

OMB APPROVAL

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. SR - 2007 - 39
Amendment No. 2

Proposed Rule Change by Chicago Board Options Exchange
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input type="checkbox"/>	Amendment <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>			Date Expires <input type="text"/>		
			<input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input type="checkbox"/> 19b-4(f)(6)		

Exhibit 1 Sent As Paper Document ☐
Exhibit 2 Sent As Paper Document ☐

Description

Provide a brief description of the proposed rule change (limit 250 characters)

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Last Name
Title
E-mail
Telephone Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date

By
(Name)

(Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Angelo Evangelou, evangelou@cboe.com

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

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Exhibit 1 - Notice of Proposed Rule Change

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3).

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Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

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Exhibit Sent As Paper Document

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Exhibit 3 - Form, Report, or Questionnaire

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

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Exhibit Sent As Paper Document

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Exhibit 4 - Marked Copies

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

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Exhibit 5 - Proposed Rule Text

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

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Partial Amendment

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

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PARTIAL AMENDMENT

The Chicago Board Options Exchange, Incorporated ("Exchange") hereby submits this Partial Amendment, constituting Amendment No. 2, to rule filing SR-CBOE-2007-39 in which the Exchange proposed to amend its rules in connection with penny-increment price-improvement (Amendment No.1, which was substantially similar, was withdrawn). The purpose of this amendment is to (1) delete a provision of the proposed rule that would have allowed the Exchange to append an indicator to the OPRA quote representing the existence of penny pricing; (2) provide that the "Exchange" would determine if the split price provisions of Rule 6.47 would apply to open outcry Penny Pricing under proposed Rule 6.13B(b) (previously that determination was made by the "appropriate Procedure Committee"); and (3) clarify that the program would not apply to Hybrid 3.0 classes. The Exchange also represents that to the extent penny-priced orders are received that "cross" one-another, the second order received by the system will receive the benefit of price improvement. For example, an order is received to buy at 1.08, then an order is received to sell at 1.06, those orders will trade at 1.08- the price of the resting order. Additionally, the Exchange represents that the size and price of any penny pricing will not be displayed or made available to anyone (other than the size that is added to the Exchange's BBO to reflect the penny pricing). Lastly, the Exchange represents that in activated classes/series, all users would get the benefit of penny pricing either via the electronic submission of contra-side orders or via a Floor Broker "sweeping" the electronic interest prior to executing an order in open outcry, and that all market participants would have the ability to rest orders in penny increments under the program.

Chicago Board Options Exchange, Incorporated
Rules

(additions are underlined; deletions are [bracketed])

Rule 6.13B. Penny Price Improvement

The Exchange may designate one or more options trading on the Hybrid System for inclusion in the Penny Price Improvement Program. This program is not available for Hybrid 3.0 classes. Under this program, the Exchange will allow all users to provide price improvement beyond the Exchange's disseminated quotation ("Penny Pricing") for classes or series that are not already quoted in one-cent increments and for which the Simple Auction Liaison system in Rule 6.13A is not in effect.

(a) Electronic Penny Pricing. Electronic penny prices may be established as follows:

(1) Market-Makers. Market-Makers may electronically provide the Exchange with indications of interest that are superior to their own quotations in increments no smaller than one-cent. Such indications shall be firm for all interest received by the Exchange. The Exchange shall disseminate such interest using standard quoting increments by rounding the limit price to the nearest standard quoting increment that does not violate the limit price.

(2) Orders. Public Customers and all other users may electronically submit to the Exchange orders priced in one-cent increments. The Exchange shall disseminate such orders using standard quoting increments by rounding the limit price to the nearest standard quoting increment that does not violate the limit price.

All Penny Pricing submitted pursuant to (1) or (2) above shall be filed by the System for order allocation purposes but shall not be displayed.

If an order is received by the Hybrid System that could trade against Penny Pricing and where the Exchange's disseminated quotation is the NBBO, it will automatically execute against the Penny Pricing pursuant to the Exchange's normal allocation procedures.

