

Resolution of litigation claims; and Adjudicatory matters.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: November 27, 2006.

**Nancy M. Morris,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54804; File No. SR-CBOE-2006-98]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Adoption of a Hybrid Electronic Quoting Fee

November 21, 2006.

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 November 20, 2006, 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 prepared by the CBOE. The Exchange has designated this proposal as one establishing or changing a due, fee or other charge imposed by the Exchange under Section 19(b)(3)(A),<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

CBOE proposes to amend its Fees Schedule to adopt a Hybrid Electronic Quoting Fee. The text of the proposed rule change is available on the CBOE's Web site at (<http://www.cboe.com>), at the CBOE's Office of the Secretary, 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, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. 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 purpose of this proposed rule change is to establish a new Hybrid Electronic Quoting Fee applicable to all Market-Makers, RMMs, DPMs, e-DPMs, and LMMs (collectively "Market-Makers") in order to promote and encourage more efficient quoting.

As proposed, CBOE would assess all Market-Makers who are submitting electronic quotations to the Exchange a monthly fee of \$450. Each month, each Market-Maker will receive an allocation of 1,000,000 quotes. If a Market-Maker submits to CBOE more than 1,000,000 quotes in a month, the Market-Maker will be assessed an additional fee of \$.03 per 1,000 quotes in excess of 1,000,000.

The Hybrid Electronic Quoting Fee is assessed by Market-Maker acronym. In the event a Market-Maker owns more than one membership and submits electronic quotations for all of the memberships under the same acronym, the Hybrid Electronic Quoting Fee will be assessed per membership owned by the Market-Maker.

The Hybrid Electronic Quoting Fee is only applicable to Market-Makers submitting electronic quotations in option classes traded on the Hybrid Trading System. If a Market-Maker is assessed the Hybrid Electronic Quoting Fee, the Market-Maker does not pay a member dues fee. The Exchange intends to implement the Hybrid Electronic Quoting Fee effective February 1, 2007.

###### 2. Statutory Basis

The CBOE believes that 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 its members.

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

The 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>8</sup> since it establishes or changes a due, fee or other charge imposed by the Exchange.

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.

#### 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-2006-98 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-2006-98. This file

<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).

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

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

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 office of the 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-2006-98 and should be submitted on or before December 20, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Nancy M. Morris**,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54805; File No. SR-CBOE-2006-92]

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

November 21, 2006.

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 November 8, 2006, 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

The Exchange proposes to amend its rules to implement a Pilot Program to quote and trade certain option classes in pennies. The text of the proposed rule change is available on the Exchange's Web site at <http://www.cboe.com>, at the Office of the Secretary, CBOE, 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 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

CBOE proposes to amend its rules in connection with the Penny Pilot Program, which is scheduled to commence on January 26, 2007. Specifically, the following 12 classes<sup>3</sup> will participate in the Penny Pilot Program, which is scheduled initially to last for six months.

IWM—Ishares Russell 2000  
 QQQQ—QQQQ  
 SMH—SemiConductor Holders  
 GE—General Electric  
 AMD—Advanced Micro Devices  
 MSFT—Microsoft  
 INTC—Intel  
 CAT—Caterpillar  
 WFMI—Whole Foods  
 TXN—Texas Instruments  
 FLEX—Flextronics International  
 SUNW—Sun Micro

The minimum increments for all classes in the Penny Pilot Program, except for the QQQQs, will be \$0.01 for all option series below \$3 (including

LEAPS), and \$0.05 for all option series \$3 and above (including LEAPS). With respect to the QQQQs, the minimum increment will be \$0.01 for all option series. For all other option classes not participating in the Penny Pilot Program, the current quoting and trading minimum increments will remain the same.

In connection with the Penny Pilot Program, CBOE proposes to amend CBOE Rule 6.42 relating to the minimum increments for option classes. In particular, CBOE proposes to include a subparagraph stating that the decimal increments for bids and offers for all series of option classes participating in the Penny Pilot Program will be announced to the membership via Regulatory Circular and published by the Exchange on its Web site. Because the Penny Pilot Program is expected to commence on January 26, 2007, on a rolling basis with one or more Pilot classes beginning on that date and the other Pilot classes quoting and trading in penny increments shortly thereafter, CBOE believes it is more appropriate to notify its members as to the minimum increments for Pilot Classes and their start date in the Pilot Program via Regulatory Circular as opposed to codifying this information in CBOE Rule 6.42. CBOE has filed for Commission approval a copy of the proposed Regulatory Circular that it intends to issue.

CBOE also proposes to amend CBOE Rule 6.54 relating to accommodation liquidations ("cabinet trades") to state that the rule is not applicable to trading in option classes participating in the Penny Pilot Program. Currently, CBOE Rule 6.54 sets forth the terms and conditions in which cabinet trades can be executed on CBOE. Because cabinet trades involve orders priced at \$1 per option contract, the specific terms and conditions for cabinet trading are not applicable to option classes participating in the Penny Pilot Program.

Due to the anticipated demands on CBOE's system capacity and the option industry's capacity for processing quotations and transactions in penny increments, CBOE has implemented or intends to implement several quote mitigation strategies.

- *Limitation on Messages.* Pursuant to CBOE Rule 6.23A, CBOE currently limits the number of messages sent by members accessing CBOE electronically in order to protect the integrity of the Hybrid Trading System. Limiting the number of messages sent by members accessing CBOE electronically reduces the number of quotations sent by CBOE

<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.

<sup>3</sup> CBOE understands that another option class will be added to the Penny Pilot Program to bring the total number of classes in the Penny Pilot Program to 13.