

## OMB APPROVAL

OMB Number: 3235-0045  
Expires: June 30, 2007  
Estimated average burden  
hours per response.....38

Page 1 of 31

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. SR - 2007 - 21  
Amendment No. 1

Proposed Rule Change by Chicago Board Options Exchange  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input type="checkbox"/>	Amendment <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
			Rule		
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action <input type="checkbox"/>	Date Expires <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document  
☐

Exhibit 3 Sent As Paper Document  
☐

**Description**

Provide a brief description of the proposed rule change (limit 250 characters).

**Contact Information**

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Jennifer Last Name Klebes  
Title Senior Attorney  
E-mail klebes@cboe.com  
Telephone (312) 786-7466 Fax (312) 786-7919

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date 03/26/2007

By Jennifer L. Klebes

(Name)

Senior Attorney/Assistant Secretary

(Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Jennifer L. Klebes, klebes@cboe.com

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information**

[Add](#) [Remove](#) [View](#)

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

[Add](#) [Remove](#) [View](#)

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

[Add](#) [Remove](#) [View](#)

Exhibit Sent As Paper Document

☐

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

[Add](#) [Remove](#) [View](#)

Exhibit Sent As Paper Document

☐

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

[Add](#) [Remove](#) [View](#)

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

[Add](#) [Remove](#) [View](#)

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

[Add](#) [Remove](#) [View](#)

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

Item 1. Text of the Proposed Rule Change

(a) The Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") hereby submits this Amendment 1 to its proposal (SR-CBOE-2007-21) to amend CBOE Rules 4.18 Interpretation and Policy .01, 5.3 Interpretation and Policy .06, 5.4 Interpretation and Policy .08, 8.9 and 15.1 Interpretation and Policy .04 to permit the listing and trading of options on securities issued by Trust Issued Receipts ("TIRs"), partnership units ("Partnership Units") and other entities (referred collectively herein as "Commodity Pool Units"). Set forth below are proposed changes to the rule text, with additions represented by underscoring and deletions represented by [bracketing].

(b) Not applicable.

(c) Not applicable.

\* \* \* \* \*

Chicago Board Options Exchange, Incorporated  
Rules

\* \* \* \* \*

Rule 4.18—Prevention of the Misuse of Material, Nonpublic Information

RULE 4.18. No change.

. . . Interpretations and Policies:

.01 For purposes of this Rule, conduct constituting the misuse of material, nonpublic information in violation of the Exchange Act and Exchange Rules includes, but is not limited to, the following:

(A) trading in any securities issued by a corporation, partnership, Trust Issued Receipts, or Units, as defined in Rule 5.3 Interpretations and Polic[y]ies .06, .07, or .10 thereunder or a trust or similar entities, or in any related securities or related options or other derivative securities, or in any related non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency, or in any related commodity, related commodity futures or options on commodity futures or in any related commodity derivatives, while in possession of material, nonpublic information concerning that corporation, partnership, Trust Issued Receipts, or those Units or that trust or similar entities;

(B) trading in an underlying security or related options or other derivative securities, or in any related non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or in any related commodity, related commodity futures or options on commodity futures or any other related commodities derivatives, or any other derivatives based on such currency while in possession of material nonpublic information concerning imminent transactions in the above; and

(C) disclosing to another person or entity any material, nonpublic information involving a corporation, partnership, Trust Issued Receipts, or Units or a trust or similar entities whose shares are publicly traded or an imminent transaction in an underlying security or related securities or in the underlying non-U.S. currency or any related non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency, or in any related commodity, related commodity futures or options on commodity futures or any other related commodity derivatives, for the purpose of facilitating the possible misuse of such material, nonpublic information.

.02 - .03      No change.

\*      \*      \*      \*      \*

### Rule 5.3—Criteria for Underlying Securities

RULE 5.3. (a) – (b) No change.

. . . Interpretations and Policies:

.01 - .05      No change.

.06 Securities deemed appropriate for options trading shall include shares or other securities, including, but not limited to Partnership Units as defined in Interpretation and Policy .10 to Rule 5.3, ("Units") traded on a national securities exchange or through the facilities of a national securities association and defined as "NMS stock" under Rule 600 of Regulation NMS that (i) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities comprising or otherwise based on or representing investments in indexes or portfolios of securities (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities); or (ii) represent interests in a trust or similar entity that holds a specified non-U.S. currency deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on deposited non-U.S. currency, if any, declared and paid by the trust [("Units")]; or (iii) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts

and/or options on physical commodities and/or non-U.S. currency ("Commodity Pool Units"), provided that all of the following conditions are met:

(A) any non-U.S. component securities of an index or portfolio of securities on which the Units are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio;

(B) component securities of an index or portfolio of securities on which the Units are based for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index;

(C) component securities of an index or portfolio of securities on which the Units are based for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index;

(D) for Units that hold a specified non-U.S. currency deposited with the trust, the Exchange has entered into a comprehensive surveillance sharing agreement with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in derivatives (options or futures) on the specified non-U.S. currency, which are utilized by the national securities exchange where the underlying Units are listed and traded; and

(E) either (x) the Units meet the criteria and guidelines set forth in Rule 5.3 and Interpretation and Policy .01 thereunder, or (y) the Units are available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other issuer [entity] in cash or in kind at a price related to net asset value, and the issuing trust, investment company, commodity pools or other issuer is obligated to issue Units in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the, the issuing trust, investment company, commodity pools or other issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of Units which underlie the option [, all] as described in the Units' prospectus.

