

where applicable, all common equity (comprised of common stock or Common Units, additional paid-in capital, retained earnings, treasury stock and/or minority interests), Preferred Stock or Preferred Units, preferred securities, equity linked securities, Long-term debt, short-term debt and current maturities.<sup>9</sup>

(ii) With respect to the securities issuance authority proposed in this Application on behalf of ELL: (a) Within four business days after the occurrence of a Ratings Event,<sup>10</sup> Applicants will notify the Commission of its occurrence (by means of a letter, via fax, e-mail or overnight mail to the Office of Public Utility Regulation) and (b) within 30 days after the occurrence of a Ratings Event, Applicants will submit a post-effective amendment to this Application explaining the material facts and circumstances relating to that Ratings Event (including the basis on which, taking into account the interests of investors, consumers and the public as well as other applicable criteria under the Act, it remains appropriate for ELL to issue the securities for which authorization has been requested in this Application, so long as ELL continues to comply with the other applicable terms and conditions specified in the Commission's order authorizing the transactions requested in this Application). Furthermore, no securities authorized as a result of this Application will be issued following the 60th day after a Ratings Event by ELL if the downgraded rating(s) has or have not been upgraded to investment grade. Applicants request that the Commission reserve jurisdiction through the remainder of the Authorization Period over the issuance of any securities that ELL is prohibited from issuing as a result of the occurrence of a Ratings

<sup>9</sup> Applicants state that the consequence of Entergy, Holdings or ELL failing to satisfy the 30% common equity to consolidated capitalization condition is that the applicable company would not be authorized to issue securities in a transaction subject to Commission approval, except for securities which would result in an increase in the common equity percentage.

<sup>10</sup> A "Ratings Event" will occur, with respect to securities proposed to be issued by ELL if (i) the security to be issued by ELL, pursuant to the authority sought in this Application-Declaration, upon original issuance, is rated below investment grade; (ii) any outstanding security of ELL that is rated is downgraded below investment grade or (iii) any outstanding security of Entergy that is rated is downgraded below investment grade. For purposes of this provision, a security will be deemed to be rated "investment grade" if it is rated investment grade by at least one nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of rule 15c3-1 under the Securities Exchange Act of 1934.

Event if no revised rating reflecting an investment grade rating has been issued.

#### *Distributions Out of Capital*

As a result of the proposed restructuring, substantially all of the assets of the Company will be allocated to ELL and the retained earnings of ELP will effectively be set to zero. ELP, therefore, may need to pay distributions to Holdings, its immediate parent company, out of capital. Accordingly, the Applicants request authorization for ELP to pay distributions out of capital, to the extent not otherwise authorized under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E5-5175 Filed 9-26-05; 8:45 am]

**BILLING CODE 8010-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-52474; File No. SR-CBOE-2005-72]**

### **Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Marketing Fee Assessed on Options on DIAMONDS ("DIA")**

September 20, 2005.

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 September 1, 2005, the Chicago Board Options Exchange, Inc. ("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 Exchange. On September 7, 2005, the CBOE submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The CBOE has designated this proposal as one changing a fee imposed by the CBOE under Section 19(b)(3)(A)(ii) of the Act<sup>4</sup> and Rule 19b-4(f)(2) thereunder,<sup>5</sup> which renders the proposal, as amended, effective upon filing with the Commission. The Commission is publishing this notice to

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

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

<sup>3</sup> In Amendment No. 1, the Exchange revised the proposed rule change to insert rule text that is contained in CBOE's Fees Schedules but was omitted from the initial filing.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).

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 CBOE proposes to amend its marketing fee program to assess the marketing fee on options on DIAMONDS® ("DIA"). The fee would be imposed at the rate of \$.22 per contract. The Exchange will assess a marketing fee on DIA options commencing on September 2, 2005.

Below is the text of the proposed rule change, as amended. Proposed new language is in *italics*; proposed deletions are in [brackets].

