

advised the Exchange that it has negotiated with a payment accepting firm to pay for the firm's order flow. Included in this general administrative support, the Exchange tracks the number of qualified orders sent by a payment accepting firm, bills specialists and ROTs through their clearing firms and issues payments to payment accepting firms to reflect the collection and payment of the marketing fee. The Exchange rebates to specialists and ROTs, on a quarterly basis, the amount of marketing fees collected that have not been paid to order flow providers.

The Exchange further states that the specialists are solely responsible, but are not required, to negotiate payment for order flow agreements with payment accepting firms and are responsible for any arrangements made with the payment accepting firms. The specialists will use the funds that are collected from a particular post on the Exchange to market for those specific products traded at that particular post on the Exchange. So long as it is within the above described parameters, the specific terms governing the orders that qualify for payment and the amount of any payments are determined by the specialists in their discretion.

The Exchange asserts that the proposal is equitable as required by Section 6(b)(4) of the Act.<sup>8</sup> In connection with the revision to the equity options marketing fee, the Exchange notes that increasing the fee from \$0.40 to \$0.75 per contract (except for SPDR options, which will continue to remain subject to the current fee level of \$1.00 per contract) and limiting assessment to the electronic executions of customer orders from payment accepting firms is reasonable given the competitive pressure to attract options order flow. In addition, the Exchange submits that those trading crowds that benefit from a payment for order flow arrangement negotiated by the specialist should contribute to the success of the particular products. Accordingly, the Exchange believes that the proposal is an equitable allocation of reasonable fees among Exchange members.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section

6(b)(4),<sup>10</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using facilities.

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

The Exchange believes that the proposed rule change will 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

The Exchange has neither solicited nor received comments on the proposed rule change. The Amex has not received any unsolicited written comments from members or other interested parties.

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>11</sup> and paragraph (f)(2) of Rule 19b-4 thereunder<sup>12</sup> because it establishes or changes a due, fee, or other charge. At any time within 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, 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-2006-15 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-2006-15. 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. Copies of such filing also will be available for inspection and copying at 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-2006-15 and should be submitted on or before March 21, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

Nancy M. Morris,

Secretary.

[FR Doc. E6-2752 Filed 2-27-06; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53342; File No. SR-CBOE-2006-08]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Volatility Indexes

February 21, 2006.

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 January 20, 2006, the Chicago Board Options Exchange, Incorporated ("CBOE" or

<sup>8</sup> Section 6(b)(4) of the Act, 15 U.S.C. 78f(b)(4), states that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

<sup>13</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.

“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 prepared by the CBOE. 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 revise the manner in which the expiration dates for each volatility-based index is determined. The description of this proposed rule filing is available for viewing on CBOE’s Web site (<http://www.cboe.com>), at the CBOE’s Office of the Secretary, 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 CBOE 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 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**

The purpose of this rule filing is to revise the methodology for determining the expiration dates for options on certain volatility-based indexes that are approved for listing and trading on the Exchange. The Commission previously approved for the Exchange to list and trade options and increased-value options on certain volatility-based securities indexes; specifically, the CBOE Volatility Index (“VIX”), the CBOE Nasdaq 100® Volatility Index (“VXN”), and the CBOE Dow Jones Industrial Average® Volatility Index (“VXD”) (collectively “volatility indexes”).<sup>3</sup> Each volatility index,

generally, uses the quotes of certain index option series (such as the S&P 500 index) to derive a measure of the volatility of the U.S. equity market. The volatility indexes provide investors with up-to-the-minute market estimates of expected volatility by extracting implied volatilities from real-time index option quotes.

All volatility index options contracts were originally designed to expire on the Wednesday immediately prior to the third Friday of the month that immediately precedes the month in which the options used in the calculation of that index expire. This method was chosen to provide an exercise schedule that is similar to the manner in which most other option contracts expire (*i.e.*, the third Friday of the month). Under this method, during any rolling twelve month period, in four of those twelve months, options on any volatility index would not expire exactly thirty days prior to the expiration of the options on the index on which that volatility index is based. To illustrate, under the current methodology, an option on the March 2006 VXN would expire on Wednesday, March 16, 2006 because that is the Wednesday immediately prior to the third Friday of March 2006. However, March 16, 2006 is 37 days prior to the date on which options on the Nasdaq 100 Index (“NDX”) expire.

CBOE proposes to revise the methodology by having all volatility index options expire on the “Wednesday that is thirty days prior to the third Friday of the calendar month immediately following the expiring month.” This revised approach will provide consistency in the expiration of options on all volatility indexes by ensuring that every volatility index option will expire exactly thirty days prior to the date on which the index that the volatility index is based.<sup>4</sup> To illustrate how this new methodology will work using the March 2006 VXN example above, the April 2006 NDX option will expire on Friday, April 21, 2006 and the March 2006 VXN option would expire on Wednesday March 22, 2006, which is exactly 30 days prior to the expiration of the NDX April options. Even though the March 2006 VXN option does not expire during the normal expiration week for all other

options, the Exchange believes it is more important that the volatility index options expire consistent with the 30-day volatility measurement period.