(F) for Commodity Pool Units, the Exchange has entered into a comprehensive surveillance sharing agreement with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in such commodity futures contracts and/or options on commodity futures contracts on the specified commodities or non-U.S. currency, which are utilized by the national securities exchange where the underlying Commodity Pool Units are listed and traded.

.07- .09 No change.

.10 (i) The term "Partnership Units" means a security (a) that is issued by a partnership that invests in any combination of futures contracts, options on futures contracts, forward contracts, commodities (as defined in Section 1(a)(4) of the Commodity Exchange Act) and/or securities; and (b) that is issued and redeemed daily in specified aggregate amounts at net asset value.

\* \* \* \* \*

## Rule 5.4—Withdrawal of Approval of Underlying Securities

RULE 5.4. No change.

. . . Interpretations and Policies:

.01 - .07 No change.

.08 Securities consisting of shares or other securities ("Units") that represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that were initially approved for options trading pursuant to Interpretation and Policy .06 under Rule 5.3 shall be deemed not to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Units, if the Units cease to be an "NMS stock" as provided in [are delisted in accordance with the terms of] paragraph (f) of Interpretation and Policy .01 of this Rule 5.4 or the Units are halted from trading in their primary market. In addition, two floor officials, in consultation with a designated senior executive officer of the Exchange, shall consider the suspension of opening transactions in any series of options of the class covering Units in any of the following circumstances:

(a) In the case of options covering Units approved pursuant to clause (E)[(D)](x) under Interpretation and Policy .06 of Rule 5.3, in accordance with the terms of paragraphs (a), (b), (c) and (d) of Interpretation and Policy .01 of this Rule 5.4; or

(b) In the case of options covering Units approved pursuant to clause (E)[(D)](y) under Interpretation and Policy .06 of Rule 5.3, following the initial twelve-month period beginning upon the commencement of trading in the Units on a national securities exchange or through the facilities of a national securities association and are defined as an "NMS stock" under Rule 600 of Regulation NMS, there are fewer than 50 record and/or beneficial holders of such Units for 30 or more consecutive trading days; or

(c) The value of the index or portfolio of securities, [or] non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities on which the Units are based is no longer calculated or available.

(d) Such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

.09 - .13 No change.

\* \* \* \* \*

## Rule 8.9—Securities Accounts and Orders of Market-Makers

RULE 8.9. (a) *Identification of Accounts Upon Request.* A Market-Maker [in] for options on [the] Units, as defined in Rule 5.3 Interpretation & Policy .06, is obligated to conduct all trading in options on [the] Units in account(s) that have been reported to the Exchange. In addition, in a manner prescribed by the Exchange, each Market-Maker shall

upon request file with the Exchange a list identifying all accounts for stock, option, securities trading pursuant to Chapter XXX of these Rules, non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, [or] any other derivatives based on such currency, physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity and related securities trading in which the Market-Maker may, directly or indirectly, engage in trading activities or over which he exercises investment discretion. No Market-Maker shall engage in trading in stock, options, non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency, physical commodities, physical commodity options, commodity futures, contracts, options on commodity futures contracts, any other derivatives based on such commodity or related securities trading in an account which has not been reported in a manner prescribed by the Exchange.

(b) – (c) No change.

\* \* \* \* \*

#### Rule 15.1. Maintenance, Retention and Furnishing of Books, Records and Other Information

RULE 15.1. No change.

. . . Interpretations and Policies:

.01-.03 No change.

.04 In addition to the existing obligation under Exchange rules regarding the production of books and records, a Market-Maker in options on Commodity Pool Units, shall make available to the Exchange such books, records or other information pertaining to transactions in the applicable physical commodity, physical commodity options, commodity futures contracts, options on commodity futures contracts, or any other derivatives on such commodity, as may be requested by the Exchange.

\* \* \* \* \*

#### Item 2. Procedures of the Self-Regulatory Organization

(a) The CBOE's Office of the Chairman pursuant to delegated authority approved the proposed rule change on February 21, 2007. No further action is required.

(b) Please refer questions and comments on the proposed rule change to Joanne Moffic-Silver, General Counsel, CBOE, 400 South LaSalle, Chicago, IL 60605,

(312) 786-7462 or to Jennifer Klebes, (312) 786-7466.

Item 3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

Amendment 1 replaces the original filing in its entirety. The purpose of Amendment 1 is to provide additional explanations for the proposed changes to rule text and to make other technical changes.

