

027, Docket Nos. 70–7003, 70–7004, License Nos. SNM–7003, SNM–2011

**Order Extending the Date by Which the Direct Transfer of Licenses Is To Be Completed**

**I**

USEC Inc., (USEC) is the holder of materials licenses SNM–7003 and SNM–2011 for the American Centrifuge Lead Cascade Facility (Lead Cascade) and American Centrifuge Plant (ACP), respectively, which authorize the licensee to: (1) Possess and use source and special nuclear material at the Lead Cascade at the former Portsmouth Gaseous Diffusion Plant site in Piketon, Ohio, in accordance with materials license number SNM–7003; and (2) construct and operate a gas centrifuge uranium enrichment facility (the ACP) at the former Portsmouth Gaseous Diffusion Plant site in Piketon, Ohio, in accordance with materials license number SNM–2011.

**II**

The U.S. Nuclear Regulatory Commission's (NRC) Order EA–11–013, dated February 10, 2011, approved the direct transfer of the licenses of the above facilities from USEC to the limited liability company American Centrifuge Operating, LLC (ACO), pursuant to Sections 161(b), 161(i), 161(o) and 184 of the Atomic Energy Act, as amended; 42 United States Code (U.S.C.) 2201(b), 2201(i), and 2234; and Title 10 of the *Code of Federal Regulations* (10 CFR) 30.34(b), 10 CFR 40.46, "Inalienability of Licenses," and 10 CFR 70.36, "Inalienability of Licenses." By Order EA–11–180, dated August 8, 2011, the NRC approved an extension to Order EA–11–013 until February 9, 2012. By their terms, both orders will become null and void if the license transfers are not completed by February 9, 2012. However, both the February 10, 2011, and the August 9, 2011, Orders further state that upon written application and for good cause shown, the implementation period for the license transfers may be extended by further Order.

**III**

By letter dated January 6, 2012, and supplemented by letter dated January 27, 2012, USEC submitted a request to extend the date by which the license transfers must be completed from February 9, 2012, to February 8, 2013. USEC stated that Condition 3 of Order EA–11–013 will be satisfied following completion of actions with the DOE, without any linkage to the loan guarantee. In its January 27, 2012, letter, USEC stated that due to uncertainty, it

appears that the date for completion of activities associated with the sub-lease will extend beyond May 18, 2012.

Accordingly, USEC stated that it will not be able to fully implement the conditions in Order EA–11–013 by February 9, 2012, and is requesting a second extension to Order EA–11–013.

USEC states that there have been no changes in the information and technical and financial qualifications presented in its September 10, 2010, request to transfer the licenses (Agencywide Documents Access and Management System (ADAMS) Accession No. ML102660371). The NRC staff notes that its basis for approving the transfers of USEC's licenses for the Lead Cascade and the ACP from USEC to ACO is documented in its safety evaluation report (SER, ADAMS Accession No. ML103630748) supporting the February 10, 2011, Order.

The NRC staff reviewed the information provided by USEC in its September 10, 2010, transfer of licenses request, the information provided in its July 22, 2011, first extension request (ADAMS Accession No. ML11210B497), and supplemental electronic communication dated August 1, 2011 (ADAMS Accession No. ML11213A282), and the information provided in its January 6, 2012, second extension request, and supplemental letter dated January 27, 2012. Based on this review of the information provided by USEC, the NRC staff concludes that the basis for originally approving the transfers of USEC's licenses for the Lead Cascade and the ACP from USEC to ACO remains valid. The NRC staff evaluated the January 6, 2012, submittal and the January 27, 2012, supplemental letter and determined that USEC has shown good cause to extend the implementation period of Order EA–11–013 a second time and, therefore, the implementation date for Order EA–11–013 should be extended to February 8, 2013, the date by which the transfer of licenses must be completed.

**IV**

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 30.34(b), 10 CFR 40.46, "Inalienability of Licenses," and 10 CFR 70.36, "Inalienability of Licenses," *It Is Hereby Ordered* that the date by which the license transfers described above must be completed is extended to February 8, 2013. If the proposed direct transfer of licenses is not completed by February 8, 2013, this Order and the February 10, 2011, Order shall become

null and void. However, upon written application and for good cause shown, the February 8, 2013, date may be extended by further Order.

This Order is effective upon issuance. The Order of February 10, 2011, as modified by the August 8, 2011, Order and this Order, remains in full force and effect.

For further details with respect to this Order, see the submittal dated January 6, 2012 (ADAMS Accession No. ML11210B497), the supplemental letter dated January 27, 2012 (ADAMS Accession No. ML12032A279), and the SER documenting NRC's staff evaluation of USEC's submittal dated February 8, 2012 (ADAMS Accession No. ML12027A034), which may be examined—and/or copied for a fee—at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (First Floor), Rockville, MD 20852; and accessible online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>.

Dated at Rockville, Maryland, this 8th day of February 2012.

For the U.S. Nuclear Regulatory Commission.

**Catherine Haney,**

*Director, Office of Nuclear Material Safety and Safeguards.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–66375; File No. SR–CBOE–2011–117]

**Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change Relating to Its Automated Improvement Mechanism**

February 10, 2012.