(b) Open Outcry Penny Pricing. Oral bids (offers) provided by in-crowd market participants may be expressed in one-cent increments in response to an order represented in open outcry provided that: (1) the oral bids (offers) better the corresponding bid (offer) in the Exchange's disseminated quotation; and (2) any resulting transaction(s) is consistent with the requirements of Rule 6.83.

The Exchange may also determine on a class-by-class basis to make the split-price priority provisions of Rule 6.47 applicable to a class that is subject to Penny Pricing under this rule.

For purposes of this rule, "in-crowd market participants" includes in-crowd Market-Makers, an in-crowd DPM or LMM, and Floor Brokers or PAR Officials representing orders in the trading crowd.

(c) Prior to effecting any transactions in open outcry in one-cent increments, Exchange members must electronically "sweep" any Penny Pricing interest in the Hybrid System so as not to violate the priority of such Penny Pricing.

(d) All pronouncements regarding the applicability of this rule will be announced to the membership via Regulator Circular.

* * * * *

Rule 6.45 Priority of Bids and Offers - Allocation of Trades

Except as provided by Rules, including but not limited to Rule 6.2A, 6.8, 6.9, 6.13, 6.13B, 6.45A, [Rule] 6.47, [Rule] 6.74, [Rule] 8.87 and [CBOE] Exchange Regulatory Circulars approved by the [SEC] Commission concerning Participation Entitlements [Rights], the following rules of priority shall be observed with respect to bids and offers:

(a)-(e) No change.

...Interpretations and Policies:

.01-.02 No change.

* * * * *

Rule 6.45A Priority and Allocation of Equity Option Trades on the CBOE Hybrid System

6.45A *Generally*: No change.

(a) – (e) No change.

...Interpretations and Policies:

.01 Principal Transactions: Order entry firms may not execute as principal against orders they represent as agent unless: (i) agency orders are first exposed on the Hybrid System for at least three (3) seconds, (ii) the order entry firm has been bidding or offering for at least (3) seconds prior to receiving an agency order that is executable against such bid or offer, or (iii) the order entry firm proceeds in accordance with the crossing rules contained in Rule 6.74. This paragraph also shall apply to orders resting on the Hybrid System in penny increments pursuant to Rule 6.13B. In such cases, agency orders priced in penny increments are deemed “exposed” pursuant to (i) above, and order entry firm orders priced in penny increments are deemed bids or offers pursuant to (ii) above.

.02 Solicitation Orders. Order entry firms must expose orders they represent as agent for at least three (3) seconds before such orders may be executed electronically via the electronic execution mechanism of the Hybrid System, in whole or in part, against orders solicited from members and non-member broker-dealers to transact with such orders. This paragraph also shall apply to agency orders resting on the Hybrid System in penny increments pursuant to Rule 6.13B. In such cases, agency orders priced in penny increments are deemed “exposed” pursuant to this paragraph.

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Rule 6.45B Priority and Allocation of Trades in Index Options and Options on ETFs on the CBOE Hybrid System

6.45B *Generally*: No change.

(a) – (d) No change.

...Interpretations and Policies:

.01 Principal Transactions: Order entry firms may not execute as principal against orders they represent as agent unless: (i) agency orders are first exposed on the Hybrid System for at least three (3) seconds, (ii) the order entry firm has been bidding or offering for at least (3) seconds prior to receiving an agency order that is executable against such bid or offer, or (iii) the order entry firm proceeds in accordance with the crossing rules contained in Rule 6.74. This paragraph also shall apply to orders resting on the Hybrid System in penny increments pursuant to Rule 6.13B. In such cases, agency orders priced in penny increments are deemed “exposed” pursuant to (i) above, and order entry firm orders priced in penny increments are deemed bids or offers pursuant to (ii) above.

