

change with the Commission each time the SRO whose rules are incorporated by reference seeks to modify its rules. In addition, each such exempt SRO incorporated by reference only regulatory rules (*i.e.*, margin, suitability, arbitration), not trading rules, and incorporated by reference whole categories of rules. Each such exempt SRO had reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO in order to provide its members with notice of a proposed rule change that affects their interests, so that they would have an opportunity to comment on it.

The Commission is granting C2's request for exemption, pursuant to Section 36 of the Act, from the rule filing requirements of Section 19(b) of the Act with respect to the rules that C2 proposes to incorporate by reference. This exemption is conditioned upon C2 providing written notice to its members whenever CBOE proposes to change a rule that C2 has incorporated by reference. The Commission believes that this exemption is appropriate in the public interest and consistent with the protection of investors because it will promote more efficient use of Commission and SRO resources by avoiding duplicative rule filings based on simultaneous changes to identical rules sought by more than one SRO. Consequently, the Commission grants C2's exemption request.

V. Conclusion

It is ordered that the application of C2 for registration as a national securities exchange be, and hereby is, granted.

It is further ordered that operation of C2 is conditioned on the satisfaction of the following requirements:

A. *Participation in National Market System Plans Relating to Options Trading.* C2 must join: (1) The Plan for the Reporting of Consolidated Options Last Sale Reports and Quotation Information (*i.e.*, the Options Price Reporting Authority); (2) the OLPP; (3) the Linkage Plan;¹⁸⁵ and (4) the Plan of the Options Regulatory Surveillance Authority.

B. *Participation in Multiparty 17d-2 Plans.* C2 must become a party to the multiparty 17d-2 agreements concerning sales practice regulation and market surveillance.¹⁸⁶

C. *Participation in the Options Clearing Corporation.* C2 must join the Options Clearing Corporation.

D. *Participation in the Intermarket Surveillance Group.* C2 must join the Intermarket Surveillance Group.

E. *Examination by the Commission.* C2 must have, and represent in a letter to the staff in the Commission's Office of Compliance Inspections and Examinations that it has, adequate procedures and programs in place to effectively regulate C2.

It is further ordered, pursuant to Section 36 of the Act,¹⁸⁷ that C2 shall be exempt from the rule filing requirements of Section 19(b) of the Act¹⁸⁸ with respect to the CBOE rules C2 proposes to incorporate by reference into C2's rules, subject to the conditions specified in this Order.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9-29877 Filed 12-15-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA-2959; File No. S7-29-09]

Approval of Investment Adviser Registration Depository Filing Fees

AGENCY: Securities and Exchange Commission.

ACTION: Order; request for comment.

SUMMARY: The Securities and Exchange Commission ("Commission" or "SEC") is, for one year, reducing Investment Adviser Registration Depository annual and initial filing fees that will be charged beginning January 1, 2010 through December 31, 2010.

DATES: *Effective Date:* The order will become effective on January 1, 2010.

Comment Due Date: Comments should be received on or before February 1, 2010.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/other.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number S7-29-09 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.

¹⁸⁷ 15 U.S.C. 78mm.

¹⁸⁸ 15 U.S.C. 78s(b).

All submissions should refer to File Number S7-29-09. This file number should be included on the subject line if e-mail is used. To help us 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/other.shtml>). Comments are also available for public 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT:

Keith Kanyan, IARD System Manager, at 202-551-6737, or Iarules@sec.gov, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-8549.

SUPPLEMENTARY INFORMATION: Section 204(b) of the Investment Advisers Act of 1940 ("Advisers Act") authorizes the Commission to require investment advisers to file applications and other documents through an entity designated by the Commission, and to pay reasonable costs associated with such filings.¹ In 2000, the Commission designated the Financial Industry Regulatory Authority Regulation, Inc. ("FINRA") as the operator of the Investment Adviser Registration Depository ("IARD") system. At the same time, the Commission approved, as reasonable, filing fees.² The Commission later required advisers registered or registering with the SEC to file Form ADV through the IARD.³ Over 11,000 advisers now use the IARD to register with the SEC and make state notice filings electronically through the Internet.

Commission staff, representatives of the North American Securities Administrators Association, Inc. ("NASAA"),⁴ and representatives of

¹ 15 U.S.C. 80b-4(b).

² Designation of NASD Regulation, Inc., to Establish and Maintain the Investment Adviser Registration Depository; Approval of IARD Fees, Investment Advisers Act Release No. 1888 (July 28, 2000) [65 FR 47807 (Aug. 3, 2000)]. FINRA was formerly known as NASD.

³ Electronic Filing by Investment Advisers; Amendments to Form ADV, Investment Advisers Act Release No. 1897 (Sept. 12, 2000) [65 FR 57438 (Sept. 22, 2000)].

⁴ The IARD system is used by both advisers registering or registered with the SEC and advisers

¹⁸⁵ See Linkage Plan, *supra* note 78.

¹⁸⁶ See *supra* note 111 (citing to the most recent versions of the two plans). See also *infra* Section III.C.3 (Multiparty 17d-2 Agreements); and 17 CFR 240.17d-2.

FINRA periodically hold discussions on IARD system finances. In the early years of operations, SEC-associated IARD revenues exceeded projections while SEC-associated IARD expenses were lower than estimated, resulting in a surplus. In 2005, FINRA wrote a letter to SEC staff recommending a waiver of annual fees for a one-year period.⁵ The Commission concluded that this was appropriate and waived annual fees.⁶ In 2006, 2008, and 2009 FINRA wrote to the staff again, recommending a two-year, a nine-month, and a five-month waiver, respectively, of all fees to continue to reduce the surplus.⁷ The Commission agreed and issued orders waiving all IARD fees.⁸ As a result of these four waivers, which waived a total of \$18 million in filing fees, the surplus was reduced from \$9 million in 2005 to approximately \$3 million today.