This proposed rule change is based on a proposal by the American Stock Exchange ("Amex").<sup>1</sup>

The purpose of this proposed rule change is to enable the listing and trading on the Exchange of options on Commodity Pool Units that trade, directly or indirectly, in commodity futures products. Commodity Pool Units may hold or trade in one or more types of investments that may include any combination of securities, commodity futures contracts, options on commodity futures contracts, swaps and forward contracts. The shares of the Commodity Pool Units are securities registered with the U.S. Securities and Exchange Commission ("Commission") and the offer and sale of those shares are subject

---

<sup>1</sup> See Exchange Act Release No. 55187 (January 29, 2007), 72 FR 5467 (February 6, 2007) (SR-Amex-2006-110). Amex's filing seeks to add "Commodity Pool ETFs" to the types of securities on which it lists equity options. In Section 1 (a) of Amex's filing, the term "Commodity Pool ETFs" is defined to include, but is not limited to, Trust Issued Receipts, Partnership Units and other entities. In footnote 1, Amex sets forth its existing definition, contained within its stock rules, of "Partnership Units." CBOE notes that it currently does not have a definition of "Partnership Units," and is proposing to include an identical definition of "Partnership Units" as new Interpretation and Policy .10 to Rule 5.4. The proposed definition of "Partnership Units" includes a broad universe of securities, including those of entities that invest in physical commodities. However, the current filing proposes to list and trade options only on Commodity Pool Units that invest in a combination of commodity derivative products, and not in physical commodities.



to the Commission's regulatory oversight. The investments held, directly or indirectly, within the Commodity Pool Units are subject to the Commodity Exchange Act ("CEA") due to their status as a "commodity pool."<sup>2</sup> Therefore, the trading of the assets and/or investment (e.g., futures and options on futures) held within the Commodity Pool Units is regulated by the Commodity Futures Trading Commission ("CFTC").<sup>3</sup>

Currently, Rule 5.3 Interpretation and Policy .06 provides that securities deemed appropriate for options trading shall include shares or other securities ("Units") that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as a NMS security, and that (i) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities comprising or otherwise based on or representing investments in indexes or portfolios of securities (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities); or (ii) represent interests in a trust that holds a specified non-U.S. currency deposited with the trust when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner to receive

---

<sup>2</sup> The term "[commodity] pool means any investment trust, syndicate or similar form of enterprise operated for the purpose of trading commodity interests." 17 CFR 4.10(d)(1). A commodity interest is "(1) Any contract for the purchase or sale of a commodity for future delivery; and (2) Any contract, agreement or transaction subject to Commission regulation under section 4c or 19 of the [Commodity Exchange] Act." 17 CFR 4.10(a).

<sup>3</sup> The manager or operator of a "commodity pool" is required to register, unless applicable exclusions apply, as a commodity pool operator ("CPO") and as a commodity trading advisor ("CTA") with the CFTC and become a member of the National Futures Association ("NFA").

the specified non-U.S. currency and pays the beneficial owner interest and other distributions on deposited non-U.S. currency, if any, declared and paid by the trust .

The Exchange proposes to amend Rule 5.3 Interpretation and Policy .06 to expand the type of options to include the listing and trading of options based on Commodity Pool Units that may hold or invest, directly or indirectly, in commodity futures products, including, but not limited to, commodity futures contracts, options on commodity futures contracts, swaps and forward contracts.<sup>4</sup> As part of this revision to Rule 5.3 Interpretation and Policy .06, the Exchange proposes to add paragraph (ii)(F) requiring for Commodity Pool Units that a comprehensive surveillance sharing agreement be in place with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in such commodity futures contracts and/or options on commodity futures contracts on the specified commodities or non-U.S. currency, which are utilized by the national securities exchange where the underlying Commodity Pool Units are listed and traded.

As set forth in proposed amended Interpretation and Policy .06 to Rule 5.3, Commodity Pool Units must be traded on a national securities exchange or through the facilities of a national securities association and must be an "NMS stock" as defined under Rule 600 of Regulation NMS. In addition, Commodity Pool Units must meet either: (i) the criteria and guidelines under Rule 5.3 and Interpretation and Policy .01; or (ii) be available for creation or redemption each business day from or through the issuing

---

<sup>4</sup> The Exchange proposes to add the phrase "or similar entity" to Rule 5.3.06(ii), which provides that securities representing interests in a trust may be deemed appropriate for options trading. This is a proposed, conforming change that tracks the language contained in Rule 5.3.06(i). In support of this change, the Exchange states that the addition of the phrase "or similar entity" is designed to provide flexibility and cover all possible trust structures and arrangements.

trust, investment company, commodity pool or other issuer in cash or in kind at a price related to net asset value. In addition, the issuing trust, investment company, commodity pools or other issuer is obligated to issue Units in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the, the issuing trust, investment company, commodity pool or other issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of Units which underlie the option as described in the Units' prospectus.