.02 Solicitation Orders. Order entry firms must expose orders they represent as agent for at least three (3) seconds before such orders may be executed electronically via the electronic execution mechanism of the Hybrid System, in whole or in part, against orders solicited from members and non-member broker-dealers to transact with such orders. This paragraph also shall apply to agency orders resting on the Hybrid System in penny increments pursuant to Rule 6.13B. In such cases, agency orders priced in penny increments are deemed “exposed” pursuant to this paragraph.

* * * * *

Rule 6.47. Priority on Split-Price Transactions Occurring in Open Outcry

(a) – (c) No change.

... Interpretations and Policies:

.01 No change.

.02 The availability of split-price priority when an order is executed in a one-cent increment pursuant to Rule 6.13B shall be determined in accordance with Rule 6.13B(b).

* * * * *

Rule 6.74. Crossing Orders

(a) – (f) No change.

... Interpretations and Policies:

.01 - .08 No change.

.09 For purposes of paragraphs (a), (b), and (d), the minimum increment for bids and offers shall be one cent for orders that are subject to the open outcry penny price improvement under Rule 6.13B. Open outcry penny price improvement under Rule 6.13B shall not be available for orders executed pursuant to paragraphs (c) and (f).

EXHIBIT 4

Changes below reflect changes to the version of the rule text that was submitted with the original filing, additions are underlined and deletions are [bracketed].

Chicago Board Options Exchange, Incorporated
Rules

Rule 6.13B. Penny Price Improvement

The Exchange may designate one or more options trading on the Hybrid System for inclusion in the Penny Price Improvement Program. This program is not available for Hybrid 3.0 classes. Under this program, the Exchange will allow all users to provide price improvement beyond the Exchange's disseminated quotation ("Penny Pricing") for classes or series that are not already quoted in one-cent increments and for which the Simple Auction Liaison system in Rule 6.13A is not in effect.

(a) Electronic Penny Pricing. Electronic penny prices may be established as follows:

(1) Market-Makers. Market-Makers may electronically provide the Exchange with indications of interest that are superior to their own quotations in increments no smaller than one-cent. Such indications shall be firm for all interest received by the Exchange. The Exchange shall disseminate such interest using standard quoting increments by rounding the limit price to the nearest standard quoting increment that does not violate the limit price.

(2) Orders. Public Customers and all other users may electronically submit to the Exchange orders priced in one-cent increments. The Exchange shall disseminate such orders using standard quoting increments by rounding the limit price to the nearest standard quoting increment that does not violate the limit price.

All Penny Pricing submitted pursuant to (1) or (2) above shall be filed by the System for order allocation purposes but shall not be displayed [visible]. [The Exchange may append an indicator to its disseminated quotation to indicate the existence of Penny Pricing in the relevant side of a series when it exists, but no information regarding the price and size of the Penny Pricing shall be made available.]

If an order is received by the Hybrid System that could trade against Penny Pricing and where the Exchange's disseminated quotation is the NBBO, it will automatically execute against the Penny Pricing pursuant to the Exchange's normal allocation procedures.

(b) Open Outcry Penny Pricing. Oral bids (offers) provided by in-crowd market participants may be expressed in one-cent increments in response to an order represented in open outcry provided that: (1) the oral bids (offers) better the corresponding bid (offer) in the Exchange's

disseminated quotation; and (2) any resulting transaction(s) is consistent with the requirements of Rule 6.83.

The appropriate Procedure Committee may also determine on a class-by-class basis to make the split-price priority provisions of Rule 6.47 applicable to a class that is subject to Penny Pricing under this rule.

For purposes of this rule, "in-crowd market participants" includes in-crowd Market-Makers, an in-crowd DPM or LMM, and Floor Brokers or PAR Officials representing orders in the trading crowd.

(c) Prior to effecting any transactions in open outcry in one-cent increments, Exchange members must electronically "sweep" any Penny Pricing interest in the Hybrid System so as not to violate the priority of such Penny Pricing.

(d) All pronouncements regarding the applicability of this rule will be announced to the membership via Regulator Circular.

