via Regulatory Circular. The Exchange believes that the proposed rule change will provide it with more flexibility to determine when to permit the HOSS opening rotation process to begin, which should contribute to the Exchange's ability to conduct openings in a fairly and orderly manner.

2. Statutory Basis

By allowing for more flexibility in the manner in which HOSS is programmed to initiate an opening rotation, the Exchange is enhancing its ability to conduct fair and orderly openings, and, as such, the Exchange believes this proposed rule change is consistent with section 6(b) of the Act,⁶ in general, and furthers the objectives of section 6(b)(5) of the Act,⁷ in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to 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 impose any burden on competition 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

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

⁵ For purposes of CBOE Rule 6.2B, the primary volume market will be defined as the market with the most liquidity in that underlying security for the previous two calendar months.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.