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 No. SR–BSE–2008–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BSE–2008–37. 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 a.m. and 3 p.m. Copies of such 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 No. SR–BSE–2008–37 and should be submitted on or before August 7, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–16348 Filed 7–16–08; 8:45 am]

BILLING CODE 8010–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58127; File No. SR–CBOE–2008–68]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the CBOE Fees Schedule

July 9, 2008.

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 June 30, 2008, 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 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[3] and Rule 19b–4(f)(2) thereunder,[4] 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 Fees Schedule to establish fees for transactions in binary options on broad-based indexes and to amend its marketing fee program. The Exchange also proposes to make a technical amendment by deleting all references to the obsolete term ''RMM'' from its Fees Schedule. 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

Establish Transaction Fees for Binary Options

The Exchange recently received approval to list and trade binary options on broad-based indexes, and the purpose of this rule change is to establish transaction fees for binary options on broad-based indexes.[5] The Exchange proposes to extend the existing fees for transactions in traditional index options to binary options on broad-based indexes. To affect the current proposal, the Exchange proposes to add a reference to ''binary options'' in Footnotes 1 and 6 in the CBOE Fees Schedule.

The amount of the transactions fees for binary options on broad-based indexes would be as follows:

- $0.20 per contract for Market-Maker, Designated Primary Market-Maker and Remote Market-Maker transactions;
- $0.20 per contract for member firm proprietary transactions;

The fees for broker-dealer transactions are as follows:

- $0.25 per contract for manually executed transactions other than OEX, XEO and SPX;
- $0.30 per contract for OEX or XEO;
- $0.40 per contract for SPX;
- $0.45 per contract for electronically executed transactions other than OEX, XEO and SPX (*i.e.*, broker-dealer orders that are automatically executed on the CBOE Hybrid Trading System);[6]

The fees for customer transactions shall be as follows:

- $0.18 per contract for transactions other than OEX, XEO, SPX, DXL and Volatility Indexes;
- $0.30 per contract for OEX or XEO;
- $0.35 per contract for SPX, premium < $1;
- $0.40 per contract for DXL and Volatility Indexes;
- $0.45 per contract for SPX, premium > or = $1;

[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).

[5] *See* Securities Exchange Act Release No. 57850 (May 22, 2008), 73 FR 31169 (May 30, 2008) (SR–CBOE–2006–105).

[6] Broker-dealer manual and electronic transaction fees would apply to broker-dealer orders (orders with ''B'' origin code), non-member market-maker orders (orders with ''N'' origin code) and orders from specialists in the underlying security (orders with ''Y'' origin code).

• $0.30 per contract for Linkage Orders; and

• $0.10 per contract CFLEX surcharge fee.

In addition, a surcharge fee of $0.06 would apply to non-public customer transactions in binary options on OEX, XEO, SPX, and Volatility Indexes, and a surcharge fee of $0.10 would apply to non-public customer transactions in binary options on DJX, DXL, MNX, NDX, and RUT. These surcharge fees help the Exchange recoup license fees the Exchange pays to the different reporting authorities in order to list options on the respective broad-based indexes.

The Exchange's Liquidity Provider Sliding Scale [7] would apply to transaction fees in binary options, but the Exchange's marketing fee [8] would not apply. The Exchange believes the rule change would further the Exchange's goal of introducing new products to the marketplace that are competitively priced. In order to promote the launch of binary options on broad-based indexes, the Exchange proposes to waive the applicable transactions fees beginning with the launch of trading on July 1, 2008 through October 1, 2008.

Amend Exchange's Marketing Fee Program

CBOE also proposes to amend its marketing fee program to assess the fee in XSP options at the rate of $0.10 per contract. XSP options are options based on the S&P 500® Index and have 1/10th the value of the S&P 500 index options. CBOE currently assesses its marketing fee at the rate of $0.10 per contract in SPY options, which are options on the SPDR exchange-traded fund (ETF) which is designed to track the performance of the S&P 500® Index. CBOE believes that assessing the marketing fee in XSP will allow CBOE Market-Makers, e-DPMs, or DPMs to compete better for order flow in XSP options class if it assessed the marketing fee in it, just as it assesses the fee in SPY options. CBOE proposes to implement this change to the marketing fee program beginning on July 1, 2008. CBOE is not amending its marketing fee program in any other respects.

Technical Change—Delete All References to ''RMM''

CBOE also proposes to make a technical amendment throughout its Fees Schedule. Specifically, CBOE proposes to delete all references to ''RMM,'' in light of the recent approval of SR–CBOE–2007–120, which filing deleted reference to RMM in CBOE's rules among other changes.[9]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [10] in general, and furthers the objectives of Section 6(b)(4) of the Act [11] 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

The Exchange 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 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

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act [12] and Rule 19b–4(f)(2) [13] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. 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.

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@gov.* Please include File Number SR–CBOE–2008–68 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2008–68. 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 on official business days between the hours of 10 a.m. and 3 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–2008–68 and should be submitted on or before August 7, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Acting Secretary.

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[7] *See* Footnote 10 of the CBOE Fees Schedule.

[8] *See* Footnote 6 of the CBOE Fees Schedule.

[9] *See* Securities Exchange Act Release No. 57615 (April 3, 2008), 73 FR 19537 (April 10, 2008) (SR–CBOE–2007–120).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).