\* \* \* \* \*

### **CHICAGO BOARD OPTIONS EXCHANGE, INC.**

#### **FEES SCHEDULE**

[August 24, 2005] September 1, 2005

1. No Change.
  2. [Market-Maker, RMM, e-DPM & DPM] Marketing Fee [(in option classes in which a DPM has been appointed)] (6) (16)
  - 3-4. No Change.
- Footnotes:
- (1)-(5) No Change.
  - (6) The Marketing Fee will be assessed only on transactions of Market-Makers, RMMs, e-DPMs, [and] DPMs, and LMMs at the rate of \$.22 per contract on all classes of equity options, options on HOLDRs, [and] options on SPDRs, and options on DIA. The fee will not apply to Market-Maker-to-Market-Maker transactions. This fee shall not apply to index options and options on ETFs (other than options on SPDRs and options on DIA). Should any surplus of the marketing fees at the end of each month occur, the Exchange would then refund such surplus at the end of the month, if any, on a pro rata basis based upon contributions made by the Market-Makers, RMMs, e-DPMs, [and] DPMs, and LMMs.
  - (7)-(16) No Change.

\* \* \* \* \*

### **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, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. The 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

On October 29, 2004, CBOE amended its marketing fee program.<sup>6</sup> The current marketing fee is assessed upon DPMs, e-DPMs, Market-Makers, and Remote Market-Makers ("RMMs") at a rate of \$0.22 for every contract they enter into on CBOE other than Market-Maker-to-Market-Maker transactions (which includes all transactions between any combination of DPMs, e-DPMs, Market-Makers, and RMMs). The marketing fee is currently assessed in all equity option classes and options on HOLDRs<sup>7</sup> and options on SPDRs,<sup>8</sup> all of which are classes in which a DPM has been appointed. All funds generated by the marketing fee are collected by CBOE and recorded according to the DPM, station, and class where the options subject to the fee are traded. The money collected is disbursed by CBOE according to the instructions of the DPM. Those funds are available to the DPM solely for those trading crowds where the fee was assessed and may only be used by that DPM to attract orders in the classes of options for which the fee was assessed.

CBOE now proposes to amend its marketing fee to assess the fee on options on DIA, an Exchange Traded Fund ("ETF").<sup>9</sup> The marketing fee would now be assessed upon LMMs,<sup>10</sup> as well as Market-Makers, e-DPMs, and RMMs at a rate of \$0.22 for every contract they enter into on CBOE other than Market-Maker-to-Market-Maker transactions (which includes all transactions between any combination of LMMs, Market-Makers, e-DPMs, and RMMs). The Exchange would commence to assess the fee on DIA options on September 2, 2005.

Additionally, in option classes like DIA in which an LMM instead of a DPM

has been appointed,<sup>11</sup> CBOE proposes to amend its marketing fee plan to allow an LMM that has been appointed by the Exchange to perform the functions that a DPM typically performs under the marketing fee plan. Specifically, the LMM, like the DPM, would be expected to negotiate with payment accepting firms to pay for that firm's order flow. All funds generated by the marketing fee would be collected by CBOE, and disbursed by CBOE according to the instructions of the LMM. The Exchange is not making any other changes to its marketing fee plan.

2. Statutory Basis

The Exchange believes that its proposal, as amended, is consistent with Section 6(b) of the Act<sup>12</sup> in general, and furthers the objectives of Sections 6(b)(4) of the Act<sup>13</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE's members.

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

The Exchange does not believe that the proposed rule change, as amended, will impose any inappropriate burden on competition.

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

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing proposed rule change, as amended, has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>14</sup> and Rule 19b-4(f)(2)<sup>15</sup> thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. 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.<sup>16</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, as amended, 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-2005-72 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number SR-CBOE-2005-72. 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, as amended, 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

<sup>16</sup> The effective date of the original proposed rule change is September 1, 2005, and the effective date of Amendment No. 1 is September 7, 2005. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposal, the Commission considers the period to commence on September 7, 2005, the date on which the Exchange submitted Amendment No. 1.

<sup>6</sup> For a description of the CBOE's marketing fee program, see Securities Exchange Act Release No. 50736 (November 24, 2004), 69 FR 69966 (December 1, 2004) (SR-CBOE-2004-68).

<sup>7</sup> HOLDRs are trust-issued receipts that represent an investor's beneficial ownership of a specified group of stocks. See CBOE Rule 5.3.07.

<sup>8</sup> See Securities Exchange Act Release No. 51052 (January 18, 2005), 70 FR 3757 (January 26, 2005) (SR-CBOE-2005-05).

<sup>9</sup> ETFs are shares of trusts that hold portfolios of stocks designed to closely track the price performance and yield of specific indices.

