

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

An adjudicatory matter; and

Other matters relating to enforcement proceedings.

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: March 5, 2007,

Nancy M. Morris,

Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55377; File No. SR-CBOE-2007-17]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend CBOE Rules Relating to CBOE's Determination to Trade Options on the S&P 100 (XEO) on the Hybrid 2.0 Platform

March 1, 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 22, 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 and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 CBOE's determination to

trade options on the S&P 100 (XEO) on the Hybrid 2.0 Platform. The text of the proposed rule change is available on CBOE's Web site ([www.cboe.org/Legal](http://www.cboe.org/Legal)), at the CBOE's Office of the Secretary, 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 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 purpose of this rule change is to amend CBOE Rule 8.3 and Rule 8.4 in connection with CBOE's determination to trade options on the S&P 100 (XEO) on the Hybrid 2.0 Platform.<sup>5</sup> Presently, XEO and options on the S&P 100 (OEX) collectively have an appointment cost of 1.0. CBOE intends to "decouple" XEO from OEX for purposes of assigning an appointment cost when XEO trades on the Hybrid 2.0 Platform. On Hybrid 2.0, XEO's appointment cost will be .25 and XEO will be classified in Tier A+. In connection with this change, CBOE also proposes to amend OEX's appointment cost and assign it a cost of .75. OEX will continue to be classified as a Non-Hybrid option class. CBOE intends to trade XEO on the Hybrid 2.0 Platform beginning on March 1, 2007.

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>6</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) of the Act,<sup>7</sup> which requires 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and subparagraph (f)(6) of Rule 19b-4<sup>9</sup> thereunder because it does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. 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 furtherance of the purposes of the Act.

Under Rule 19b-4(f)(6) of the Act,<sup>10</sup> the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative date, so that XEO options may begin trading on the Hybrid 2.0 platform on March 1, 2007. The Commission believes that the proposed rule change does not raise any new regulatory issues and, consistent with the protection of investors and the public interest, has determined to waive the 30-day operative date, so that XEO options may

<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)(iii).

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

<sup>5</sup> CBOE Rule 1.1(aaa) defines Hybrid Trading System and Hybrid 2.0 Platform.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> *Id.*

begin trading on the Hybrid 2.0 platform without delay.<sup>11</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-CBOE-2007-17 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-2007-17. 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 Section, 100 F Street, NE., Washington, DC 20549. 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 Number SR-CBOE-2007-17 and should be submitted on or before March 29, 2007.<sup>12</sup>

<sup>11</sup> For purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>12</sup> 17 CFR 200.30-3(a)(12).

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

Florence E. Harmon,

Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55392; File No. SR-CBOE-2006-112]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval to a Proposed Rule Change as Modified by Amendment No. 1 Relating to Its Non-option Security Trading Rules

March 2, 2007.

#### I. Introduction

On December 29, 2006, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposal to modify its trading rules for non-option securities. The proposal was published for comment in the *Federal Register* on January 11, 2007.<sup>3</sup> The Commission received no comments on the proposal. The Exchange filed Amendment No. 1 with the Commission on March 2, 2007.<sup>4</sup> This order provides notice of and solicits comment on the proposed rule change as modified by Amendment No. 1 and approves the proposal on an accelerated basis.

#### II. Description of the Proposal

In September 2006, the Commission approved Exchange Chapters 50-55 governing the trading of non-option securities on the Exchange through a new electronic trading platform known as Stock Trading on CBOEdirect ("STOC"). Also in September 2006, the

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 55034 (December 29, 2006), 72 FR 1350 (the "Notice").

<sup>4</sup> Amendment No. 1 amended the proposal: (i) To set forth restrictions on the use of hand signals between the CBSX Floor Post and the option trading posts; (ii) to limit the types of proprietary orders that may be submitted by non-DPM members at the CBSX Floor Post; and (iii) to allow CBSX traders to avail themselves of any exemptions from Rule 611 of Regulation NMS that are granted by the Commission.

Commission approved<sup>5</sup> modifications<sup>6</sup> to the STOC rules to conform them to aspects of Regulation NMS.<sup>7</sup> In this filing, the Exchange proposes to further modify its trading rules for equity securities and rename its equity trading facility the CBOE Stock Exchange ("CBSX").<sup>8</sup> CBOE anticipates launching CBSX as of the compliance date for Regulation NMS. A full discussion of the proposed rule change is set forth in the Notice; significant aspects of the proposal are discussed below.

First, the Exchange has proposed to further automate order handling and trade-through prevention. Under the current rules, if CBOE receives an order in an equity security when it is not at the national best bid or offer ("NBBO"), the designated primary market-maker ("DPM") for that security must route the order to the NBBO market for execution if no STOC trader steps up to match the NBBO. The Exchange now proposes to program CBSX to automatically route, via an unaffiliated routing broker, a marketable order in such circumstances (except if the order is labeled immediate-or-cancel ("IOC")).<sup>8,9</sup>

Second, the Exchange has proposed to move the CBSX opening from 8:30 a.m. Central Time ("CT") to 8:15 a.m. CT and eliminate a DPM's obligation to open its assigned securities at a single price that matches the primary market or at a price that does not trade-through another exchange's quote. At the opening, the CBSX system would automatically execute pre-opening orders at a price that allows the greatest number of shares to trade.

Third, the Exchange is proposing to add a floor component to its electronic trading system. CBSX would dedicate a space on the Exchange's trading floor (the "CBSX Floor Post") that CBSX DPMs will be required to staff for the purpose of responding to price

<sup>5</sup> See Securities Exchange Act Release No. 54422 (September 11, 2006), 71 FR 54537 (September 15, 2006) (approving SR-CBOE-2004-21).

<sup>6</sup> Securities Exchange Act Release No. 54526 (September 27, 2006), 71 FR 58646 (October 4, 2006) (approving SR-CBOE-2006-70).

<sup>7</sup> 17 CFR 242.600 *et seq.*

<sup>8</sup> The Exchange separately filed with the Commission a proposal to establish a new corporate structure for CBSX (the "CBSX Facility Filing"). See Securities Exchange Act Release No. 55172 (January 25, 2007), 72 FR 4745 (February 1, 2007) (notice of filing of SR-CBOE-2006-110). The Commission also approves the CBSX Facility Filing today. See Securities Exchange Act Release No. 55389 (March 2, 2007).

<sup>9</sup> IOC orders would be cancelled if a better-priced protected quotation existed on another exchange. See CBOE Rule 51.8(g)(4). In addition, the Commission notes that an Intermarket Sweep Order ("ISO") received by CBSX will be executed or cancelled immediately and not "flashed" to CBSX traders for possible matching of the NBBO. See CBOE Rule 51.8(n).