SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56231; File No. SR-CBOE-2007-73)

August 9, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order
Approving a Proposed Rule Change to Assess, on a Retroactive Basis, Certain CBOE and CBSX
Market Data Fees

On June 28, 2007, the Chicago Board Options Exchange, Incorporated ("CBOE" or

"Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to

Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")[1] and Rule

19b-4 thereunder,[2] a proposal to retroactively apply certain recently modified market data fees.

The proposal was published for comment in the Federal Register on July 10, 2007.[3] The

Commission received no comments on the proposal. This order approves the proposed rule

change.

The Exchange proposes to retroactively apply the recent increase in monthly fees for

enhanced TickerXpress ("TX")[4] market data from $200 per month to $300 per month and the

recently adopted fee of $100 per TX user per month for use of TX software for the use and display

of market data. The Exchange also proposes to retroactively apply CBSX's recently adopted

market data infrastructure fee, which is a monthly fee assessed to recoup fees paid to a third-

party market data vendor and other parties to help establish facilities at CBSX through which the

third-party market data vendor can provide CBSX participants with certain market data. The

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[1]   15 U.S.C. 78s(b)(1).

[2]   17 CFR 240.19b-4.

[3]   See Securities Exchange Act Release No. 56000 (July 2, 2007), 72 FR 37554.

[4]   TX is an Exchange service that supplies market data to Exchange market makers trading
        on the Hybrid Trading System.

market data infrastructure fee is equal to $19,400 divided by the number of CBSX participants

receiving the market data.

These changes in the Exchange's market data fees became effective on June 1, 2007,

pursuant to a previous rule change submitted by the Exchange.[5] The Exchange now proposes to

retroactively apply these fee changes for the period April 1, 2007, through May 31, 2007.

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.[6]

Specifically, the Commission finds that the proposal is consistent with Section 6(b)(4) of the

Act,[7] which requires the equitable allocation of reasonable dues, fees, and other charges among

Exchange members and other persons using Exchange facilities. In approving this proposal, the

Commission notes the Exchange's statements that: (1) retroactively applying the TX market

data fees will compensate the Exchange for its increased costs in providing the TX data and will

partially offset the license fees paid by the Exchange to its third-party provider for making the TX

software available to users during this time period; and (2) retroactively applying the market data

infrastructure fee will enable the Exchange to recoup the fees CBSX paid during this time period

for providing the infrastructure to make the market data available to CBSX participants.

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[5] See Securities Exchange Act Release No. 55882 (June 8, 2007), 72 FR 32931 (June 14, 2007) (notice of filing and immediate effectiveness of SR-CBOE-2007-54).

[6] 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).

[7] 15 U.S.C. 78f(b)(4).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR-CBOE-2007-73) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon
Deputy Secretary

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[8]   15 U.S.C. 78s(b)(2).

[9]   17 CFR 200.30-3(a)(12).