<sup>10</sup> Under CBOE rules, LMMs may be appointed in an option class for which a DPM has not been appointed. See CBOE Rule 8.15.A.

<sup>11</sup> Currently, the only option class in which an LMM instead of a DPM has been assigned is the DIA option class and the CBOE has no plans to change this at this time. Telephone conversation between Michou Nguyen, Attorney Advisor, Division of Market Regulation, Commission, and Andrew Spiwak, Assistant Secretary, CBOE, on September 7, 2005.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(4).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>15</sup> 17 CFR 240.19b-4(f)(2).

submissions should refer to File Number SR-CBOE-2005-72 and should be submitted on or before October 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. E5-5182 Filed 9-26-05; 8:45 am]

**BILLING CODE 8010-01-P**

**SMALL BUSINESS ADMINISTRATION**

**Revocation of License of Small Business Investment Company**

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the Eastern District of Missouri, dated August 10, 2005, in Case No. 4:01cv01101 CDP, the United States Small Business Administration hereby revokes the license of Civic Ventures Investment Fund, L.P., a Missouri Limited Partnership, to function as a small business investment company under the Small Business Investment Company License No. 07/07-0099 issued to Civic Ventures Investment Fund, L.P. on August 1, 1997 and said license is hereby declared null and void as of September 9, 2005.

Dated: September 20, 2005.  
Small Business Administration.

**Jaime A. Guzman-Fournier,**

*Associate Administrator for Investment.*

[FR Doc. 05-19241 Filed 9-26-05; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**Disaster Declaration # 10198 and # 10199**

[Florida Disaster # FL-00009]

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Florida dated 9/14/2005. Incident: Hurricane Katrina.

Incident Period: 8/25/2005.

**EFFECTIVE DATE:** 9/14/2005.

Physical Loan Application Deadline Date: 11/14/2005.

EIDL Loan Application Deadline Date: 6/14/2006.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business

Administration, Disaster Area Office 3, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Monroe.

Contiguous Counties: Florida:

Collier, Miami-Dade.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere .....	5.375
Homeowners Without Credit Available Elsewhere .....	2.687
Businesses With Credit Available Elsewhere .....	6.557
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere .....	4.750
Businesses and Non-Profit Organizations Without Credit Available Elsewhere .....	4.000

The number assigned to this disaster for physical damage is 10198 8 and for economic injury is 10199 0.

The State which received an EIDL Declaration # are Florida.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: September 14, 2005.

**Hector V. Barreto,**

*Administrator.*

[FR Doc. 05-19242 Filed 9-26-05; 8:45 am]

**BILLING CODE 8025-01-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee

(ARAC) to discuss transport airplane and engine (TAE) issues.

**DATES:** The meeting is scheduled for Wednesday, October 19, 2005, starting at 9 a.m. Pacific Daylight Time. Arrange for oral presentations by October 17, 2005.

**ADDRESSES:** Homewood Suites Seattle-Tacoma Airport, 6955 Fort Dent Way, Tukwila, Washington.

**FOR FURTHER INFORMATION CONTACT:** John Linsenmeyer, Office of Rulemaking, ARM-207, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267-5174, FAX (202) 267-5075, or e-mail at [john.linsenmeyer@faa.gov](mailto:john.linsenmeyer@faa.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held October 19, 2005 at Homewood Suites Seattle-Tacoma Airport in Tukwila, Washington.

- The agenda will include:
- Opening Remarks.
  - FAA Report.
  - European Aviation Safety Agency Report.
  - Ice Protection Harmonization Working Group (HWG) Report.
  - Vote on the Ice Protection HWG Report.
  - Airworthiness Assurance HWG Report.
  - Avionics HWG Report.
  - § 25.1309 Summary of Recent Activity on Specific Risk.
  - Review of Action Items.

Attendance is open to the public, but will be limited to the availability of meeting room space. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than October 17, 2005. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

For persons participating domestically by telephone, the call-in number is (202) 366-3920; the Passcode is "2235." To insure that sufficient telephone lines are available, please notify the person listed in the **FOR FURTHER INFORMATION CONTACT** section of your intent to participate by telephone by October 17. Anyone calling from outside the Washington, DC metropolitan area will be responsible for paying long-distance charges.

The public must make arrangements by October 17 to present oral statements at the meeting. Written statements may

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