Under the applicable continued listing criteria in Interpretation and Policy .08 to Rule 5.4, options on Units that were initially approved for options trading pursuant to Interpretation and Policy .06 under Rule 5.3 shall be deemed not to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Units if the Units cease to be an "NMS stock" as provided in paragraph (f) of Interpretation and Policy .01 of Rule 5.4 (an "NMS stock" is defined in Rule 600 of Regulation NMS of the Securities Exchange Act of 1934) or the Units are halted from trading in their primary market.<sup>5</sup>

In addition, the Exchange, shall consider the suspension of opening transactions in any series of options of the class covering Units in the following circumstances: (1) following the initial twelve-month period beginning upon the commencement of trading in the Units on a national securities exchange or through the facilities of a national

---

<sup>5</sup> The Exchange proposes to amend Interpretation and Policy .08 of Rule 5.4 by replacing the phrase "are delisted in accordance with the terms of" with the phrase "cease to be an 'NMS stock' as provided in."

securities association and are defined as an "NMS stock" under Rule 600 of Regulation NMS, there are fewer than 50 record and/or beneficial holders of such Units for 30 or more consecutive trading days; or (2) the value of the index or portfolio of securities, non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities on which the Units are based is no longer calculated or available.

The Exchange is proposing to amend Rule 5.4 Interpretation and Policy .08, by adding new paragraph (d), which provides the Exchange with the ability to determine that it will not open additional series of options on Units if such events occur or conditions exist that in the opinion of the Exchange make further dealing in such options on the Exchange inadvisable. The Exchange notes that this proposed paragraph is based on a parallel provision in Amex Rule 916.07(4).

The Exchange is also proposing to amend Rule 4.18 Interpretation and Policy .01 to require members to establish, maintain and enforce written policies and procedures to prevent the misuse of material, nonpublic information it might have or receive in a related security, option or derivative or in the applicable related commodity, commodity futures or options on commodity futures or any other related commodity derivatives.

The Exchange is further proposing to amend Rule 8.9 to require that Market-Makers for options in Commodity Pool Units file with the Exchange upon request a list identifying all accounts for, among other things, physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity in which the Market-Maker may have directly or indirectly, engaged in trading activities or over which he exercises

investment discretion.<sup>6</sup> In addition, the proposed revision to Rule 8.9 further requires that no Market-Maker shall engage in trading in, among other things, physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity in an account which has not been reported in a manner prescribed by the Exchange.<sup>7</sup>

In addition, the Exchange proposes to amend Rule 15.1 Interpretation and Policy .04 to require Market-Makers to make available to the Exchange such books and records or other information pertaining to transactions in the applicable physical commodity, physical commodity options, commodity futures contracts, options on commodity futures contracts, or any other derivatives on such commodity, as may be requested by the Exchange.

The Exchange represents that it has an adequate surveillance program in place for options based on Commodity Pool Units. The Exchange may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members or affiliates of the ISG and has entered into numerous comprehensive surveillance-sharing agreements with various commodity futures exchanges worldwide. Prior to listing and trading options on Commodity Pool Units, the Exchange represents that it will either have the ability to obtain specific trading information via ISG or through a comprehensive surveillance sharing agreement with the primary exchange or exchanges where the particular commodity futures and/or options on commodity futures are traded.

---

<sup>6</sup> The Exchange is proposing to add the phrase "for options on" in two places in the first sentence of Rule 8.9(a) to clarify that Rule 8.9(a) governs Market-Makers in options on Units (versus Market-Markets in the Unit underlying the option).

<sup>7</sup> The Exchange is proposing to add the phrase "trading in" to the last sentence of Rule 8.9(a) to clarify the conduct governed by the rule.

The addition of Commodity Pool Units will not have any effect on the rules pertaining to position and exercise limits.<sup>8</sup> The Exchange also represents that the margin requirements for options on Commodity Pools Units will be evaluated for each product the Exchange anticipates listing. Any new margin rules deemed necessary will be filed separately with the Commission.

This proposal is necessary to enable the Exchange to list and trade options on an expanding range of Commodity Pool Units that the Commission has approved for trading, including the DB Commodity Index Tracking Fund (the "DBC Fund"), the United States Oil Fund, L.P. (the "Oil Fund") and the PowerCommodity Pool ETFs DB G10 Currency Harvest Fund (the "DBV Fund").<sup>9</sup>

The DBC Fund is a Commodity TIR<sup>10</sup> and tracks the performance of the Deutsche Bank Liquid Commodity Index™ – Excess Return while the Oil Fund is a Partnership Unit and tracks the spot price of West Texas Intermediate light, sweet crude oil delivered to Cushing, Oklahoma.

The DBC Fund is a "feeder fund" that invests substantially all of its assets in the DB Commodity Index Tracking Master Fund, and the Master Fund in turn maintains a

---

<sup>8</sup> See CBOE Rules 4.11 and 4.12.

<sup>9</sup> See Exchange Act Release No. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (approving the listing and trading of the DB Commodity Index Tracking Fund); see also Exchange Act Release No. 53582 (March 31, 2006), 71 FR 17510 (April 6, 2006) (approving the listing and trading of Units of the United States Oil Fund, L.P.); and see also Exchange Act Release No. 54450 (September 14, 2006), 71 FR 51245 (September 21, 2006) (approving the listing and trading of the PowerShares DB G10 Currency Harvest Fund).

