

concerning the securities of Environmental Safeguards, Inc. because it has not filed any periodic reports since it filed a Form 10-QSB for the period ended June 30, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Garden Botanika, Inc. because it has not filed any periodic reports since it filed a Form 10-Q for the period ended October 28, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Northwestern Steel & Wire Co. because it has not filed any periodic reports since it filed a Form 10-Q for the period ended January 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Paul Harris Stores, Inc. because it has not filed any periodic reports since it filed a Form 10-Q for the period ended October 28, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ultra Motorcycle Co. because it has not filed any periodic reports since it filed a Form 10-QSB for the period ended March 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of UStel, Inc. because it has not filed any periodic reports since it filed a Form 10-QSB for the period ended September 30, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Yarc Systems Corp. because it has not filed any periodic reports since it filed a Form 10-KSB for the period ended January 31, 2000.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed companies is suspended for the period from 9:30 a.m. EDT on August 23, 2007, through 11:59 p.m. EDT on September 6, 2007.

By the Commission.

**Nancy M. Morris,**  
*Secretary.*

[FR Doc. 07-4200 Filed 8-23-07; 9:51 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56287; File No. SR-CBOE-2007-41]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change as Modified by Amendment No. 1 Thereto To Codify Pre-Existing Practices and To Amend and Supplement Rule 24.9

August 20, 2007.

On May 1, 2007, the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission ("SEC" or "Commission"), 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> a proposal to amend Rule 24.9, Terms of Index Options, to codify the pre-existing methodology used for determining the day on which the exercise settlement value of CBOE Volatility Index options and CBOE Increased-Value Volatility Index options (collectively, "Volatility Index options") is calculated and to supplement the manner for determining the day on which the exercise settlement value of Volatility Index options is calculated in the event of an Exchange holiday.

The Exchange submitted Amendment No. 1 to the proposed rule change on June 7, 2007. The proposed rule change was published for comment in the **Federal Register** on July 16, 2007.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change as modified by Amendment No. 1.

In this proposal, CBOE proposed to amend Rule 24.9, Terms of Index Options, to codify the pre-existing methodology used for determining the day on which the exercise settlement value of Volatility Index options is calculated.<sup>4</sup> This day is also the expiration date for Volatility Index options and the business day

immediately before the expiration date is the last trading day for Volatility Index options. The Exchange also proposed to supplement the manner for determining the day on which the exercise settlement value of Volatility Index options is calculated in the event of an Exchange holiday.

In general, each Volatility Index is calculated using the quotes of certain index option series (e.g., S&P 500 Index ("SPX") options) to derive a measure of volatility of the U.S. equity market. Under CBOE's current methodology, the day on which the exercise settlement value of a Volatility Index option is calculated and the expiration date of a Volatility Index option is the Wednesday that is thirty days prior to the third Friday of the calendar month immediately following the expiring month of the Volatility Index option.<sup>5</sup> Additionally, the Tuesday immediately before that Wednesday is the last trading day for Volatility Index options.

According to the CBOE, this methodology was chosen because it provides consistency by ensuring that Volatility Index options expire exactly thirty days before the expiration date of the options that are used to calculate the Volatility Indexes and reflects CBOE's belief that the settlement process works best if underlying option series with a single expiration month are used to calculate a Volatility Index. According to CBOE, if underlying options series in two expiration months are used, the number of options series used in the settlement process is markedly increased and the settlement process becomes more complex and cumbersome. Consequently, in this filing the Exchange proposed to amend the existing text of Rule 24.9, relating to the current methodology, to codify its pre-existing practice.

The Exchange further proposed to supplement the current methodology by providing a framework for determining the day on which the exercise settlement value for Volatility Index options will be calculated and the expiration date for Volatility Index options when the Exchange is closed on the third Friday of any given calendar month. Specifically, the Exchange proposed to amend Rule 24.9 to provide that if the third Friday of the month subsequent to the expiration of a Volatility Index option is an Exchange holiday, the exercise settlement value of the Volatility Index option will be calculated on the business day that is thirty days prior to the Exchange

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

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

<sup>3</sup> Securities Exchange Act Release No. 56036 (July 10, 2007), 72 FR 38850 (July 16, 2007).