* * * * *

Rule 6.45 Priority of Bids and Offers - Allocation of Trades

Except as provided by Rules, including but not limited to Rule 6.2A, 6.8, 6.9, 6.13, 6.13B, 6.45A, 6.47, 6.74, 8.87 and Exchange Regulatory Circulars approved by the Commission concerning Participation Entitlements, the following rules of priority shall be observed with respect to bids and offers:

(a)-(e) No change.

...Interpretations and Policies:

.01-.02 No change.

* * * * *

Rule 6.45A Priority and Allocation of Equity Option Trades on the CBOE Hybrid System

6.45A *Generally*: No change.

(a) – (e) No change.

...Interpretations and Policies:

.01 *Principal Transactions*: Order entry firms may not execute as principal against orders they represent as agent unless: (i) agency orders are first exposed on the Hybrid System for at least three (3) seconds, (ii) the order entry firm has been bidding or offering for at least (3) seconds prior to receiving an agency order that is executable against such bid or offer, or (iii) the order entry firm proceeds in accordance with the crossing rules contained in Rule 6.74. This paragraph

also shall apply to orders resting on the Hybrid System in penny increments pursuant to Rule 6.13B. In such cases, agency orders priced in penny increments are deemed “exposed” pursuant to (i) above, and order entry firm orders priced in penny increments are deemed bids or offers pursuant to (ii) above.

.02 Solicitation Orders. Order entry firms must expose orders they represent as agent for at least three (3) seconds before such orders may be executed electronically via the electronic execution mechanism of the Hybrid System, in whole or in part, against orders solicited from members and non-member broker-dealers to transact with such orders. This paragraph also shall apply to agency orders resting on the Hybrid System in penny increments pursuant to Rule 6.13B. In such cases, agency orders priced in penny increments are deemed “exposed” pursuant to this paragraph.

* * * * *

Rule 6.45B Priority and Allocation of Trades in Index Options and Options on ETFs on the CBOE Hybrid System

6.45B *Generally*: No change.

(a) – (d) No change.

...Interpretations and Policies:

.01 Principal Transactions: Order entry firms may not execute as principal against orders they represent as agent unless: (i) agency orders are first exposed on the Hybrid System for at least three (3) seconds, (ii) the order entry firm has been bidding or offering for at least (3) seconds prior to receiving an agency order that is executable against such bid or offer, or (iii) the order entry firm proceeds in accordance with the crossing rules contained in Rule 6.74. This paragraph also shall apply to orders resting on the Hybrid System in penny increments pursuant to Rule 6.13B. In such cases, agency orders priced in penny increments are deemed “exposed” pursuant to (i) above, and order entry firm orders priced in penny increments are deemed bids or offers pursuant to (ii) above.

.02 Solicitation Orders. Order entry firms must expose orders they represent as agent for at least three (3) seconds before such orders may be executed electronically via the electronic execution mechanism of the Hybrid System, in whole or in part, against orders solicited from members and non-member broker-dealers to transact with such orders. This paragraph also shall apply to agency orders resting on the Hybrid System in penny increments pursuant to Rule 6.13B. In such cases, agency orders priced in penny increments are deemed “exposed” pursuant to this paragraph.

* * * * *

Rule 6.47. Priority on Split-Price Transactions Occurring in Open Outcry

(a) – (c) No change.

... Interpretations and Policies:

.01 No change.

.02 The availability of split-price priority when an order is executed in a one-cent increment pursuant to Rule 6.13B shall be determined in accordance with Rule 6.13B(b).

* * * * *

Rule 6.74. Crossing Orders

(a) – (f) No change.

. . . Interpretations and Policies:

.01 - .08 No change.

.09 For purposes of paragraphs (a), (b), and (d), the minimum increment for bids and offers shall be one cent for orders that are subject to the open outcry penny price improvement under Rule 6.13B. Open outcry penny price improvement under Rule 6.13B shall not be available for orders executed pursuant to paragraphs (c) and (f).