<sup>10</sup> The offering of DBC Fund shares is registered with the Commission under the Securities Act of 1933 and its most recent Form 10-Q was filed with the Commission on November 14, 2006.

portfolio of exchange-traded futures on aluminum, gold, corn, wheat, heating oil and light, sweet crude oil. The Index is derived from the prices of those futures contracts. The Master Fund's portfolio is managed on an ongoing basis by DB Commodity Services LLC, a registered CPO and CTA, so that the value of the portfolio closely tracks the value of the Index over time.

The DBV Fund is also a Commodity TIR<sup>11</sup> and a "feeder fund" that invests substantially all of its assets in the PowerCommodity Pool ETFs DB G10 Currency Harvest Master Fund, and the Master Fund in turn maintains a portfolio of exchange-traded futures on foreign currencies that comprise the G-10 countries. The Index is derived from the prices of those futures contracts. The Master Fund's portfolio is managed on an ongoing basis by DB Commodity Services LLC, a registered CPO and CTA, so that the value of the portfolio closely tracks the value of the Index over time.

Unlike the DBC and DBV Funds, the Oil Fund<sup>12</sup> does not invest through a master-feeder structure but rather trades directly in futures on crude and heating oil, natural gas, gasoline and other petroleum-based fuels, options on such futures contracts, forward contracts on oil and other over-the-counter derivatives based on the price of oil, other petroleum-based fuels, the futures contracts described above, and the indexes based on any of the foregoing. The Oil Fund's portfolio is managed by Victoria Bay Asset Management LLC with the aim of tracking the West Texas Intermediate light, sweet

---

<sup>11</sup> The offering of DBV Fund shares is registered with the Commission under the Securities Act of 1933 and its most recent Form 10-Q was filed with the Commission on November 14, 2006.

<sup>12</sup> The offering of Oil Fund shares is registered with the Commission under the Securities Act of 1933 and its most recent Form S-1 was filed with the Commission on January 19, 2007.

crude oil futures contract listed and traded on the New York Mercantile Exchange ("NYMEX").

The Exchange believes that it is reasonable to expect that other types of Commodity Pool Units will be introduced for trading in the near future. The proposed amendment to the Exchange's listing criteria for options on Commodity TIRs and Partnership Units is necessary to ensure that the Exchange will be able to list options on Commodity Pool Units that have been recently launched as well as any other similar Commodity Pool Units that may be listed and traded in the future.

(b) Statutory Basis

The Exchange believes that, with the commencement of trading of Commodity Pool Units on the Exchange, amending its rules to accommodate the listing and trading of options on publicly traded shares of other securities that hold and/or manage portfolios or baskets of commodity futures contracts, options on commodity futures contracts, swaps, forward contracts, options on physical commodities, options on non-U.S. currency and/or securities will benefit investors by providing them with the same valuable risk management tool that is currently available with respect to other publicly traded Units (or Exchange Traded Funds) whose investment assets consist of securities. Accordingly, the proposed rule change is consistent with Section 6(b)<sup>13</sup> of the Securities Exchange Act (the "Act"), in general, and furthers the objectives of Section 6(b)(5)<sup>14</sup> in particular, in that it would remove impediments to and perfect the mechanism for a free and open market in a manner consistent with the protection of investors and public interest.

---

<sup>13</sup> 15 U.S.C. 78f(b)

<sup>14</sup> 15 U.S.C. 78f(b)(5)



Item 4. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Item 5. 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.

Item 6. Extension of Time Period for Commission Action

The Exchange does not consent to an extension of the time period specified in Section 19(b)(2)<sup>15</sup> of the Act for Commission consideration of the proposed rule change.

Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The Exchange requests that the Commission approve the proposal on an accelerated basis as the proposed rule change is substantially similar in all material respects to a pending proposal of the Amex, SR-Amex-2006-110, to enable the listing and trading of options on interest in Commodity Pools ETFs that trade directly or indirectly commodity futures products.<sup>16</sup> The Amex proposal was recently noticed for public comment and, to CBOE's knowledge has received no comment letters. However, any issues or comments raised in response to the Amex proposal will be identical to those that would be raised in response to CBOE's proposal. As a result, CBOE believes that a comment period for its proposal is not necessary.

Because the Exchange is seeking to amend its rule to enable the listing and trading of the exact same types of options proposing in Amex's noticed rule change filing

---

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

<sup>16</sup> See Exchange Act Release No. 55187 (January 29, 2007), 72 FR 5467 (February 6, 2007) (SR-Amex-2006-110).

(i.e., Commodity Pool Units), the Exchange respectfully requests that the Commission find good cause to approve the proposed rule change on an accelerated basis. Doing so will encourage fair competition among the exchanges, by allowing the CBOE to effectively compete with Amex in listing and trading a product that will be available when SR-Amex-2006-110 is approved.

Item 8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or the Commission

As discussed above, this proposed rule change is based on a proposal of the Amex, SR-Amex-2006-110.<sup>17</sup>

Item 9. Exhibits

Exhibit 1. Form of Notice of Proposed Rule Change for Publication in the Federal Register.

