

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56937; File No. SR-CBOE-2007-127)

December 10, 2007

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Cancellation Fees

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 1, 2007, the Chicago Board Options Exchange, Incorporated (the “CBOE” or the “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 substantially prepared by the CBOE. On November 30, 2007, CBOE filed Amendment No. 1 to the proposed rule change. The CBOE has filed the proposed rule change as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice, as amended, 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

The CBOE proposes to (i) reduce the book execution fee in classes trading on the “Hybrid 3.0 Platform”, and (ii) amend its Order Routing System (“ORS”) order cancellation

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

fee. The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and <http://www.cboe.org/legal>.

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 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 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, the Proposed Rule Change

1. Purpose

The Exchange proposes to implement the following fee changes on November 1, 2007.

Hybrid 3.0 Book Execution Fee

On June 7, 2007, the Commission approved the Exchange's "Hybrid 3.0" trading platform.⁵ The remaining non-Hybrid classes trading on the Exchange have moved to the Hybrid 3.0 platform.⁶ The new Hybrid 3.0 classes no longer utilize the services of an Exchange Order Book Official ("OBO")⁷. Pursuant to Section 7 of the CBOE Fees

⁵ See Securities Exchange Act Release No. 55874 (June 7, 2007), 72 FR 32688 (June 13, 2007).

⁶ The classes that trade on the Hybrid 3.0 platform are options on the S&P 100 Index ("OEX"), options on the S&P 500 Index ("SPX") and options on the Morgan Stanley Retail Index ("MVR").

⁷ An "Order Book Official" is defined in CBOE Rule 7.1 as an Exchange employee designated pursuant to CBOE Rule 7.3 who is responsible for (i) maintaining the book with respect to the classes of options assigned to him; (ii) effecting proper

Schedule, the Exchange assessed per contract fees on orders in non-Hybrid index option classes resting in the electronic book that were executed on the floor by the OBO ("OBO Execution Fees"). These OBO Execution Fees are \$.25 per contract excluding market orders and certain limit orders entered prior to the opening rotation, and \$.10 per contract for accommodation liquidations (cabinet trades).⁸

The Exchange proposes to reduce the \$.25 per contract fee to \$.18 per contract, rename the fee "Hybrid 3.0 Book Execution Fee", and eliminate the \$.10 per contract fee for accommodation liquidations. The fee would apply to book executions in Hybrid 3.0 classes (currently, OEX, SPX and MVR). Specifically, orders in Hybrid 3.0 classes resting in the electronic book that are executed would be assessed a fee of \$.18 per contract. This fee would not apply to orders in SPX options resting in the SPX electronic book that are executed during opening rotation on the final settlement date of CBOE Volatility Index ("VIX") options and futures, as orders entered to participate in such opening rotation help to facilitate the calculation of a settlement price for VIX options and futures.⁹

The Hybrid 3.0 book execution system has helped to improve execution time as well as service and efficiency. The Hybrid 3.0 Book Execution Fee is designed to help the Exchange recover its costs of developing the system and offset the cost of maintaining and enhancing the system in the future.

executions of orders placed with him; (iii) displaying bids and offers pursuant to CBOE Rule 7.7 of these Rules; and (iv) monitoring the market for the classes of options assigned to him.

⁸ An "accommodation" or "cabinet" trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is conducted in accordance with CBOE Rule 6.54.

⁹ The opening rotation procedures in options series used to calculate the final settlement price of volatility indexes are described in CBOE Rule 6.2B.01.

ORS Order Cancellation Fee

CBOE currently assesses an executing clearing member \$1.50 for each cancelled public customer ORS order in excess of the number of public customer orders that the executing clearing member executes in a month for itself or for a correspondent firm. The purpose of the fee is to ease order backlogs on ORS and related systems. The fee is not charged if less than 500 public customer orders are cancelled in a month by the executing clearing member for itself or for a correspondent firm. The Exchange aggregates and counts as one executed order for purposes of the fee all public customer options orders from the same executing clearing member for itself or for a correspondent firm that are executed in the same series on the same side of the market at the same price within a 30 second period. The following ORS order activity is exempt from the fee: (i) cancelled ORS orders that improve the Exchange's prevailing bid-offer (BBO) market when received; and (ii) fill and cancellation activity occurring within the first one minute of trading following the opening of each option class.

The Exchange proposes to amend the fee by additionally exempting the following activity: (i) complex order¹⁰ fills and cancels; (ii) unfilled Fill-or-Kill (“FOK”) orders¹¹, and (iii) unfilled Immediate-or-Cancel (“IOC”) orders¹². Because this activity does not

¹⁰ “Complex Order” is defined in CBOE Rule 6.53C(a).

¹¹ “Fill-or-Kill” order is defined in CBOE Rule 6.53(j) as an order which is to be executed in its entirety as soon as it is represented in the trading crowd, and such order, if not so executed, is to be treated as cancelled.

¹² “Immediate-or-Cancel” order is defined in CBOE Rule 6.53(k) as a market or limit order which is to be executed in whole or in part as soon as such order is represented in the trading crowd. Any portion not so executed is to be treated as cancelled.

contribute excessively to system congestion the Exchange believes it is appropriate to exclude this activity from the calculation of the fee.

Additionally, the Exchange proposes to exempt from the fee fill and cancellation activity in Mini-SPX Index Options (XSP). CBOE intends to undertake a marketing re-launch of the XSP product due in part to the inclusion of XSP options in the expanded penny pilot program recently approved by the Commission.¹³ In conjunction with the marketing re-launch, CBOE has determined to exclude activity in XSP options from the calculation of the fee.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act¹⁴, in general, and furthers the objectives of Section 6(b)(4)¹⁵ 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

CBOE does not believe that the proposed rule change will 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.

¹³ See Securities and Exchange Act Release No. 56565 (September 27, 2007), 72 FR 56403 (October 3, 2007).

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(4).

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

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁶ and Rule 19b-4(f)(2)¹⁷ thereunder. At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such proposed 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.¹⁸

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-2007-127 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.

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 19b-4(f)(2).

¹⁸ For purposes of calculating the 60-day abrogation period, the Commission considers the abrogation period to have commenced on November 30, 2007.

All submissions should refer to File Number SR-CBOE-2007-127. 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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-2007-127 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.¹⁹

Florence E. Harmon
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).