

diversification of each entity's portfolio, the estimated income tax effects of the purchase on each entity, the amount of funds of each entity available for investment, and the length of time such funds have been available for investment.

Applicants' Legal Analysis

1. Applicants believe that the Funds will not be "investment companies" under sections 3(a)(1)(A) or 3(a)(1)(C) of the Act. If the Funds are deemed to be investment companies, however, applicants request an exemption under section 6(c) and 6(e) of the Act from all provisions of the Act, except sections 37 through 53 of the Act and the rules and regulations under those sections, except rule 38a-1 thereunder.

2. Section 3(a)(1)(A) of the Act provides that an issuer is an "investment company" if it is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. Applicants believe that the Funds will not be investment companies under section 3(a)(1)(A) because each Fund will be in the business of investing in and being a beneficial owner of Apartment Complexes, not securities.

3. Section 3(a)(1)(C) of the Act provides that an issuer is an "investment company" if it is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire "investment securities" having a value exceeding 40% of the value of such issuer's total assets (exclusive of Government securities and cash items). Applicants state that although the Local Limited Partnership interests may be deemed "investment securities," they are not readily marketable, cannot be sold without severe adverse tax consequences, and have no value apart from the value of the Apartment Complexes owned by the Local Limited Partnerships.

4. Applicants believe that the two-tier structure is consistent with the purposes and criteria set forth in the Commission's release concerning two-tier real estate partnerships (the "Release").¹ The Release states that investment companies that are two-tier real estate partnerships that invest in limited partnerships engaged in the development and operation of housing for low and moderate income persons may qualify for an exemption from the Act pursuant to section 6(c). Section

6(c) provides that the Commission may exempt any person from any provision of the Act and any rule thereunder, if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 6(e) permits the Commission to require companies exempted from the registration requirements of the Act to comply with certain specified provisions of the Act as though the company were a registered investment company.

5. The Release lists two conditions, designed for the protection of investors, which must be satisfied by two-tier partnerships to qualify for the exemption under section 6(c). First, interests in the issuer should be sold only to persons for whom investments in limited profit, essentially tax shelter, investments would not be unsuitable. Second, requirements for fair dealing by the general partner of the issuer with the limited partners of the issuer should be included in the basic organizational documents of the company.

6. Applicants represent that Units will be sold only to persons for whom investment in limited profit, essentially tax shelter, investments would be suitable. Applicants further state that the requirements for fair dealing by the Manager with the Members are included in the basic organizational documents of each Fund. Applicants assert, among other things, that the suitability standards set forth in the application, the requirements for fair dealing provided by the Operating Agreement, and pertinent governmental regulations imposed on each Local Limited Partnership by various Federal, state, and local agencies provide protection to Accredited Investors in Units. In addition, applicants assert that the requested exemption is both necessary and appropriate in the public interest.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Cathy H. Ahn,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange

Commission will hold a Closed Meeting on Thursday, July 14, 2011 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Walter, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, July 14, 2011 will be:

Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings;
Adjudicatory matters; and
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: July 7, 2011.

Elizabeth M. Murphy,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64817; File No. SR-CBOE-2011-059]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Extension of the Waiver of the Transaction Fee for Public Customer Orders in SPY Options Executed in Open Outcry or in the Automated Improvement Mechanism

July 6, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,²

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹ Investment Company Act Release No. 8456 (Aug. 9, 1974).

notice is hereby given that on June 29, 2011, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange 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 Act³ 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

The Exchange proposes to amend its Fees Schedule to extend through September 30, 2011, a waiver of the transaction fee for public customer orders in options on Standard & Poor's Depositary Receipts that are executed in open outcry or in the Automated Improvement Mechanism. 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, the self-regulatory organization 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 those 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently waives the \$.18 per contract transaction fee for public customer ("C" origin code) orders in options on Standard & Poor's Depositary Receipts ("SPY options") that are executed in open outcry or in the Automated Improvement

Mechanism ("AIM").⁵ This fee waiver is due to expire on June 30, 2011. The Exchange proposes to extend the fee waiver through September 30, 2011.⁶ The proposed fee waiver is intended to attract more customer volume on the Exchange in this product.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act,⁷ in general, and furthers the objectives of Section 6(b)(4)⁸ of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE Trading Permit Holders and other persons using its facilities. The Exchange believes the proposed extension of the fee waiver is equitable because the fee waiver would apply uniformly to all public customers trading SPY options. The Exchange believes the proposed extension of the fee waiver is reasonable because it would continue to provide cost savings during the extended waiver period for public customers trading SPY options. Further, the Exchange believes the proposed fee waiver is consistent with other fees assessed [sic] by the Exchange. Specifically, the Exchange assesses manually executed broker-dealer orders a different rate (\$.25 per contract) as compared to electronically executed broker-dealer orders (\$.45 per contract).⁹ Other exchange fee schedules also distinguish between electronically and non-electronically executed orders.¹⁰

⁵ See Securities Exchange Act Release No. 34-62902 (September 14, 2010), 75 FR 57313 (September 20, 2010), Securities Exchange Act Release No. 34-63422 (December 3, 2010), 75 FR 76770 (December 9, 2010), Securities Exchange Act Release No. 34-64197 (April 6, 2011), 76 FR 20390 (April 12, 2011) and CBOE Fees Schedule, footnote 8. AIM is an electronic auction system that exposes certain orders electronically in an auction to provide such orders with the opportunity to receive an execution at an improved price. AIM is governed by CBOE Rule 6.74A.

⁶ The Exchange notes that transaction fees are also currently waived for customer orders of 99 contracts or less in ETF (including SPY options), ETN and HOLDRs options. See CBOE Fees Schedule, footnote 9.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4).

⁹ See CBOE Fees Schedule, Section 1.