---

<sup>17</sup> The Exchange notes that the Commission recently approved The Options Clearing Corporation's ("OCC") proposed rule to permit OCC to issue, clear and settle equity options on Commodity Pool ETFs. See Exchange Act Release No. 55152 (January 23, 2007), 72 FR 4763 (February 1, 2007) (SR-OCC-2006-17).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-CBOE-2007-21)

Dated: \_\_\_\_\_

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change to List for Trading Options on Commodity Pool Units

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on \_\_\_\_\_, 2007, the Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 CBOE's initial filing and Amendment 1 propose to amend CBOE Rules 4.18 Interpretation and Policy .01, 5.3 Interpretation and Policy .06, 5.4 Interpretation and Policy .08, 8.9 and 15.1 Interpretation and Policy .04 to permit the listing and trading of options on securities issued by Trust Issued Receipts ("TIRs"), partnership units ("Partnership Units") and other entities (referred collectively herein as "Commodity Pool Units"). The text of the proposed rule change is available on the Exchange's website (<http://www.cboe.org/Legal>), at the Office of the Secretary, CBOE and at the Commission.

---

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

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

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Amendment 1 replaces the original filing in its entirety. The purpose of Amendment 1 is to provide additional explanations for the proposed changes to rule text and to make other technical changes.

This proposed rule change is based on a proposal by the American Stock Exchange ("Amex").<sup>3</sup>

The purpose of this proposed rule change is to enable the listing and trading on the Exchange of options on Commodity Pool Units that trade, directly or indirectly, in

---

<sup>3</sup> See Exchange Act Release No. 55187 (January 29, 2007), 72 FR 5467 (February 6, 2007) (SR-Amex-2006-110). Amex's filing seeks to add "Commodity Pool ETFs" to the types of securities on which it lists equity options. In Section 1 (a) of Amex's filing, the term "Commodity Pool ETFs" is defined to include, but is not limited to, Trust Issued Receipts, Partnership Units and other entities. In footnote 1, Amex sets forth its existing definition, contained within its stock rules, of "Partnership Units." CBOE notes that it currently does not have a definition of "Partnership Units," and is proposing to include an identical definition of "Partnership Units" as new Interpretation and Policy .10 to Rule 5.4. The proposed definition of "Partnership Units" includes a broad universe of securities, including those of entities that invest in physical commodities. However, the current filing proposes to list and trade options only on Commodity Pool Units that invest in a combination of commodity derivative products, and not in physical commodities.

commodity futures products. Commodity Pool Units may hold or trade in one or more types of investments that may include any combination of securities, commodity futures contracts, options on commodity futures contracts, swaps and forward contracts. The shares of the Commodity Pool Units are securities registered with the U.S. Securities and Exchange Commission ("Commission") and the offer and sale of those shares are subject to the Commission's regulatory oversight. The investments held, directly or indirectly, within the Commodity Pool Units are subject to the Commodity Exchange Act ("CEA") due to their status as a "commodity pool."<sup>4</sup> Therefore, the trading of the assets and/or investment (e.g., futures and options on futures) held within the Commodity Pool Units is regulated by the Commodity Futures Trading Commission ("CFTC").<sup>5</sup>

Currently, Rule 5.3 Interpretation and Policy .06 provides that securities deemed appropriate for options trading shall include shares or other securities ("Units") that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as a NMS security, and that (i) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities comprising or otherwise based on or representing investments in indexes or

---

<sup>4</sup> The term "[commodity] pool means any investment trust, syndicate or similar form of enterprise operated for the purpose of trading commodity interests." 17 CFR 4.10(d)(1). A commodity interest is "(1) Any contract for the purchase or sale of a commodity for future delivery; and (2) Any contract, agreement or transaction subject to Commission regulation under section 4c or 19 of the [Commodity Exchange] Act." 17 CFR 4.10(a).

<sup>5</sup> The manager or operator of a "commodity pool" is required to register, unless applicable exclusions apply, as a commodity pool operator ("CPO") and as a commodity trading advisor ("CTA") with the CFTC and become a member of the National Futures Association ("NFA").

portfolios of securities (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities); or (ii) represent interests in a trust that holds a specified non-U.S. currency deposited with the trust when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on deposited non-U.S. currency, if any, declared and paid by the trust .

The Exchange proposes to amend Rule 5.3 Interpretation and Policy .06 to expand the type of options to include the listing and trading of options based on Commodity Pool Units that may hold or invest, directly or indirectly, in commodity futures products, including, but not limited to, commodity futures contracts, options on commodity futures contracts, swaps and forward contracts.<sup>6</sup> As part of this revision to Rule 5.3 Interpretation and Policy .06, the Exchange proposes to add paragraph (ii)(F) requiring for Commodity Pool Units that a comprehensive surveillance sharing agreement be in place with the marketplace or marketplaces with last sale reporting that represent(s) the highest volume in such commodity futures contracts and/or options on commodity futures contracts on the specified commodities or non-U.S. currency, which are utilized by the national securities exchange where the underlying Commodity Pool Units are listed and traded.

