

## OMB APPROVAL

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

File No. SR - 2007 - 73

Amendment No. 

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

Initial <input checked="" type="checkbox"/>	Amendment <input 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"/>
Pilot <input type="checkbox"/>			Rule		
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).

Proposes to retroactively assess certain CBOE and CBSX market data fees.

**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  Last Name   
Title   
E-mail   
Telephone  Fax

**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 By 

(Name)

(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.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information**

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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**

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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**

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Exhibit Sent As Paper Document

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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**

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Exhibit Sent As Paper Document

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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**

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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**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item 1 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**

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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 Proposed Rule Change

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend its Fees Schedule to assess retroactive to April 1, 2007, fees relating to CBOE and CBOE Stock Exchange ("CBSX") market data that were implemented on June 1, 2007. The text of the proposed rule change is provided below:

\*\*\*\*\*

(Changes are indicated by underlining additions and [bracketing deletions]. Only those fees that are affected are shown.)

**CHICAGO BOARD OPTIONS EXCHANGE, INC.  
FEES SCHEDULE  
[JUNE 18]\_\_\_\_\_, 2007**

1. – 4. Unchanged.

Footnotes: (1) – (16) Unchanged.

5. – 16. Unchanged.

**17. HYBRID FEES:**

• Actant Computing User Fee .....	\$100
• TickerXpress (TX) <u>(effective April 1, 2007)</u>	
• TX Software Fee.....	100
• Enhanced TX User Fee .....	300
• CBOE <u>direct</u> Connectivity Fees .....	0
• Hybrid Electronic Quoting Fee.....	450*

\* The Hybrid Electronic Quoting Fee is assessed monthly on all Market-Makers, RMMs, DPMs, e-DPMs, and LMMs (collectively "Market-Makers") by acronym. Each month, a Market Maker receives 1,000,000 quotes. If a Market-Maker submits more than 1,000,000 quotes to CBOE per acronym in a month, the Market-Maker is assessed \$.03 per 1,000 quotes in excess of 1,000,000. In the event a Market-Maker owns more than one membership and submits electronic quotations for all of the memberships under the same acronym, the Hybrid Electronic Quoting Fee will be assessed per membership owned by the Market-Maker. If a Market-Maker is assessed the Hybrid Electronic Quoting Fee, the Market-Maker does not pay a member dues fee (see Section 10). The Hybrid Electronic Quoting Fee is effective February 1, 2007.

Remainder of Fees Schedule – Unchanged.

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**CBOE STOCK EXCHANGE (CBSX)  
FEES SCHEDULE  
[JUNE 26]\_\_\_\_\_, 2007**

1. – 2. Unchanged.

FOOTNOTES: (1) – (2) Unchanged.

### 3. MARKET DATA

A) Rebates: Total fees owed by a participant will be reduced (and participants will be paid for any unused credits) by the application of a tape credit.

"Tape credit" means 50% of monthly tape revenue from the Consolidated Tape Association (less all direct CTA costs) and Nasdaq UTP (less all direct Nasdaq UTP costs) generated by liquidity-providing (Maker) trades (not including crosses) effected on CBSX by the participant in a particular Tape A, Tape B, or Tape C security.

Tape credits will be applied on a quarterly basis, after CBSX receives its payments from the reporting plans. To the extent that CBSX tape revenue is subject to a year-end adjustment, tape credits may be adjusted accordingly.

B) Market Data Infrastructure Fee: Effective April 1, 2007, [T]his fee is charged to participants who receive market data from a third party market data vendor through CBSX's market data infrastructure. The amount of the fee is equal to \$19,400 divided by the number of participants receiving the data.

**Remainder of CBSX Fees Schedule – Unchanged.**

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

The proposed rule change was approved by the Exchange's Office of the Chairman pursuant to delegated authority on June 28, 2007.

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

On June 1, 2007, the Exchange implemented new fees relating to TickerXpress ("TX"), which is an Exchange service that supplies market data to Exchange market-makers trading on the Hybrid Trading System.<sup>1</sup> Specifically, the Exchange increased the monthly fee for enhanced TX market data from \$200 per month to \$300 per month and adopted a fee of \$100 per TX user per month for use of TX software for the use and display of market data. The Exchange proposes to assess these fees for the period April 1, 2007 through May 31, 2007, to help compensate the Exchange for its increased costs in providing the TX data and to help offset the license fees paid by the Exchange to its third party provider for making the TX software available to users during this time period.

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<sup>1</sup> See Securities Exchange Act Release No. 55882 (June 8, 2007), 72 FR 32931 (June 14, 2007).

On June 1, 2007, the Exchange adopted a monthly fee to recoup the fees CBSX pays a third party market data vendor and other parties to help establish facilities at CBSX through which the third party market data vendor can provide CBSX participants with certain market data.<sup>2</sup> The amount of the fee is equal to \$19,400 divided by the number of CBSX participants receiving the market data. The Exchange proposes to assess this fee for the period April 1, 2007 through May 31, 2007, to recoup the fees CBSX paid during this time period for providing the infrastructure to make the market data available to CBSX participants.

Statutory Basis.

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act")<sup>3</sup>, in general, and furthers the objectives of Section 6(b)(4)<sup>4</sup> 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 members.

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 for Commission action.

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

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<sup>2</sup> Id.

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

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

Not applicable.

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

Not Applicable.

Item 9. Exhibits

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

## EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_; File No. SR-CBOE-2007-73)

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to CBOE and CBSX Market Data Fees.**

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Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on \_\_\_\_\_, Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend its Fees Schedule to assess retroactive to April 1, 2007, fees relating to CBOE and CBOE Stock Exchange ("CBSX") market data that were implemented on June 1, 2007. The text of the proposed rule change is available on the Exchange's website (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary and at the Commission.

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

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

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

On June 1, 2007, the Exchange implemented new fees relating to TickerXpress ("TX"), which is an Exchange service that supplies market data to Exchange market-makers trading on the Hybrid Trading System.<sup>1</sup> Specifically, the Exchange increased the monthly fee for enhanced TX market data from \$200 per month to \$300 per month and adopted a fee of \$100 per TX user per month for use of TX software for the use and display of market data. The Exchange proposes to assess these fees for the period April 1, 2007 through May 31, 2007, to help compensate the Exchange for its increased costs in providing the TX data and to help offset the license fees paid by the Exchange to its third party provider for making the TX software available to users during this time period.

On June 1, 2007, the Exchange adopted a monthly fee to recoup the fees CBSX pays a third party market data vendor and other parties to help establish facilities at CBSX through which the third party market data vendor can provide CBSX participants with certain market data.<sup>2</sup> The amount of the fee is equal to \$19,400 divided by the number of CBSX participants receiving the market data. The Exchange proposes to assess this fee for the period April 1, 2007 through May 31, 2007, to recoup the fees

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<sup>1</sup> See Securities Exchange Act Release No. 55882 (June 8, 2007), 72 FR 32931 (June 14, 2007).

<sup>2</sup> Id.



CBSX paid during this time period for providing the infrastructure to make the market data available to CBSX participants.

Statutory Basis.

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act")<sup>3</sup>, in general, and furthers the objectives of Section 6(b)(4)<sup>4</sup> 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 members.

**B. Self-Regulatory Organization's Statement on Burden on Competition**

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

**C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others**

No written comments were solicited or received with respect to the proposed rule change.

**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

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

(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-2007-73 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.

All submissions should refer to File Number SR-CBOE-2007-73. 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

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

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. 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-2007-73 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>5</sup>

Nancy M. Morris  
Secretary

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<sup>5</sup> 17 CFR 200.30-3(a)(12).