

should be submitted on or before January 30, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57095; File No. SR-CBOE-2007-65]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Regarding Nullification and Modification of Transactions Executed on CBOE Stock Exchange

January 3, 2008.

On June 12, 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”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to make various revisions to CBOE Stock Exchange (“CBSX”) Rule 52.4, which governs the nullification and modification of transactions executed on CBSX. On November 8, 2007, the CBOE submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the *Federal Register* on November 27, 2007.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change as amended.

The Exchange proposes to revise CBSX Rule 52.4 to: (1) Require a request for review of a transaction to be made by only one of the following methods: telephone; facsimile; or e-mail (in order to simplify the process for those making requests); (2) require such a request to be made within thirty minutes of the trade in question, or within forty-five minutes of the trade if that trade occurred within the first thirty minutes of trading in the product involved in the trade (in order to give more time for requests which, based on the Exchange’s experience so far, is necessary); (3) give the individual(s) who reviews

transactions under the Rule the label of “designated official,” so that they need not be officers of the Exchange; and (4) eliminate the requirement that the notification to the parties to the trade of the official’s determination be given in writing and by the official. The aforementioned changes numbered (1) and (4) are based on, and conform CBSX Rule 52.4 to, NYSE Arca Equities Rules 7.10(b) and 7.10(c)(1), respectively.

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<sup>4</sup> and, in particular, the requirements of Section 6(b) of the Act<sup>5</sup> and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>6</sup> in that it is designed to promote just and equitable principles of trade, serve to remove impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The Commission believes that the Exchange’s proposal to revise its CBSX rule governing clearly erroneous transactions is appropriate.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (SR-CBOE-2007-65), as amended, is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57094; File No. SR-CBOE-2007-154]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Marketing Fee Program

January 3, 2008.

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

<sup>4</sup> In approving this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

(“Act”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 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. CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by CBOE under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 its Marketing Fee Program. The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and <http://www.cboe.com>.

#### 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. CBOE has substantially 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

CBOE proposes to amend its marketing fee program as follows. First, CBOE proposes to decrease the fee from \$.30 to \$.25 in the following Penny Pilot classes: equity options, OIH, SMH, XLE, and XLF. CBOE would continue to collect the marketing fee at the rate of \$.10 per contract in DIA and SPY, and not collect the marketing fee in QQQQ and IWM. CBOE believes that this change would allow CBOE Market-

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

<sup>9</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. 56818 (November 19, 2007), 72 FR 66205.