As set forth in proposed amended Interpretation and Policy .06 to Rule 5.3, Commodity Pool Units must be traded on a national securities exchange or through the

---

<sup>6</sup> The Exchange proposes to add the phrase "or similar entity" to Rule 5.3.06(ii), which provides that securities representing interests in a trust may be deemed appropriate for options trading. This is a proposed, conforming change that tracks the language contained in Rule 5.3.06(i). In support of this change, the Exchange states that the addition of the phrase "or similar entity" is designed to provide flexibility and cover all possible trust structures and arrangements.

facilities of a national securities association and must be an "NMS stock" as defined under Rule 600 of Regulation NMS. In addition, Commodity Pool Units must meet either: (i) the criteria and guidelines under Rule 5.3 and Interpretation and Policy .01; or (ii) be available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other issuer in cash or in kind at a price related to net asset value. In addition, the issuing trust, investment company, commodity pools or other issuer is obligated to issue Units in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the, the issuing trust, investment company, commodity pool or other issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of Units which underlie the option as described in the Units' prospectus.

Under the applicable continued listing criteria in Interpretation and Policy .08 to Rule 5.4, options on Units that were initially approved for options trading pursuant to Interpretation and Policy .06 under Rule 5.3 shall be deemed not to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Units if the Units cease to be an "NMS stock" as provided in paragraph (f) of Interpretation and Policy .01 of Rule 5.4 (an "NMS stock" is defined in Rule 600 of Regulation NMS of the Securities Exchange Act of 1934) or the Units are halted from trading in their primary market.<sup>7</sup>

---

<sup>7</sup> The Exchange proposes to amend Interpretation and Policy .08 of Rule 5.4 by replacing the phrase "are delisted in accordance with the terms of" with the phrase "cease to be an 'NMS stock' as provided in."

In addition, the Exchange, shall consider the suspension of opening transactions in any series of options of the class covering Units in the following circumstances: (1) following the initial twelve-month period beginning upon the commencement of trading in the Units on a national securities exchange or through the facilities of a national securities association and are defined as an "NMS stock" under Rule 600 of Regulation NMS, there are fewer than 50 record and/or beneficial holders of such Units for 30 or more consecutive trading days; or (2) the value of the index or portfolio of securities, non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities on which the Units are based is no longer calculated or available.

The Exchange is proposing to amend Rule 5.4 Interpretation and Policy .08, by adding new paragraph (d), which provides the Exchange with the ability to determine that it will not open additional series of options on Units if such events occur or conditions exist that in the opinion of the Exchange make further dealing in such options on the Exchange inadvisable. The Exchange notes that this proposed paragraph is based on a parallel provision in Amex Rule 916.07(4).

The Exchange is also proposing to amend Rule 4.18 Interpretation and Policy .01 to require members to establish, maintain and enforce written policies and procedures to prevent the misuse of material, nonpublic information it might have or receive in a related security, option or derivative or in the applicable related commodity, commodity futures or options on commodity futures or any other related commodity derivatives.

The Exchange is further proposing to amend Rule 8.9 to require that Market-Makers for options in Commodity Pool Units file with the Exchange upon request a list identifying



all accounts for, among other things, physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity in which the Market-Maker may have directly or indirectly, engaged in trading activities or over which he exercises investment discretion.<sup>8</sup> In addition, the proposed revision to Rule 8.9 further requires that no Market-Maker shall engage in trading in, among other things, physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity in an account which has not been reported in a manner prescribed by the Exchange.<sup>9</sup>

In addition, the Exchange proposes to amend Rule 15.1 Interpretation and Policy .04 to require Market-Makers to make available to the Exchange such books and records or other information pertaining to transactions in the applicable physical commodity, physical commodity options, commodity futures contracts, options on commodity futures contracts, or any other derivatives on such commodity, as may be requested by the Exchange.

The Exchange represents that it has an adequate surveillance program in place for options based on Commodity Pool Units. The Exchange may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members or affiliates of the ISG and has entered into numerous comprehensive surveillance-sharing agreements with various commodity futures exchanges worldwide. Prior to listing and trading options on Commodity Pool Units, the Exchange represents that it will either have

---

<sup>8</sup> The Exchange is proposing to add the phrase "for options on" in two places in the first sentence of Rule 8.9(a) to clarify that Rule 8.9(a) governs Market-Makers in options on Units (versus Market-Markets in the Unit underlying the option).

<sup>9</sup> The Exchange is proposing to add the phrase "trading in" to the last sentence of Rule 8.9(a) to clarify the conduct governed by the rule.

the ability to obtain specific trading information via ISG or through a comprehensive surveillance sharing agreement with the primary exchange or exchanges where the particular commodity futures and/or options on commodity futures are traded.

The addition of Commodity Pool Units will not have any effect on the rules pertaining to position and exercise limits.<sup>10</sup> The Exchange also represents that the margin requirements for options on Commodity Pools Units will be evaluated for each product the Exchange anticipates listing. Any new margin rules deemed necessary will be filed separately with the Commission.

