

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54803; File No. SR-CBOE-2006-97)

November 21, 2006

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend CBOE Rule 8.3 Relating to the Appointment Costs of Certain Classes

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 November 20, 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 CBOE. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ 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 CBOE Rule 8.3 to allow options on the Russell 2000 Index (RUT) to be traded on the Hybrid Trading System, and options on the iShares S&P 100 (OEF) to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The Exchange inadvertently included a reference to Section 19(b)(3)(A)(i) of the Act and Rule 19b-4(f)(1) thereunder. Pursuant to the Exchange’s request, Commission staff deleted this language and replaced it with the language set forth above. Telephone call between Patrick Sexton, Associate General Counsel, CBOE, and Sonia Trocchio, Special Counsel, Division of Market Regulation (“Division”), on November 21, 2006.

be traded on the Hybrid 2.0 Platform.⁶ The text of the proposed rule change is available on CBOE's Web site (www.cboe.com), at the CBOE'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 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 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

The purpose of this rule change is to amend CBOE Rule 8.3 in connection with CBOE's determination to trade options on the Russell 2000 Index (RUT) on the Hybrid Trading System, and options on the iShares S&P 100 (OEF) on the Hybrid 2.0 Platform.⁷ Specifically, CBOE proposes to amend CBOE Rule 8.3(c)(iv) to delete reference to RUT options and OEF options in the table listing the non-Hybrid option classes and their related appointment costs.

CBOE proposes to amend CBOE Rule 8.3(c)(ii) to specifically reference RUT options as an option class trading on the Hybrid Trading System, with an appointment cost of .25. CBOE proposes to have OEF options, as an option class trading on the Hybrid 2.0 Platform, fall within

⁶ The Exchange inadvertently stated that "CBOE proposes to increase the class quoting limit in the option class Research in Motion (RIMM)." Pursuant to the Exchange's request, Commission staff deleted this language and replaced it with the language set forth above. Telephone call between Patrick Sexton, Associate General Counsel, CBOE, and Sonia Trocchio, Special Counsel, Division, on November 21, 2006.

⁷ CBOE Rule 1.1(aaa) defines Hybrid Trading System and Hybrid 2.0 Platform.

the appointment cost structure set forth in CBOE Rule 8.3(c)(i). Based on its trading volume, OEF options initially would be included in Tier F with an appointment cost of .001. CBOE notes that these new appointment costs for RUT and OEF would be lower than their current appointment costs.⁸

2. Statutory Basis

Accordingly, CBOE believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.⁹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁰ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE 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 Exchange Act.

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

The Exchange neither received nor solicited written comments on the proposal

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of

⁸ RUT options currently have a non-Hybrid appointment cost of .45, and OEF options currently have a non-Hybrid appointment cost of .01.

⁹ 15 U.S.C. 78f(b).

the Act¹¹ and subparagraph (f)(6) of Rule 19b-4¹² thereunder because it does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of such 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.

Under Rule 19b-4(f)(6) of the Act,¹³ the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative date, so that the proposal may take effect upon filing. The Exchange believes that the proposed changes to CBOE Rule 8.3 that facilitate CBOE's determination to trade RUT options on the Hybrid Trading System and OEF options on the Hybrid 2.0 Platform raise no new or unique issues. CBOE has also noted that the proposed changes would lower the appointment costs for these options. The Commission agrees and, consistent with the protection of investors and the public interest, has determined to waive the

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ Id.

30-day operative date so that the proposal may take effect upon filing.¹⁴

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-2006-97 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-2006-97. 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 Room. Copies of

¹⁴ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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-2006-97 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.¹⁵

Nancy M. Morris
Secretary

¹⁵ 17 CFR 200.30-3(a)(12).