

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56660; File No. SR-CBOE-2007-115)

October 15, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change as Modified by Amendment No. 1 Thereto to Broaden the Application of Existing Transaction Fees for VIX Options to Options on All Volatility Indexes Calculated by CBOE

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 27, 2007, the Chicago Board Options Exchange, Incorporated (“CBOE” or the “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 October 4, 2007, CBOE filed Amendment No. 1 to the proposed rule change. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders it 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 Fees Schedule to broaden the application of its existing fees for transactions in CBOE Volatility Index (“VIX”) options to transactions in options on all volatility indexes that are calculated by the Exchange. 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 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.

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

1. Purpose

This rule change proposes to extend the existing fees for transactions in VIX options to options on all volatility indexes calculated by the Exchange. Currently, the established transaction fees for VIX options are: \$0.20 per contract for Market-Makers, Designated Primary Market-Makers and Remote Market-Makers;⁵ \$0.20 per contract for member firm proprietary transactions; \$0.25 per contract for manually executed broker-dealer transactions;⁶ \$0.45 per contract for electronically executed broker-dealer transactions (i.e., broker-dealer orders that are automatically executed on the CBOE Hybrid Trading System),⁷ and \$0.40 per contract for public customer transactions. In addition, there is a \$.04 surcharge fee currently assessed to non-public

⁵ This fee is set forth in the “Index Options” section at paragraph II of the Fees Schedule and is the standard rate that is subject to the Liquidity Provider Sliding Scale as set forth in Footnote 10 to the Fees Schedule.

⁶ This fee is set forth in the “Index Options” section at paragraph IV (4th bullet point) of the Fees Schedule.

⁷ This fee is set forth in the “Index Options” section at paragraph IV (5th bullet point) of the Fees Schedule. Broker-dealer manual and electronic transaction fees will apply to broker-dealer orders (orders with “B” origin code), non-member market-maker orders (orders with “N” origin code) and orders from specialists in the underlying security (orders with “Y” origin code).

customer transactions in VIX options.⁸

The Exchange believes the rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.⁹ The Exchange proposes to replace the two references to "VIX" in the Fees Schedule with the category "VOLATILITY INDEXES." The transaction fees for options on "VOLATILITY INDEXES" will apply to currently listed volatility index options and volatility index options to be listed in the future. The impetus for this rule change is the launch of options on the CBOE Nasdaq-100 Volatility Index ("VXN") and on the CBOE Russell 2000 Volatility Index ("RVX").¹⁰

The Exchange represents that the surcharge fee on all non-public customer transactions in options on volatility indexes is to help the Exchange recoup license fees the Exchange must pay to the respective reporting authorities for the options that the Exchange uses to calculate the volatility indexes (e.g., The Nasdaq Stock Market, Inc. and The Frank Russell Company). This surcharge fee is currently assessed on non-public customer transaction options on the Standard & Poor 100 Index ("OEX" and "XEO"), options on the Standard & Poor 500 Index ("SPX") and options on the VIX.

⁸ There is also a \$.04 surcharge fee assessed to non-public customers for options on the S&P 100 Index ("OEX" and "XEO") and for options on the S&P 500 Index ("SPX").

⁹ Linkage order fees are inapplicable for options on CBOE's proprietary volatility indexes.

¹⁰ The Exchange previously received Commission approval to list and trade VXN and RVX options. See Securities Exchange Act Release No. 49563 (April 14, 2004), 69 FR 21589 (April 21, 2004) (order approving SR-CBOE-2003-40 to list and trade VXN options); see also Securities Exchange Act Release No. 55425 (March 8, 2007), 72 FR 12238 (March 15, 2007) (order approving SR-CBOE-2006-73 to list and trade RVX options).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Section 6(b)(4)¹² of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

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

The foregoing proposed rule change is subject to Section 19(b)(3)(A)(ii) of the Act¹³ and subparagraph (f)(2) of Rule 19b-4 thereunder¹⁴ because it establishes or changes a due, fee, or other charge applicable only to a member imposed by a self-regulatory organization.

Accordingly, the proposal is effective upon Commission receipt of the filing. 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

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(4).

¹³ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁴ 17 CFR 240.19b-4(f)(2).

public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹⁵

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. Please include File Number SR-CBOE-2007-115 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-2007-115. 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

¹⁵ For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on October 4, 2007, the date on which CBOE filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

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 10:00 am and 3:00 pm. 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-2007-115 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.¹⁶

Nancy M. Morris
Secretary

¹⁶ 17 CFR 200.30-3(a)(12).