The Exchange represents that it will provide public disclosures and notifications to its members and the investing public of this change.<sup>5</sup> The Exchange states that this proposal does not affect the rule text of any existing Exchange rule.<sup>6</sup>

##### **2. Statutory Basis**

The Exchange believes the proposed rule change is consistent with the Act<sup>7</sup> 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>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of Act<sup>9</sup> 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 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**

The Exchange neither received nor solicited written comments on the proposal.

### **III. 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:

<sup>5</sup> CBOE will issue an information circular to its members to notify them of the changes to the options expiration date calculation methodology contained in this proposed rule change. Telephone conversation between James Flynn, Attorney, CBOE, and Florence Harmon, Senior Special Counsel, and Geoffrey Pemble, Special Counsel, Division of Market Regulation, Commission, on February 9, 2006.

<sup>6</sup> The original rule filing that allowed CBOE to list volatility-based index options included an exhibit attached to the rule filing, which provided, among other contract characteristics, a description of how the expiration date would be determined. That description was not included in the rule text. See note 1, *supra*.

<sup>7</sup> 15 U.S.C. 78a *et seq.*

<sup>8</sup> 15 U.S.C. 78(f)(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>3</sup> See Securities Exchange Act Release No. 49563 (April 14, 2004); 69 FR 21589 (April 21, 2004) (order approving SR-CBOE-2003-40, which allowed CBOE to trade options on the VIX, VXN, and VXD); see also Securities Exchange Act Release No. 49698 (May 13, 2004); 69 FR 29152 (May 20, 2004) (order approving SR-CBOE-2004-09, which allowed CBOE to trade increased-value options on the VIX, VXN, and VXD).

<sup>4</sup> CBOE states that the revised expiration date calculation methodology for options on certain volatility indexes is consistent with the way in which expiration dates for futures on volatility indexes are calculated. Telephone conversation between James Flynn, Attorney, CBOE, and Florence Harmon, Senior Special Counsel, and Geoffrey Pemble, Special Counsel, Division of Market Regulation, Commission, on February 9, 2006.

*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-2006-08 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-2006-08. 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. 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-2006-08 and should be submitted on or before March 21, 2006.

#### IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>10</sup> In particular, the Commission finds that the proposed rule change is consistent with Section

<sup>10</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

6(b)(5) of the Act,<sup>11</sup> which requires, among other things, that the rules of a national securities exchange be 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.

The Commission believes that CBOE's proposal to revise the methodology for determining the expiration dates for options on certain volatility-based indexes so that such options expire on the "Wednesday that is thirty days prior to the third Friday of the calendar month immediately following the expiring month" is appropriate. As noted by CBOE above, this revised approach will provide consistency in the expiration of options on all volatility indexes by ensuring that every volatility index option will expire exactly thirty days prior to the date on which the index that the volatility index is based, rather than the prior approach under which such options would not expire exactly thirty days prior to the expiration of the options on the index on which that volatility index is based in four of the months in any rolling twelve-month period.

The Exchange has requested accelerated approval of the proposed rule change.<sup>12</sup> The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of the notice of filing in the **Federal Register**. The proposal is intended to ensure consistency in expiration dates for options on all volatility indexes approved for listing and trading on CBOE with the expiration of the options on the underlying indexes. The Commission does not believe that the Exchange's proposal raises any novel regulatory issues. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>13</sup> to approve the proposed rule change, as amended, on an accelerated basis.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>14</sup> that the proposed rule change (SR-CBOE-2006-

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> Telephone conversation between James Flynn, Attorney, CBOE, and Florence Harmon, Senior Special Counsel, and Geoffrey Pemble, Special Counsel, Division of Market Regulation, Commission, on February 9, 2006.

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> *Id.*

08) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-2767 Filed 2-27-06; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53329; File No. SR-ISE-2006-05]

### Self-Regulatory Organizations; International Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Fee Changes

February 16, 2006.

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 January 20, 2006, the International Securities Exchange, Inc. ("ISE" 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 ISE. On February 9, 2006, ISE submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> ISE has designated the proposed rule change as one establishing or changing a due, fee, or other charge, pursuant to 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 effective upon filing with the Commission. 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

ISE is proposing to amend its Schedule of Fees to establish fees for

<sup>15</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.

<sup>3</sup> In Amendment No. 1, the Exchange revised its Schedule of Fees to clarify ambiguities and correct misstatements therein, and discussed those changes in the purpose section of the proposal. Specifically, in Amendment No. 1, the Exchange removed the misstatement that a \$0.10 surcharge is applied to all Premium Products (as defined herein) and instead provided a list of the specific Premium Products that are subject to the surcharge. Amendment No. 1 also clarified that the fee pilot program expiring on July 31, 2006 applies exclusively to Linkage orders.

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

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