¹⁰ NASDAQ OMX PHLX, Inc. categorizes its equity options transaction fees for Specialists, ROTs, SQTs, RSQTs and Broker-Dealers as either electronic or non-electronic. See NASDAQ OMX PHLX Fees Schedule, Equity Options Fees. NYSE Amex, Inc. categorizes its options transaction fees for Non-NYSE Amex Options Market Makers, Broker-Dealers, Professional Customers, Non BD Customers and Firms as either electronic or manual. See NYSE Amex Options Fees Schedule, Trade Related Charges. NYSE Arca, Inc. categorizes its options transaction fees for Customers, Firms and Broker-Dealers as either electronic or manual. See

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 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 proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A) of the Act¹¹ and subparagraph (f)(2) of Rule 19b-4¹² thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. Please include File Number SR-CBOE-2011-059 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-2011-059. This file number should be included on the subject line if e-mail is used. To help the

NYSE Arca Options Fees Schedule, Trade Related Charges.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(2).

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

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 Web site viewing and printing 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-2011-059 and should be submitted on or before August 2, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011-17425 Filed 7-11-11; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64816; File No. PCAOB-2011-02]

Public Company Accounting Oversight Board; Notice of Filing of Proposed Board Funding Final Rules for Allocation of the Board's Accounting Support Fee Among Issuers, Brokers, and Dealers, and Other Amendments to the Board's Funding Rules

July 6, 2011.

Pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (the "Act"), notice is hereby given that on June 21, 2011, the Public Company Accounting Oversight Board (the "Board" or the "PCAOB") filed with the Securities and Exchange Commission (the "Commission") the proposed rules described in Items I and II below, which

items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rules from interested persons.

I. Board's Statement of the Terms of Substance of the Proposed Rules

On June 14, 2011, the Board adopted amendments to its rules relating to the funding of the Board's operations (PCAOB Rules 7100 through 7106), and amended certain definitions that would appear in PCAOB Rule 1001, related to Section 109 of the Sarbanes-Oxley Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act¹ (the "Dodd-Frank Act") (collectively, "the proposed rules"). The text of the proposed rules is set out below (additions are italicized; deletions are in [brackets]).

RULES OF THE BOARD

SECTION 1. GENERAL PROVISIONS

* * *

Rule 1001. Definitions of Terms Employed in Rules.

* * *

(a)(i) [Accounting Support Fee] *[Reserved]*

[The term "Accounting Support Fee" means the fee described in Rule 7100 Sarbanes-Oxley Act of 2002, as amended.]

(a)(iii) Act

The term "Act" means the Sarbanes-Oxley Act of 2002, as amended.

* * *

(b)(iii) Broker

The term "broker" means a broker (as defined in Section 3(a)(4) of the Exchange Act), that is required to file a balance sheet, income statement, or other financial statement under Section 17(e)(1)(A) of that Act, where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.

(b)(iv) Broker-Dealer Accounting Support Fee

The term "broker-dealer accounting support fee" means the portion of the accounting support fee established by the Board that is to be allocated among brokers and dealers pursuant to the rules of the Board.

* * *

(c)(iii) Common Equity

The term "common equity" means any class of common stock or an equivalent interest, including but not limited to a unit of beneficial interest in a trust or a limited partnership interest.

* * *

(d)(iii) Dealer

The term "dealer" means a dealer (as defined in Section 3(a)(5) of the Exchange Act), that is required to file a balance sheet, income statement, or other financial

statement under Section 17(e)(1)(A) of that Act, where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.

* * *

(i)(i) Issuer Market Capitalization

The terms "issuer market capitalization" and "market capitalization of an issuer" mean—

(1) Except as provided in paragraph (i)(i)(2) of this rule, the aggregate market value of all classes of an issuer's voting and non-voting common [common stock]equity that trade in the United States; or

(2) With respect to an issuer: (i) that is registered under Section 8 of the Investment Company Act or has elected to be regulated as a business development company pursuant to Section 54 of the Investment Company Act, and (ii) whose securities are not traded on a national securities exchange or whose [quoted on Nasdaq]share price is not otherwise publicly available, the issuer's net asset value.

(i)(v) Issuer Accounting Support Fee

The term "issuer accounting support fee" means the portion of the accounting support fee established by the Board that is to be allocated among issuers pursuant to the rules of the Board.

* * *

(i)(n)(vi) [Notice]Invoice

The term "[notice]invoice" means the document sent by the Board to an issuer, broker, or dealer, pursuant to Rule 7103[2], setting forth such issuer's, broker's, or dealer's share of the accounting support fee under Section 109 of the Act and Rules 7101, [and]7102, and 7103.

* * *

(s)(v) Self-Regulatory Organization

The term "self-regulatory organization" means any national securities exchange, registered securities association, or registered clearing agency, or (solely for purposes of Sections 19(b), 19(c), and 23(b) of the Exchange Act) the Municipal Securities Rulemaking Board established by Section 15B of the Exchange Act.

* * *

(t)(ii) Tentative Net Capital

The term "tentative net capital" has the same meaning as such term is defined under Rule 15c3-1(c)(15) under the Exchange Act.

(t)(iii) Total Accounting Support Fee

The term "total accounting support fee" means the fee described in Rule 7100.

* * *

SECTION 7. FUNDING

* * *

Rule 7100. Accounting Support Fees.

The Board shall [calculate]establish a total[n] accounting support fee each year in accordance with the Act. The total accounting support fee shall be equitably allocated between issuers (the "issuer accounting support fee") and brokers and dealers (the "broker-dealer accounting support fee"). [The accounting support fee

¹ Public Law 111-203, 124 Stat. 1376 (July 21, 2010).

¹³ 17 CFR 200.30-3(a)(12).