

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57317; File No. SR-CBOE-2007-151)

February 12, 2008

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change Relating to Linkage Fees

I. Introduction

On December 20, 2007, Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its Options Intermarket Linkage ("Linkage") fees. The proposed rule change was published for comment in the Federal Register on January 9, 2008.³ The Commission received no comments on the proposal. This order approves the proposal.

II. Description of the Proposal

Under the Exchange's current Fees Schedule, Principal ("P") and Principal Acting as Agent ("P/A") orders⁴ are charged a transaction fee of \$.26 per contract.⁵ Satisfaction orders are not

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 57083 (January 2, 2008), 73 FR 1651.

⁴ Under the Plan for the Purpose of Creating and Operating an Options Intermarket Linkage ("Plan") and Exchange Rule 6.80(12), which tracks the language of the Plan, a "Linkage Order" means an Immediate or Cancel Order routed through the Linkage as permitted under the Plan. There are three types of Linkage Orders: (i) "P/A Order", which is an order for the principal account of a specialist (or equivalent entity or another Participant Exchange that is authorized to represent Public Customer orders), reflecting the terms of a related unexecuted Public Customer order for which the specialist is acting as agent; (ii) "P Order", which is an order for the principal account of an Eligible Market Maker and is not a P/A Order; and (iii) "Satisfaction Order," which is an order sent through the Linkage to notify a member of another Participant Exchange of a Trade-Through and to seek satisfaction of the liability arising from that Trade-Through.

⁵ Linkage orders in MNX, NDX and RUT options are also charged a \$.10 per contract surcharge fee. See CBOE Fees Schedule, Footnote 14.

assessed Exchange fees. Linkage fees are operating under a pilot program scheduled to expire on July 31, 2008. The Exchange has proposed to increase its Linkage transaction fee for P and P/A Orders from \$.26 per contract to \$.30 per contract.

III. Discussion

After careful review, 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 exchange⁶ and, in particular, the requirements of Section 6 of the Act.⁷ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(4),⁸ 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.

The Exchange has represented that the proposed fee increase would help the Exchange partially offset its costs of crediting Linkage fees and related costs to Designated Primary Market-Makers ("DPMs") pursuant to the Exchange's DPM Linkage Fees Credit Program.⁹ The Commission believes that the proposed increase in fees is reasonable for this purpose. Further, the Commission notes that the fees proposed by CBOE are commensurate with the fees charged by other options exchanges for Linkage Orders. Finally, the Commission notes that the Exchange's fees are operating under a pilot program in effect until July 31, 2008.¹⁰

⁶ The Commission has considered the proposed rule change's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4).

⁹ See CBOE Fees Schedule, Section 21.

¹⁰ See CBOE Fees Schedule, footnote 8.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-CBOE-2007-151) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon
Deputy Secretary

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).