

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56974; File No. SR-Amex-2007-132]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 Thereto To Include Volume Executed by Remote Quoting Towards the Earning of Remote Quoting Rights

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 30, 2007, the American Stock Exchange LLC ("Amex" or the "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 substantially prepared by the Exchange. On December 13, 2007, Amex filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, proposes to include the volume executed by specialists and registered options traders ("ROT's") as a result of remote quoting towards the earning of remote quoting rights in the Exchange's remote registered options trader ("RROT") program (the "RROT Program").

The text of the proposed rule change is available at <http://www.amex.com>, at the Exchange's principal office, 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

The Exchange is proposing to include the volume executed by specialists and ROTs as a result of remote quoting, towards the earning of remote quoting rights in the Exchange's RROT Program.

The Exchange's RROT Program currently allows members or member organizations designated by the Exchange to be awarded remote quoting rights to enter bids and offers electronically from locations other than the trading crowd where the applicable options class is traded on the Exchange's physical trading floor.<sup>3</sup> ROTs and specialists are currently awarded remote quoting rights based on quantitative criteria set forth in Amex Rule 994-ANTE. Specifically, specialists are awarded remote quoting rights based on Exchange floor volume executed, and their percentage of industry market share in the options which they specialize. ROTs are awarded remote quoting rights based solely on floor volume executed.

Currently, volume executed as a result of quoting remotely is not included in the calculation of remote quoting rights in Rule 994-ANTE. However, since the implementation of the RROT Program in May of 2006, volume is increasingly executed as a result of remote quotes entered by ROTs and specialists. The Exchange believes it is appropriate to reward those ROTs and specialists for the volume they execute as a result of quoting remotely, by including such volume towards the earning of additional remote quoting rights.

##### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act,<sup>4</sup> in general, and section 6(b)(5) of the Act,<sup>5</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 result in

any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

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

The Exchange has neither solicited nor received written comments on 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 (ii) as to which Amex 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 Number SR-Amex-2007-132 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-2007-132. 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

<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. 53652 (April 13, 2006), 71 FR 20422 (April 20, 2006) (approving the Exchange's RROT Program).

<sup>4</sup> 15 U.S.C. 78f(b).

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

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 offices 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-2007-132 and should be submitted on or before January 11, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-24801 Filed 12-20-07; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56971; File No. SR-CBOE-2007-106]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 1 Relating to CBOE Rules Governing Doing Business With the Public

December 14, 2007.

#### I. Introduction

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> on September 5, 2007, Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange"), filed with the Securities and Exchange Commission (the "Commission") a proposed rule change relating to the Exchange's rules governing doing business with the public. On September 21, 2007, the Commission issued a release noticing the proposed rule change, which was published for

comment in the **Federal Register** on September 27, 2007.<sup>3</sup> The comment period expired on October 18, 2007. The Commission received one comment letter in response to the proposed rule change.<sup>4</sup> On November 13, 2007, CBOE filed Amendment No. 1 to amend the proposed rule change and respond to the comment letter.<sup>5</sup> This order provides notice of the proposed rule change, as modified by Amendment No. 1, and approves the proposed rule change as amended on an accelerated basis.

#### II. Description of the CBOE Proposal

The Exchange proposes to amend certain rules that govern an Exchange member's conduct in doing business with the public. Specifically, the proposed rule change would require member organizations to integrate the responsibility for supervision of a member organization's public customer options business into its overall supervisory and compliance program. In addition, the Exchange proposes to amend certain rules to strengthen member organizations' supervisory procedures and internal controls as they relate to a member's public customer options business.

##### A. Integration of Options Supervision

The purpose of the proposed rule change is to create a supervisory structure for options that is similar to that required by New York Stock Exchange ("NYSE") and National Association of Securities Dealers ("NASD") rules.<sup>6</sup> The proposed rule change would eliminate the requirement that member organizations qualified to

do a public customer business in options must designate a single person to act as Senior Registered Options Principal ("SROP") for the member organization and that each such member organization designate a specific individual as a CROP. Instead, member organizations would be required to integrate the SROP and CROP functions into their overall supervisory and compliance programs.

The SROP concept was first introduced by CBOE during the early years of the development of the listed options market. Previously, under CBOE rules, member organizations were required to designate one or more persons qualified as ROPs having supervisory responsibilities in respect to the member organization's options business. As the number of ROPs at larger member organizations began to increase, CBOE imposed an additional requirement that member organizations designate one of their ROPs as the SROP. This was intended to eliminate confusion as to where the compliance and supervisory responsibilities lay by centralizing in a single supervisory officer overall responsibility for the supervision of a member organization's options activities.<sup>7</sup> Subsequently, following the recommendation of the Commission's Options Study, CBOE and other options exchanges required member organizations to designate a CROP to be responsible for the member organization's overall compliance program in respect to its options activities.<sup>8</sup> The CROP may be the same person who is designated as SROP.

Since the SROP and CROP requirements were first imposed, the supervisory function in respect to the options activities of most securities firms has been integrated into the matrix of supervisory and compliance functions in respect to the firms' other securities activities. According to CBOE, this not only reflects the maturity of the options market, but also recognizes the ways in which the uses of options themselves have become more integrated with other securities in the implementation of particular strategies. Thus, the current requirement for a separately designated senior supervisor in respect to all aspects of a member organization's options activities, rather than clarifying the allocation of supervisory responsibilities within the member organization, may have just the opposite effect by failing to take into account the way in which these

<sup>3</sup> See Securities Exchange Act Release No. 56492 (Sept. 21, 2007), 72 FR 54952 (Sept. 27, 2007).

<sup>4</sup> See Letter to Nancy Morris, Secretary, Commission, from Melissa MacGregor, Vice President and Assistant General Counsel, Securities Industry and Financial Markets Association (Oct. 16, 2007) ("SIFMA Letter").

<sup>5</sup> Amendment No. 1 proposes revisions to CBOE Rule 9.2.02 to clarify the review of the acceptance of an options discretionary account must be performed by a Series 4 Registered Options Principal ("ROP") and to CBOE Rule 9.21 to replace references to a Compliance Registered Options Principal ("CROP") with references to a ROP. In addition, Amendment No. 1 responds to the SIFMA Letter.

<sup>6</sup> See NYSE Rule 342 and NASD Rule 3010. On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD's Certificate of Incorporation to reflect its name change to Financial Industry Regulatory Authority Inc., or FINRA, in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. See Securities Exchange Act Release No. 56146 (July 26, 2007). The FINRA rulebook currently consists of both NASD Rules and certain NYSE Rules that FINRA has incorporated. See FINRA Rules, <http://www.finra.org/RulesRegulation/FINRARules/index.htm> (last visited Dec. 10, 2007).

<sup>7</sup> Report of the Special Study of the Options Market ("Options Study"), p. 316, n. 11 (December 22, 1978).

<sup>8</sup> *Id.* at p. 335.

<sup>6</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.