On December 14, 2011, the Chicago Board Options Exchange, Incorporated ("Exchange") filed with the Securities and Exchange Commission ("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 proposed rule change to amend CBOE Rule 6.74A, which relates to the Exchange's Automated Improvement Mechanism ("AIM"). The proposal would permit a Trading Permit Holder ("TPH"), when submitting an agency order to AIM to initiate an

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

<sup>2</sup> 17 CFR 240.19b–4.

auction, to elect to have last priority in the AIM auction's order allocation.<sup>3</sup>

The proposed rule change was published for comment in the **Federal Register** on December 29, 2011.<sup>4</sup> The Commission received no comments on the proposal.

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>5</sup> and, in particular, the requirements of Section 6(b)(5) of the Act,<sup>6</sup> in that it is designed to provide additional flexibility for TPHs to obtain executions on behalf of their customers through AIM because the initiating TPH may elect to have last priority. The Commission believes that, as a result of this flexibility, there may be increased usage of AIM auctions and the mechanism may attract new participants, thereby helping to further competition and to enhance the possibility of price improvement on behalf of customers.<sup>7</sup>

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-CBOE-2011-117) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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<sup>3</sup> In an AIM auction, described here generally, a TPH submits into the mechanism an order that it represents as agent ("Agency Order") along with a contra-side order at a specified price (which must comply with parameters set forth in Rule 6.74A) and for the same size that either represents principal interest of the TPH or is a solicited order. Certain Exchange participants, as set forth in Rule 6.74A, then can compete with the contra-side order by submitting bids (offers) to execute against the Agency Order. After better-priced orders are filled and public customers competing at the best price receive their allocations, the TPH is granted priority ahead of other participants to execute against 40% (in some circumstances 50%) of the original size of the Agency Order. Under the proposed rule change, the initiating TPH will be able to elect to have last priority.

<sup>4</sup> See Securities Exchange Act Release No. 66038 (December 22, 2011), 76 FR 82016.

<sup>5</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> The Commission notes that Chapter V, Section 18(f)(v) of the Rules of the Boston Exchange Group, LLC, "The Price Improvement Period" ("PIP"), includes a similar provision that permits an options participant initiating a PIP auction to designate a lower amount than the 40% to which it is otherwise entitled upon the conclusion of the PIP auction.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66382; File No. SR-CBOE-2012-014]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish Transaction Fees for Options on the CBOE Emerging Markets ETF Volatility Index, the CBOE Brazil ETF Volatility Index and CBOE Oil ETF Volatility Index

February 10, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 1, 2012, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") 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. 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 establish fees for transactions in options on the CBOE Emerging Market ETF Volatility Index ("VXEEM"), the CBOE Brazil ETF Volatility Index ("VXEZW") and the CBOE Crude Oil ETF Volatility Index ("OVX"). The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange'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 self-regulatory organization 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 those 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 parts of such statements.

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

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

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange received approval to list and trade options on the CBOE Emerging Market ETF Volatility Index ("VXEEM"), the CBOE Brazil ETF Volatility Index ("VXEZW") and the CBOE Crude Oil ETF Volatility Index ("OVX") (collectively herein, "volatility indexes"), which are up-to-the-minute market estimates of the expected volatility of their corresponding exchange-traded funds ("ETF")<sup>3</sup> calculated by using real-time bid/ask quotes of CBOE listed options on the respective ETF.<sup>4</sup> The volatility indexes use nearby and second nearby options with at least 8 days left to expiration and then weights them to yield a constant, 30-day measure of the expected (implied) volatility. The Exchange will list VXEEM options beginning on January 30, 2012, VXEZW options beginning on February 20, 2012 and OVX options beginning on March 6, 2012.

The purpose of this rule change is to clarify that the existing transaction fees for "Volatility Indexes" shall apply for transactions in VXEEM options, VXEZW options and OVX options except that the existing Surcharge Fee (currently \$.10 per contract for Volatility Index options) will not apply to VXEEM options, VXEZW options and OVX options.<sup>5</sup> In addition, the Exchange's marketing fee<sup>6</sup> shall not apply to VXEEM options, VXEZW options and OVX options. The Product Research & Development fee shall apply to VXEEM options, VXEZW options and OVX options at the rate of \$.10 per contract.<sup>7</sup>

For reference, the existing Volatility Index transactions fees that will apply

<sup>3</sup> The corresponding ETFs are: the iShares MSCI Emerging Markets Index ETF ("EEM"), the iShares MSCI Brazil Index ETF ("EWZ") and the United States Oil Fund ("USO").

<sup>4</sup> See Securities Exchange Act Release No. 64551 (May 26, 2011), 76 FR 32000 (June 2, 2011) (approving SR-CBOE-2011-026).

<sup>5</sup> This fee is assessed to help the Exchange recoup license fees the Exchange pays to the different index licensors in order to list options on the respective indexes.

<sup>6</sup> See Footnote 6 of the Fees Schedule.

<sup>7</sup> See Section 1 (Index Options), VII.(B) to the Fees Schedule. The Product Research & Development fee is assessed to help offset some of the costs and expenses expended for product research and development and ongoing maintenance of CBOE's products. The Product Research & Development fee applies to all non-public customer transactions (i.e., CBOE and non-Trading Permit Holder market-maker, Clearing Trading Permit Holder and broker-dealer), including voluntary professionals and professionals. See Footnote 12 of the Fees Schedule.