This proposal is necessary to enable the Exchange to list and trade options on an expanding range of Commodity Pool Units that the Commission has approved for trading, including the DB Commodity Index Tracking Fund (the "DBC Fund"), the United States Oil Fund, L.P. (the "Oil Fund") and the PowerCommodity Pool ETFs DB G10 Currency Harvest Fund (the "DBV Fund").<sup>11</sup>

The DBC Fund is a Commodity TIR<sup>12</sup> and tracks the performance of the Deutsche Bank Liquid Commodity Index™ – Excess Return while the Oil Fund is a Partnership Unit

---

<sup>10</sup> See CBOE Rules 4.11 and 4.12.

<sup>11</sup> See Exchange Act Release No. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (approving the listing and trading of the DB Commodity Index Tracking Fund); see also Exchange Act Release No. 53582 (March 31, 2006), 71 FR 17510 (April 6, 2006) (approving the listing and trading of Units of the United States Oil Fund, L.P.); and see also Exchange Act Release No. 54450 (September 14, 2006), 71 FR 51245 (September 21, 2006) (approving the listing and trading of the PowerShares DB G10 Currency Harvest Fund).

<sup>12</sup> The offering of DBC Fund shares is registered with the Commission under the Securities Act of 1933 and its most recent Form 10-Q was filed with the Commission on November 14, 2006.

and tracks the spot price of West Texas Intermediate light, sweet crude oil delivered to Cushing, Oklahoma.

The DBC Fund is a "feeder fund" that invests substantially all of its assets in the DB Commodity Index Tracking Master Fund, and the Master Fund in turn maintains a portfolio of exchange-traded futures on aluminum, gold, corn, wheat, heating oil and light, sweet crude oil. The Index is derived from the prices of those futures contracts. The Master Fund's portfolio is managed on an ongoing basis by DB Commodity Services LLC, a registered CPO and CTA, so that the value of the portfolio closely tracks the value of the Index over time.

The DBV Fund is also a Commodity TIR<sup>13</sup> and a "feeder fund" that invests substantially all of its assets in the PowerCommodity Pool ETFs DB G10 Currency Harvest Master Fund, and the Master Fund in turn maintains a portfolio of exchange-traded futures on foreign currencies that comprise the G-10 countries. The Index is derived from the prices of those futures contracts. The Master Fund's portfolio is managed on an ongoing basis by DB Commodity Services LLC, a registered CPO and CTA, so that the value of the portfolio closely tracks the value of the Index over time.

Unlike the DBC and DBV Funds, the Oil Fund<sup>14</sup> does not invest through a master-feeder structure but rather trades directly in futures on crude and heating oil, natural gas, gasoline and other petroleum-based fuels, options on such futures contracts, forward contracts on oil and other over-the-counter derivatives based on the price of oil, other

---

<sup>13</sup> The offering of DBV Fund shares is registered with the Commission under the Securities Act of 1933 and its most recent Form 10-Q was filed with the Commission on November 14, 2006.

<sup>14</sup> The offering of Oil Fund shares is registered with the Commission under the Securities Act of 1933 and its most recent Form S-1 was filed with the Commission on January 19, 2007.

petroleum-based fuels, the futures contracts described above, and the indexes based on any of the foregoing. The Oil Fund's portfolio is managed by Victoria Bay Asset Management LLC with the aim of tracking the West Texas Intermediate light, sweet crude oil futures contract listed and traded on the New York Mercantile Exchange ("NYMEX").

The Exchange believes that it is reasonable to expect that other types of Commodity Pool Units will be introduced for trading in the near future. The proposed amendment to the Exchange's listing criteria for options on Commodity TIRs and Partnership Units is necessary to ensure that the Exchange will be able to list options on Commodity Pool Units that have been recently launched as well as any other similar Commodity Pool Units that may be listed and traded in the future.

## 2. Statutory Basis

The Exchange believes that, with the commencement of trading of Commodity Pool Units on the Exchange, amending its rules to accommodate the listing and trading of options on publicly traded shares of other securities that hold and/or manage portfolios or baskets of commodity futures contracts, options on commodity futures contracts, swaps, forward contracts, options on physical commodities, options on non-U.S. currency and/or securities will benefit investors by providing them with the same valuable risk management tool that is currently available with respect to other publicly traded Units (or Exchange Traded Funds) whose investment assets consist of securities. Accordingly, the proposed rule change is consistent with Section 6(b)<sup>15</sup> of the Securities Exchange Act (the "Act"), in general, and furthers the objectives of Section 6(b)(5)<sup>16</sup> in particular, in that it would remove impediments

---

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

<sup>16</sup> 15 U.S.C. 78f(b)(5)

to and perfect the mechanism for a free and open market in a manner consistent with the protection of investors and public interest.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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-2007-21 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CBOE-2007-21. 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 Section, 100 F Street, NE, Washington, DC 20549-1090. 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-2007-21 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

Dated: \_\_\_\_\_

Nancy M. Morris  
Secretary

---

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