

investors and the public interest because such waiver will allow the Exchange to continue its Pilot Program without interruption in its current form. The Commission notes that the Exchange did not provide a pilot program report to the Commission at least ninety days prior to the expiration date of the Pilot Program as the Exchange had undertaken to do as part of its original proposal.<sup>19</sup> Waiving the operative delay to accommodate an extension of the Pilot Program will provide investors with a continued ability to utilize the lower minimum value size for an opening transaction in a FLEX Equity Option series on Phlx and also will provide the Exchange with additional time to collect data and prepare and submit to the Commission a pilot program report in the event that it seeks to extend or permanently implement the Pilot Program.<sup>20</sup> For these reasons, the Commission designates the proposed rule change as operative upon filing.<sup>21</sup>

At any time within 60 days of the filing of the 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.<sup>22</sup>

#### 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-Phlx-2009-78 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission,

<sup>19</sup> See Securities Exchange Act Release No. 57824 (May 15, 2008), 73 FR 29805, 29806 (May 22, 2008) (SR-Phlx-2008-35).

<sup>20</sup> The Commission notes that the Exchange has undertaken in this filing to submit a pilot program report at least forty-five days prior to the expiration date of the Pilot Program.

<sup>21</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>22</sup> 15 U.S.C. 78s(b)(3)(C).

100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2009-78. 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 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-Phlx-2009-78 and should be submitted on or before October 5, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-21993 Filed 9-11-09; 8:45 am]

**BILLING CODE 8010-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-60629; File No. SR-CBOE-2009-063]**

#### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Temporary Membership Status and Interim Trading Permit Access Fees**

September 4, 2009.

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

(“Act”), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 31, 2009, the Chicago Board Options Exchange, Incorporated (“CBOE” or the “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 CBOE. CBOE has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member under Section 19(b)(3)(A)(ii) of the Act,<sup>1</sup> and Rule 19b-4(f)(2) thereunder,<sup>2</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 parties.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

CBOE proposes to adjust (i) the monthly access fee for persons granted temporary CBOE membership status (“Temporary Members”) pursuant to Interpretation and Policy .02 under CBOE Rule 3.19 (“Rule 3.19.02”) and (ii) the monthly access fee for Interim Trading Permit (“ITP”) holders under CBOE Rule 3.27. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/Legal/>), at the Exchange's Office of the Secretary, and at the Commission.

#### **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 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, Proposed Rule Change*

##### (a) Purpose

The current access fee for Temporary Members under Rule 3.19.02<sup>3</sup> and the

<sup>1</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

<sup>3</sup> See Securities Exchange Act Release No. 56458 (September 18, 2007), 72 FR 54309 (September 24,

<sup>23</sup> 17 CFR 200.30-3(a)(12).

current access fee for ITP holders under Rule 3.27<sup>4</sup> are both \$11,310 per month. Both access fees are currently set at the indicative lease rate (as defined below) for August 2009. The Exchange proposes to adjust both access fees effective at the beginning of September 2009 to be equal to the indicative lease rate for September 2009 (which is \$11,287). Specifically, the Exchange proposes to revise both the Temporary Member access fee and the ITP access fee to be \$11,287 per month commencing on September 1, 2009.

The indicative lease rate is defined under Rule 3.27(b) as the highest clearing firm floating monthly rate<sup>5</sup> of the CBOE Clearing Members that assist in facilitating at least 10% of the CBOE transferable membership leases.<sup>6</sup> The Exchange determined the indicative lease rate for September 2009 by polling each of these Clearing Members and obtaining the clearing firm floating monthly rate designated by each of these Clearing Members for that month.

The Exchange used the same process to set the proposed Temporary Member and ITP access fees that it used to set the current Temporary Member and ITP access fees. The only difference is that the Exchange used clearing firm floating monthly rate information for the month of September 2009 to set the proposed access fees (instead of clearing firm floating monthly rate information for the month of August 2009 as was used to set the current access fees) in order to take into account changes in clearing firm floating monthly rates for the month of September 2009.

The Exchange believes that the process used to set the proposed Temporary Member access fee and the proposed Temporary Member access fee itself are appropriate for the same reasons set forth in CBOE rule filing SR-CBOE-2008-12 with respect to the original Temporary Member access fee.<sup>7</sup>

2007) (SR-CBOE-2007-107) for a description of the Temporary Membership status under Rule 3.19.02.

<sup>4</sup> See Securities Exchange Act Release No. 58178 (July 17, 2008), 73 FR 42634 (July 22, 2008) (SR-CBOE-2008-40) for a description of the Interim Trading Permits under Rule 3.27.

<sup>5</sup> Rule 3.27(b) defines the clearing firm floating monthly rate as the floating monthly rate that a Clearing Member designates, in connection with transferable membership leases that the Clearing Member assisted in facilitating, for leases that utilize that monthly rate.

<sup>6</sup> The concepts of an indicative lease rate and of a clearing firm floating month rate were previously utilized in the CBOE rule filings that set and adjusted the Temporary Member access fee. Both concepts are also codified in Rule 3.27(b) in relation to ITPs.

