

comment.<sup>13</sup> In addition, the Exchange believes that the OCC would seek to revise the ODD to incorporate CDSOs.<sup>14</sup> Further, CBOE clarified that the Exchange is working with OCC to develop procedures to address actions including full and partial redemptions, conversions to equities, bankruptcies, conversion to new series, and other actions. According to CBOE, the OCC intends to use a major data vendor to determine the market value of the underlying corporate debt securities of CDSOs. The data vendor will view TRACE and several other price reporting services to derive a composite price for each underlying security on a daily basis.

#### IV. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>15</sup> In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>16</sup> which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the listing rules proposed by CBOE for CDSOs are reasonable and consistent with the Act. The Commission notes that, for a CDSO to be listed, the underlying corporate debt security must, among other things, have substantial trading volume, initial principal amount, and outstanding float; the issuer of the corporate debt security must have at least one class of equity security registered under Section 12(b) of the Act; and such equity securities must satisfy the requirements for options trading on CBOE. These requirements are reasonably designed to facilitate investors' access to

information that may be necessary to price a CDSO appropriately.

The Commission believes that the proposed position limits and margin rules for CDSOs are reasonable and consistent with the Act. The proposed position limits reasonably balance the promotion of a free and open market for these securities with minimization of incentives for market manipulation and insider trading. The proposed margin rules are reasonably designed to deter a member or its customer from assuming an imprudent position in CDSOs.

In support of the proposed rule change, the Exchange has made the following representations:

1. The Exchange has sufficient operational capacity to accommodate the listing and trading of CDSOs.

2. The Exchange's surveillance procedures are adequate to properly monitor the trading of the CDSOs.

3. The Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the CDSOs.

4. The Exchange will delist CDSO series for which there is no open interest.

This approval order is conditioned on the Exchange's adherence to these representations.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>17</sup> that the proposed rule change (SR-CBOE-2003-41), as modified by Amendment No. 4, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56000; File No. SR-CBOE-2007-73]

#### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change To Assess, on a Retroactive Basis, Certain CBOE and CBSX Market Data Fees

July 2, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 28, 2007, 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, II, and III below, which Items have been substantially prepared by the Exchange. 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

The Exchange proposes to amend its Fees Schedule to assess, retroactive to April 1, 2007, fees relating to CBOE and CBOE Stock Exchange (“CBSX”) market data that were implemented on June 1, 2007. The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and [www.cboe.org/legal](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, 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 Exchange 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

On June 1, 2007, the Exchange implemented new fees relating to TickerXpress (“TX”), which is an Exchange service that supplies market data to Exchange market-makers trading on the Hybrid Trading System.<sup>3</sup> Specifically, the Exchange increased the monthly fee for enhanced TX market data from \$200 per month to \$300 per month and adopted a fee of \$100 per TX user per month for use of TX software for the use and display of market data. The Exchange proposes to assess these fees for the period April 1, 2007 through

<sup>13</sup> Telephone conversation between Jennifer L. Klebes, Senior Attorney, CBOE and Marc McKayle, Special Counsel, Division of Market Regulation, Commission, on June 28, 2007.

<sup>14</sup> See also Exchange Act Rule 9b-1(b)(2)(i) which requires the relevant option market to file material changes to the ODD with the Commission, if the ODD without such changes would become inaccurate, incomplete, or misleading.

<sup>15</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>16</sup> 15 U.S.C. 78s(b)(5).

<sup>17</sup> 15 U.S.C. 78s(b)(2).

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 55882 (June 8, 2007), 72 FR 32931 (June 14, 2007) (File No. SR-CBOE-2007-54).

May 31, 2007, to help compensate the Exchange for its increased costs in providing the TX data and to help 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.

On June 1, 2007, the Exchange adopted a monthly fee to recoup the fees CBSX pays 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.<sup>4</sup> The fee is equal to \$19,400 divided by the number of CBSX participants receiving the market data. The Exchange proposes to assess this fee for the period April 1, 2007 through May 31, 2007, to recoup the fees CBSX paid during this time period for providing the infrastructure to make the market data available to CBSX participants.

## 2. Statutory Basis

CBOE believes the proposed rule change is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>6</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

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

The Exchange does not believe that the proposed rule change would 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*

No written comments were solicited or received with respect to the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2007-73 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-2007-73. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. 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-2007-73 and should be submitted on or before July 31, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56005; File No. SR-ISE-2007-49]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change Relating to Fee Changes on a Retroactive Basis

July 3, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 15, 2007, the International Securities Exchange, LLC ("ISE" or "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 ISE. 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

ISE is proposing to amend its Schedule of Fees to: (1) Increase the per contract surcharge from \$0.10 per contract to \$0.15 per contract for options on the Russell 1000<sup>®</sup> Index ("RUI"), the Russell 2000<sup>®</sup> Index ("RUT"), and the Mini Russell 2000 Index ("RMN"); and (2) refund surcharge fees collected for transactions in options on the iShares Russell 2000<sup>®</sup> Index Fund ("IWM"), the iShares Russell 2000<sup>®</sup> Value Index Fund ("IWN"), the iShares Russell 2000<sup>®</sup> Growth Index Fund ("IWO"), the iShares Russell 1000<sup>®</sup> Value Index Fund ("IWD") and the iShares Russell 1000<sup>®</sup> Index Fund ("IWB"), in both cases for the period commencing January 1, 2007 and ending June 15, 2007 (the "Retroactive Period"). The Exchange proposes the surcharge increase to become effective retroactively, as of January 1, 2007.<sup>3</sup> The text of the

<sup>7</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> On June 15, 2007, the Exchange filed a proposed rule change as immediately effective under Section

<sup>4</sup> See *id.*

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(4).