

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 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-2007-66 and should be submitted on or before August 3, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56026; File No. SR-CBOE-2007-72]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exchange Fees

July 6, 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 June 29, 2007, Chicago Board Options Exchange, Incorporated ("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 substantially prepared by the Exchange. 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 amend its Fees Schedule to: (i) Adopt a surcharge fee for transactions in options on the CBOE Volatility Index ("VIX"); and (ii) clarify the assessment of the Sales Value Fee. The text of the proposed rule change is available at: <http://www.cboe.org/legal>, the Exchange's principal office, and 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

###### VIX Options Surcharge Fee

The Exchange proposes to adopt a \$0.04 per contract surcharge fee on all non-public-customer transactions in VIX options to help the Exchange recoup license fees the Exchange pays to Standard and Poor's for its license to trade the VIX product. The proposed surcharge fee is identical to the surcharge fee currently assessed on non-public-customer transactions in options on the S&P 100 Index ("OEX" and "XEO") and options on the S&P 500 Index ("SPX"). The Exchange intends to implement this fee on July 2, 2007.

###### Sales Value Fee

Section 6 of the CBOE Fees Schedule describes the Sales Value Fee and how the fee is assessed. The Sales Value Fee is defined as the fee assessed by CBOE to each member for sales of securities on CBOE with respect to which CBOE is obligated to pay a fee to the Commission under Section 31 of the Act.<sup>3</sup> Section 6 of the CBOE Fees Schedule also applies to trading on the CBOE Stock Exchange, LLC ("CBSX").

The Sales Value Fee is applied not only to sales executed on CBOE and CBSX, but also to sell orders that

originate at CBSX and are routed to other trading centers pursuant to CBOE Rule 52.10 (Order Routing to Other Trading Centers). Accordingly, the Exchange proposes to amend section 6 of the Fees Schedule to clarify that the Sales Value Fee is also assessed by CBOE to each member for orders to sell securities that originate at CBSX and are routed to and executed on another trading center.

The Exchange has entered into an arrangement with the National Securities Clearing Corporation ("NSCC") whereby NSCC will collect the Sales Value Fee (among other fees) with respect to non-options sales on behalf of CBSX from CBSX members through their clearing firms and remit the fees to CBSX. The Exchange proposes to amend section 6 of the Fees Schedule to reflect this new fee collection procedure.<sup>4</sup>

###### 2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of section 6(b)(4) of the Act,<sup>6</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and issuers and other persons using its facilities.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

<sup>4</sup> Prior to Regulation NMS, the Sales Value Fee was assessed by CBOE to each CBSX member for orders to sell securities that originated at CBSX and were routed via the Intermarket Trading System ("ITS") to, and executed on, another exchange. Pursuant to arrangements between CBOE and other ITS participant exchanges, CBOE paid to the exchange on which the covered sale occurred the Sales Value Fee collected by CBOE from the CBSX member that originated the sell order. In the current Regulation NMS environment, CBOE now routes orders to other trading centers via a private linkage pursuant to an agreement between CBSX and a third-party technology provider ("Routing Firm"). CBSX's Routing Firm is assessed a fee by an away trading center for covered sales resulting from sell orders originating on CBSX and routed to and executed by the Routing Firm on that trading center. CBOE collects the Sales Value Fee from the CBSX member that originated the sell order but instead of passing the fee to an away exchange, CBOE now passes the fee to the Routing Firm to reimburse the Routing Firm for the fee it paid to the away trading center. See E-mail from Jamie Galvan, Assistant Secretary, CBOE, to David Michehl, Special Counsel, Division of Market Regulation, Commission dated July 6, 2007.

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 15 U.S.C. 78ee.

*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 proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act<sup>7</sup> and Rule 19b-4(f)(2) thereunder,<sup>8</sup> 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.

**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-CBOE-2007-72 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-CBOE-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 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-2007-72 and should be submitted on or before August 3, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-56031; File No. SR-ISE-2007-53]

**Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Quarterly Options Series Pilot Program**

July 9, 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 June 27, 2007, the International Securities Exchange, LLC ("Exchange" or "ISE") 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. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which

<sup>9</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> 15 U.S.C. 78s(b)(3)(A)(iii).

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

renders the proposed rule change effective upon filing with 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 is proposing to extend, until July 10, 2008, its quarterly options pilot program ("Pilot Program"). The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.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 extend, until July 10, 2008, an ISE pilot program ("Pilot Program") to list options series that would expire at the close of business on the last business day of a calendar quarter ("Quarterly Options Series").<sup>5</sup> The Pilot Program is currently set to expire on July 10, 2007. Under the Pilot Program, the Exchange is allowed to open Quarterly Options Series on up to five (5) currently listed options classes that are either index options or options on ETFs. The Exchange also is allowed to list Quarterly Options Series on any options class that is selected by other securities exchanges that employ a similar pilot program under their respective rules. The Exchange has selected the following five options classes to participate in the Pilot Program: the Standard & Poor's Depository Receipts® (SPY); Nasdaq-100® Shares (QQQQ); Diamonds® Trust Series 1 (DIA); iShares Russell 2000®

<sup>5</sup> See Exchange Act Release No. 54113 (July 7, 2006), 71 FR 39694 (July 13, 2006) (File No. SR-ISE-2006-24) ("Approval Order").

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).