<sup>7</sup> See Securities Exchange Act Release No. 57293 (February 8, 2008), 73 FR 8729 (February 14, 2008) (SR-CBOE-2008-12), which established the original Temporary Member access fee, for detail regarding the rationale in support of the original

Similarly, the Exchange believes that the process used to set the proposed ITP access fee and the proposed ITP access fee itself are appropriate for the same reasons set forth in CBOE rule filing SR-CBOE-2008-77 with respect to the original ITP access fee.<sup>8</sup>

Each of the proposed access fees will remain in effect until such time either that the Exchange submits a further rule filing pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>9</sup> to modify the applicable access fee or the applicable status (*i.e.*, the Temporary Membership status or the ITP status) is terminated.

Accordingly, the Exchange may, and likely will, further adjust the proposed access fees in the future if the Exchange determines that it would be appropriate to do so taking into consideration lease rates for transferable CBOE memberships prevailing at that time.

The procedural provisions of the CBOE Fee Schedule related to the assessment of each proposed access fee are not proposed to be changed and will remain the same as the current procedural provisions relating to the assessment of that access fee.

#### (b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>11</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among 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.

Temporary Member access fee and the process used to set that fee, which is also applicable to this proposed change to the Temporary Member access fee as well.

<sup>8</sup> See Securities Exchange Act Release No. 58200 (July 21, 2008), 73 FR 43805 (July 28, 2008) (SR-CBOE-2008-77), which established the original ITP access fee, for detail regarding the rationale in support of the original ITP access fee and the process used to set that fee, which is also applicable to this proposed change to the ITP access fee as well.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(4).

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

Because the foregoing 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 Act<sup>12</sup> and subparagraph (f)(2) of Rule 19b-4<sup>13</sup> thereunder. At any time within 60 days of the filing of the 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@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2009-063 on the subject line.

#### Paper Comments

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

All submissions should refer to File Number SR-CBOE-2009-063. 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

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

Section, 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 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-2009-063 and should be submitted on or before October 2, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

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

[FR Doc. E9-21994 Filed 9-11-09; 8:45 am]

BILLING CODE 8010-01-P

## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2009-0005]

### Privacy Act of 1974, as Amended; Computer Matching Program (SSA/ Department of Veterans Affairs/ Veterans Benefits Administration (VA/ VBA))—Match Number 1008

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a renewal of an existing computer matching program that is scheduled to expire on October 8, 2009.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with VA/VBA.

**DATES:** We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). Renewal of the matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefaxing to (410) 965-0201 or writing to the Deputy Commissioner for Budget, Finance and Management, 800 Altmeyer Building, 6401 Security Boulevard,

Baltimore, MD 21235-6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Deputy Commissioner for Budget, Finance and Management as shown above.

#### SUPPLEMENTARY INFORMATION:

##### A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state, or local government records. It requires Federal agencies involved in computer matching programs to:

- (1) Negotiate written agreements with the other agency or agencies participating in the matching programs;
- (2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;
- (3) Publish notice of the computer matching program in the **Federal Register**;
- (4) Furnish detailed reports about matching programs to Congress and OMB;
- (5) Notify applicants and beneficiaries that their records are subject to matching; and
- (6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

##### B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: July 2, 2009.

**Mary Glenn-Croft,**

*Deputy Commissioner for Budget, Finance and Management.*

### Notice of Computer Matching Program, Social Security Administration (SSA) With the Department of Veterans Affairs/Veterans Benefits Administration (VA/VBA)

#### A. Participating Agencies

SSA and VA/VBA.

#### B. Purpose of the Matching Program

The purpose of this matching program is to establish the conditions under which VA agrees to disclose VA compensation and pension payment data to us for the purpose of identifying certain Supplemental Security Income and Special Veterans Benefit recipients under titles XVI and VIII of the Social Security Act (Act) respectively, who receive VA administered benefits. The disclosure will also enable us to efficiently implement a Medicare outreach program mandated by section 1144 of title XI of the Act.

#### C. Authority for Conducting the Matching Program

The legal authority for us to conduct this computer matching is found in sections 1631(e)(1)(B) and 1631(f) of the Act, 42 U.S.C. 1383(e)(1)(B) and 1383(f), section 806(b) of the Act, 42 U.S.C. 1006(b), and section 1144 of the Act, 42 U.S.C. 1320b-14.

The legal authority for VA to disclose information for this computer matching is found in section 1631(f) of the Act, 42 U.S.C. 1383(f).

#### D. Categories of Records and Individuals Covered by the Matching Program

On the basis of certain identifying information as provided by us to VA, VA will provide us with electronic files containing compensation and pension payment data from its system of records entitled the "Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA (58VA21/22/28)," first published at 74 FR 29275 (June 19, 2009). We will match the VA data with SSI/SVB payment information maintained in our system of records entitled "Supplemental Security Income Record and Special Veterans Benefits (SSA/OASSIS 60-0103)."

#### E. Inclusive Dates of the Matching Program

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after

<sup>14</sup> 17 C.F.R. 200.30-3(a)(12).