

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-54563; File No. SR-CBOE-2006-78)

October 3, 2006

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exchange and Regulatory Bulletin Annual Subscription Fee

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 22, 2006, 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, and II below, which Items have been prepared by the Exchange. 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>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</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 from interested parties.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend its Fees Schedule to amend the Exchange and Regulatory Bulletin annual subscription fee. The text of the proposed rule change is set forth below.

Proposed new language is underlined; proposed deletions are in [brackets].

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<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)(ii).

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

**CHICAGO BOARD OPTIONS EXCHANGE, INC.**

**FEES SCHEDULE**

**1. – 4.** Unchanged.

**Footnotes:** (1) – (16) Unchanged.

**5. – 14.** Unchanged.

**15. MISCELLANEOUS:**

Periodic license or royalty fees for DPM-traded products - CBOE costs passed-through to DPM (12)

Member Death Benefit (calculated @ \$50,000 divided by number of members assessed)

Trading Floor Printer Maintenance (Per Month) \$75

Exchange Bulletin Subscription (Annual) \$200 [paper]per hard copy subscription; no charge for electronic delivery

Late Payment Penalty (Assessed to balances over 30 days old, per month, compounded) prime rate

Market Maker Failure to Change Appointment or Failure to meet in-person Trading Requirements (allowed 1 warning letter before fee) \$250 per quarter

ABIL Brokerage Billing \$.005 per contract, minimum \$50, maximum \$200 per month

ORS Analysis, Floor Efficiency Project or Market Penetration Reports \$100 per month

Ad Hoc Information Services Requests Production Costs

DPM requests for post modifications/equipment CBOE costs passed-through

Crowd Space Dispute Resolution Hearing Fee (per hearing, per member) \* \$1,000

\* The Crowd Space Dispute Resolution Hearing Fee is \$1,000 per hearing for each party to the dispute and will escalate under certain circumstances pursuant to CBOE Rule 24.21(e).

After the hearing is held and all rights of appeal are exhausted, the prevailing party in dispute shall obtain a refund of the Hearing Fee from the Exchange.

**Remainder of Fees Schedule – Unchanged.**

**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 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, Proposed Rule Change**

1. Purpose

The Exchange states that the Exchange and Regulatory Bulletin ("Bulletin") is a weekly publication of the Exchange that contains Exchange notices of a regulatory, administrative, operational and informational nature. Currently, the Exchange provides each member with either an e-mail or a hard copy subscription to the Bulletin free of charge. Non-members, and members who wish to receive additional hard copy subscriptions, are charged \$200 annually per hard copy subscription. There is no charge for e-mail delivery of the Bulletin.

In order to encourage even greater use of electronic delivery, the Exchange proposes to eliminate the complimentary hard copy subscription for members and assess a fee of \$200 per year for each hard copy subscription to the Bulletin.

The Exchange intends to implement the revised fee effective October 1, 2006.

2. Statutory Basis.

The Exchange believes that 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 an equitable allocation of reasonable dues, fees, and other charges among Exchange members and other persons using its 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 purposes of the Act.

**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 subparagraph (f)(2) of Rule 19b-4<sup>8</sup> thereunder, because it establishes or changes a due, fee, or other charges imposed by the Exchange. 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.

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

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

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

<sup>8</sup> 17 C.F.R. 240.19b-4(f)(2).

#### **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-2006-78 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-2006-78. 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 Section, 100 F Street, NE, Washington, DC 20549. 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-2006-78 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Nancy M. Morris  
Secretary

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