<sup>4</sup> See Securities Exchange Act Release No. 53342 (February 21, 2006), 71 FR 10086 (February 28, 2006) (SR-CBOE-2006-008); See also CBOE Regulatory Circular 2006-23 (describing methodology for determining date of calculation of exercise settlement value and expiration date).

<sup>5</sup> The options used to calculate the Volatility Indexes are traded on CBOE and generally expire on the third Friday of any given calendar month.

business day immediately preceding that Friday.<sup>6</sup> This would also be the expiration date for that Volatility Index option.

After carefully considering the proposal, 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>7</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>8</sup> which requires that an exchange have rules designed, among other things, 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 codifying CBOE's pre-existing methodology used for determining the day on which the exercise settlement value of Volatility Index options is calculated in Rule 24.9 will provide certainty and predictability for CBOE members and other market participants engaged in the trading of Volatility Index options. The Commission further believes that the Exchange's new procedure for determining the day on which the exercise settlement value for Volatility Index options will be calculated and the expiration date for Volatility Index options when the Exchange is closed due to an Exchange holiday is an appropriate supplement to the existing methodology.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (File No. SR-CBOE-2007-41) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

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

[FR Doc. E7-16833 Filed 8-24-07; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>6</sup> The Exchange represented that it was also proposing a similar change relating to the final settlement date for futures contracts on volatility indexes.

<sup>7</sup> In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56289; File No. SR-CBOE-2007-95]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to the Exchange's Marketing Fee Program

August 20, 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 August 1, 2007, the 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. On August 13, 2007, the CBOE submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by 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 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

CBOE proposes to amend its Marketing Fee Program. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.cboe.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

<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 made minor clarifying changes to the purpose section and the proposed rule text of the proposed rule change.

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

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

statements may be examined at the places specified in Item IV below. CBOE has substantially 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

CBOE proposes to amend its marketing fee program as follows. First, CBOE proposes to increase the total balance of the Excess Pool of funds that a DPM/LMM or Preferred Market-Maker can maintain. Currently, a DPM/LMM can maintain up to \$25,000 in an Excess Pool of funds, and a Preferred Market-Maker can maintain up to \$80,000 in an Excess Pool of funds. Going forward, CBOE proposes to increase both of those amounts to \$100,000. CBOE believes that the allowable balance in the Excess Pool of funds should be the same for DPMs and Preferred Market-Makers, and increasing the balance will assist those firms in attracting order flow to CBOE.

Second, CBOE proposes to allow a DPM/LMM or Preferred Market-Maker to voluntarily elect to have funds refunded. For instance, if a DPM/LMM or Preferred Market-Maker paid out 80% or more of the funds collected in a given month but less than 100% of the funds collected, a DPM/LMM or Preferred Market-Maker could elect to refund the funds it did not use rather than having those funds be allocated to its Excess Pool. Or, a DPM/LMM or Preferred Market-Maker could elect to have some of the funds in its Excess Pool refunded. As is currently the case, any refunds would be made on a pro rata basis based upon contributions made by the Market-Makers, RMMs, DPMs, e-DPMs and LMMs in that month.

Third, CBOE proposes to impose an administrative fee to offset its costs in administering the marketing fee program and also to provide funds to the association of members<sup>6</sup> ("Association") for its costs and expenses in supporting CBOE's marketing fee program and in seeking to bring order flow to CBOE. CBOE proposes to assess an administrative fee of .45% of the total amount of funds collected each month.

The Exchange intends to assess and collect the administrative fee of .45% on

<sup>6</sup> The Association is technically known as the DPM Association; however, its activities are not limited to assisting only DPM organizations. As noted above, through its business development activities it seeks to bring order flow to CBOE for the benefit of all CBOE liquidity providers.