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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56278; File No. SR-Amex-2007-72]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Elimination of the Short Sale "tick" and Price Tests

August 17, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended (the "Act"),<sup>1</sup> notice is hereby given that on July 6, 2007, the American Stock Exchange LLC (the "Amex" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or the "Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>2</sup> which renders the proposal effective upon receipt of this filing by 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 Exchange proposes to amend various Amex rules to conform to recent Commission amendments to Rule 10a-1 under the Act and Regulation SHO, that will eliminate Commission and self-regulatory organization ("SRO") short sale "tick" and price tests.

The text of the proposed rule change is available at Amex, the Commission's Public Reference Room, and <http://www.amex.com>.

#### 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

On June 13, 2007, the Commission voted to adopt amendments to Rule 10a-1 under the Act and Regulation SHO to remove the "tick" test of Rule 10a-1 and any short sale price test of any SRO. As a result of the Commission's action, the Exchange is seeking to conform its rules accordingly by rescinding Amex Rule 7, which contains a "tick" test applicable to short sales effected on the Exchange, as well as to make conforming and "housekeeping" changes to certain other rules.

Amex Rule 30A requires members and member organizations to submit periodic reports with respect to short positions in Amex listed securities. However, the rule excludes certain short positions pursuant to exemptions that are specified in Rule 200 of Regulation SHO and Rule 10a-1(e) (1), (6), (7), (8) and (10) under the Act, which are incorporated by reference. Because the Commission's recent rule-making will change the rule references incorporating these exemptions, the Exchange is proposing to amend Rule 30A to conform to these changes.

In addition, the Exchange proposes to make certain other conforming and "housekeeping" changes necessary to conform to the Commission's rulemaking.

##### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act<sup>3</sup> in general and furthers the objectives of Section 6(b)(5) of the Act<sup>4</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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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; and is not designed to permit unfair

discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purpose of the Act or the administration of the Exchange.

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

The proposed rule change does not 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 immediately effective pursuant to Section 19(b)(3)(A)<sup>5</sup> of the Act and Rule 19b-4(f)(6)<sup>6</sup> thereunder because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for thirty (30) days after the date of the filing, or such shorter time as the Commission may designate.

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes such waiver is consistent with the protection of investors and the public interest because it would allow the proposed rule change to be effective on July 6, 2007, the compliance date for the amendments to Rule 10a-1 and Regulation SHO.<sup>7</sup> For this reason, the Commission designates the proposal to be operative upon filing with the Commission.

At any time within sixty (60) days of the filing of the 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.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

<sup>5</sup> 15 U.S.C. Section 78s(b)(3)(A).

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

<sup>7</sup> For purposes only of waiving the 30-day pre-operative period, the Commission has considered the proposed rule change's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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

<sup>2</sup> 17 CFR 240.19b-4(f)(6).

<sup>3</sup> 15 U.S.C. 78f(b).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

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-2007-72 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-2007-72. 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 the principal office of the Amex. 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-2007-72 and should be submitted on or before September 14, 2007.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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<sup>8</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56227A; File No. SR-CBOE-2007-83]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto To Amend CBOE Rules relating to the Appointment Cost for Options on the Nasdaq-100 Index Tracking Stock

August 20, 2007.

#### Correction

FR Document No. E7-15901, beginning on page 45846 for Wednesday, August 15, 2007,<sup>1</sup> incorrectly stated the date of the release as August 8, 2008. The date should be revised to read "August 8, 2007."

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>2</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56281; File No. SR-CHX-2007-16]

### Self-Regulatory Organizations; The Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 Thereto To Amend Its Bylaws To Prevent Exchange Director From Participating in the Determination of Any Matter Involving an Issuer of a Security Listed or To Be Listed on the Exchange if the Director Is a Director, Officer, or Employee of the Issuer

August 17, 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 July 27, 2007, the Chicago Stock Exchange, Inc. ("CHX" 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 CHX. On August 10, 2007, CHX filed an

<sup>1</sup> See Securities Exchange Act Release No. 56227 (August 8, 2007), 72 FR 45846.

<sup>2</sup> 17 CFR 200.30-3(a)(12).

<sup>3</sup> 15 U.S.C. 78s(b)(1).

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

amendment to the proposed rule change.<sup>3</sup> 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

CHX proposes to amend its bylaws to bar a director from participating in a matter relating to an issuer of a security, if the director is a director, officer or employee of the issuer of that security. The text of this proposed rule change is available on the Exchange's Web site at [http://www.chx.com/content/Participant\\_Information/Rules\\_Filings.html](http://www.chx.com/content/Participant_Information/Rules_Filings.html), at the Office of the Secretary of 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, CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. CHX 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 Changes

##### 1. Purpose

Under the Exchange's rules, if the Exchange proposes to delist a security, the issuer of the security has the right to avail itself of a hearing before a hearing officer and to appeal the decision of the hearing officer to the Exchange's Executive Committee.<sup>4</sup> The Exchange's Executive Committee is composed entirely of Exchange directors.<sup>5</sup>

Although the Exchange's bylaws generally prevent a director from participating in the determination of any matter in which the director is personally interested, no provision of

<sup>3</sup> Partial Amendment No. 1 modified the last sentence of footnote 6 below, to state that when a director recuses himself or herself from a decision, the Exchange reflects that recusal in the minutes of the meeting at which the recusal occurred, in accordance with its internal written policies.

<sup>4</sup> See Article 25, Rule 4 of CHX's bylaws.

<sup>5</sup> See Article 2, Rule 2 of CHX's bylaws. The committee must consist of not less than five members, plus the chairman of the Board. A majority of the committee members must be public directors. *Id.*