FINRA has again written to Commission staff, recommending reduced annual and initial IARD filing fees for a period of one year commencing on January 1, 2010. The recommended annual filing fees due beginning January 1, 2010 are \$40 for advisers with assets under management under \$25 million; \$150 for advisers with assets under management from \$25 million to \$100 million; and \$200 for advisers with assets under management over \$100 million. The recommended initial IARD filing fees due beginning January 1, 2010 are \$40 for advisers with assets under management under \$25 million; \$150 for advisers with assets under management from \$25 million to \$100 million; and \$200 for advisers with assets under management over \$100 million. Based on projections of expected revenues and expenses, the Commission believes these reduced fee levels would be reasonable for this year, as the Commission projects that they

registered or registering with one or more state securities authorities. NASAA represents the state securities administrators in setting IARD filing fees for state-registered advisers.

⁵ NASD letter dated September 9, 2005, available at <http://www.sec.gov/rules/other/nasdlet090905.pdf>.

⁶ Approval of Investment Adviser Registration Depository Filing Fees, Investment Advisers Act Release No. 2439 (Oct. 7, 2005) [70 FR 59789 (Oct. 13, 2005)].

⁷ NASD letter dated October 13, 2006 and FINRA letters dated October 10, 2008 and July 8, 2009 available at <http://www.sec.gov/rules/other/2006/nasdletter101306-iardfee.pdf>, <http://www.sec.gov/rules/other/2008/finraletter101008-iardfees.pdf>, and <http://www.sec.gov/rules/other/2009/finraletter070809-iardfees.pdf>, respectively.

⁸ Approval of Investment Adviser Registration Depository Filing Fees, Investment Advisers Act Release No. 2564 (Oct. 26, 2006), Investment Advisers Act Release No. 2806 (Oct. 30, 2008) [73 FR 65900 (Nov. 5, 2008)], and Investment Advisers Act Release No. 2909 (July 31, 2009) [74 FR 39352 (Aug. 6, 2009)].

will provide adequate funding to cover IARD system expenditures.⁹ This action is expected to reduce aggregate filing fees that SEC-registered advisers would incur by approximately \$2 million annually compared to the filing fees that would be collected based on the fee levels established in 2000. The revised filing fees will apply to all annual updating amendments filed by SEC-registered advisers beginning January 1, 2010 and to all initial applications for registration filed by advisers applying for SEC registration beginning January 1, 2010. The Commission will reassess the fee levels prior to the end of the one-year period and welcomes any comments on the fee levels, including whether the reduced fee levels in this Order would be appropriate as permanent fee levels.

It is therefore ordered, pursuant to Sections 204(b) and 206(A) of the Investment Advisers Act of 1940, that:

For annual updating amendments to Form ADV filed from January 1, 2010 through December 31, 2010, the filing fee due from SEC-registered advisers is \$40 for advisers with assets under management under \$25 million; \$150 for advisers with assets under management from \$25 million to \$100 million; and \$200 for advisers with assets under management over \$100 million.

For initial applications to register as an investment adviser with the SEC filed from January 1, 2010 through December 31, 2010, the filing fee due from SEC-registered advisers is \$40 for advisers with assets under management under \$25 million; \$150 for advisers with assets under management from \$25 million to \$100 million; and \$200 for advisers with assets under management over \$100 million.

By the Commission.

Dated: December 10, 2009.

Elizabeth M. Murphy,

Secretary.

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⁹ The previous initial filing fees were \$150 for advisers with assets under management under \$25 million; \$800 for advisers with assets under management from \$25 million to \$100 million; and \$1,100 for advisers with assets under management over \$100 million. The previous annual filing fees were \$100 for advisers with assets under management under \$25 million; \$400 for advisers with assets under management from \$25 million to \$100 million; and \$550 for advisers with assets under management over \$100 million.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61136; File No. SR-CBOE-2009-022]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade S&P 500 Dividend Index Options

December 10, 2009.

I. Introduction

On March 25, 2009, 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”)¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade cash-settled options that overlie the S&P 500 Dividend Index. The proposed rule change was published for comment in the **Federal Register** on April 6, 2009.³ On May 4, 2009, the Commission received one comment on the proposal.⁴ On May 19, 2009, the Exchange responded to the comment letter⁵ and filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, and simultaneously is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal

CBOE proposes to list and trade cash-settled, European-style options that overlie the S&P 500 Dividend Index.

Index Design

The S&P 500 Dividend Index represents the accumulated ex-dividend amounts of all S&P 500 Index component securities over a specified accrual period. Each day Standard & Poor’s calculates the aggregate daily dividend totals for the S&P 500 Index

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59667 (March 31, 2009), 74 FR 15528 (“Notice”).

⁴ See e-mail from Julian E. Hammar, Assistant General Counsel, Commodity Futures Trading Commission (“CFTC”), to James Eastman, Chief Counsel and Associate Director, and Elizabeth King, Associate Director, Division of Trading and Markets, Commission, dated May 4, 2009 (“CFTC Comment Letter”).

⁵ See letter from Jenny L. Klebes, Senior Attorney, CBOE, to Elizabeth M. Murphy, Secretary, Commission, dated May 19, 2009.