

OMB APPROVAL

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

File No. SR - 2007 - 109

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"/>			<input type="checkbox"/> 19b-4(b)(1)	<input type="checkbox"/> 19b-4(b)(4)	
			<input type="checkbox"/> 19b-4(b)(2)	<input type="checkbox"/> 19b-4(b)(5)	
			<input type="checkbox"/> 19b-4(b)(3)	<input type="checkbox"/> 19b-4(b)(6)	

Description

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

Proposal to adopt generic listing standards for international ETFs for trading on CBSX.

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 Angelo Last Name Evangelou
Title Assistant General Counsel
E-mail evangelou@cboe.com
Telephone (312) 786-7464 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 09/10/2007

By Angelo Evangelou

(Name)

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.

Angelo Evangelou, evangelou@cboe.com

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS 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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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 Sent As Paper Document

☐

Exhibit 3 - Form, Report, or Questionnaire

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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 Sent As Paper Document

☐

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 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

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.

1. Text of the Proposed Rule Change

The Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² proposes to adopt generic listing standards for Index Portfolio Receipts and Index Portfolio Shares (which are also referred to together herein as "exchange-traded funds" or "ETFs") based on international or global indexes, or on indexes described in rules previously approved by the Commission under Section 19(b)(2) under the Act.³ The text of the proposed rule change is shown below with additions underlined and deletions [bracketed].

Chicago Board Options Exchange, Incorporated
Rules

* * * * *

Rule 31.5 - Criteria for Eligibility of Securities

RULE 31.5. (A) - (K) No change.

(L) IPRs.

(a)-(d) No change.

(e) Definitions. For purposes of this Rule 31.5(L), the following terms are defined below:

(1) The term "US Component Stock" shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Exchange Act or an American Depositary Receipt the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Exchange Act.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(2).

(2) The term “Non-US Component Stock” shall mean an equity security that is not registered under Sections 12(b) or 12(g) of the Exchange Act and that is issued by an entity that (a) is not organized, domiciled or incorporated in the United States, and (b) is an operating company (including real estate investment trusts (REITs) and income trusts, but excluding investment trusts, unit trusts, mutual funds, and derivatives).

(f) The Exchange will obtain a representation from the issuer of each series of IPRs that the net asset value per share for the series will be calculated daily and will be made available to all market participants at the same time.

. . . Interpretations and Policies:

.01 The Exchange may approve a series of IPRs for listing and trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934 provided each of the following criteria is satisfied:

(a) Eligibility Criteria for Index Components.

(1) U.S. Component Stocks. Upon the initial listing of a series of IPRs on the Exchange, or if the Exchange is trading the IPRs pursuant to unlisted trading privileges, upon the initial listing on the original listing exchange, each component of an index or portfolio of U.S. Component Stocks underlying a series of IPRs shall meet the following criteria:

~~[(1)]~~(A) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio shall have a minimum market value of at least \$75 million;

~~[(2)]~~(B) The component stocks shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio;

~~[(3)]~~(C) The most heavily weighted component stock cannot exceed ~~[25]~~30% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 65% of the weight of the index or portfolio;

~~[(4)]~~(D) The underlying index or portfolio must include a minimum of 13 stocks; and

~~[(5)]~~(E) All securities in an underlying index or portfolio must be U.S. Component Stocks listed on a national securities exchange [or The

Nasdaq Stock Market (including the Nasdaq SmallCap Market)] and shall be NMS stocks as defined in Rule 600 of Regulation NMS under the Exchange Act.

(2) Non-U.S. Component Stocks or Both U.S. Component Stocks and Non-U.S. Component Stocks. Upon the initial listing of a series of IPRs on the Exchange, or if the Exchange is trading the IPRs pursuant to unlisted trading privileges, upon the initial listing on the original listing exchange, each component of an index or portfolio underlying a series of IPRs consisting of either (a) only Non-U.S. Component Stocks or (b) both U.S. Component Stocks and Non-U.S. Component Stocks shall meet the following criteria:

[(1)](A) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio shall have a minimum market value of at least \$100 million;

[(2)](B) The component stocks shall have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio;

[(3)](C) The most heavily weighted component stock cannot exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 60% of the weight of the index or portfolio;

[(4)](D) The underlying index or portfolio must include a minimum of 20 stocks; and

[(5)](E) Each U.S. Component Stock must be listed on a national securities exchange and must be an NMS stock as defined in Rule 600 of Regulation NMS under the Exchange Act, and each Non-U.S. Component Stock must be listed and traded on an exchange that has last sale reporting.

(3) Index or portfolio approved in connection with options or other derivative securities. Upon the initial listing of a series of Index Portfolio Receipts, or upon trading pursuant to unlisted trading privileges, pursuant to Rule 19b-4(e) under the Exchange Act, the index or portfolio underlying such series shall have been reviewed and approved for trading of options, Index Portfolio Receipts, Index Portfolio Shares, Index-Linked Exchangeable Notes, or Index-Linked Securities by the Commission under Section 19(b)(2) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order, including comprehensive surveillance sharing agreements regarding dissemination of information continue to be satisfied. Each component stock of the index or portfolio shall be either (A) a US Component Stock that is listed on a

national securities exchange and is an NMS Stock or (B) a Non-US Component Stock that is listed and traded on an exchange that has last sale reporting.

(b) Index Methodology and Calculation. (i) The index underlying a series of IPRs will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology; (ii) If the index underlying a series of IPRs is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor shall erect a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer or fund advisor; and (iii) [The current index value will be disseminated every 15 seconds over the Consolidated Tape Association's Network B.]; Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or a major market data vendor or that makes decisions on the index or portfolio composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

(c) Disseminated Information. [The Reporting Authority will disseminate for each series of IPRs an estimate, updated every 15 seconds, of the value of a share of each series. This may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value.] If a series of IPRs is listed for trading, or trades pursuant to unlisted trading privileges, on the Exchange in reliance upon Rule 19b-4(e) under the Exchange Act, and invests solely in US Component Stocks, the current value of the underlying index must be widely disseminated by one or more major market data vendors or disseminated over the consolidated tape at least every 15 seconds during trading hours on the Exchange. If a series of IPRs is listed for trading on the Exchange in reliance upon Rule 19b-4(e) under the Exchange Act and invest in both US Component Stocks and Non-US Component Stocks or only in Non-US Component Stocks, the current value of the underlying index must be widely disseminated by one or more major market data vendors or disseminated over the consolidated tape at least every 60 seconds during trading hours on the Exchange. If the index value does not change during some or all of the period when trading is occurring on the Exchange (for example, for indexes of Non-US Component Stocks because of time zone differences or holidays in the countries where such indexes' component stocks trade), then the last official calculated index value must remain available throughout Exchange trading hours.

There must be disseminated for each series of IPRs, whether listed or traded pursuant to unlisted trading privileges, an estimate, updated at least every 15 seconds, of the value of a share of each series (the "Intraday Indicative Value") during Trading on the Exchange. This may be based, for example, upon current

information regarding the required deposit of securities plus any cash amount to permit the creation of new shares of the series or upon the index value. The Intraday Indicative Value will be updated at least every 15 seconds during the trading session on CBSX to reflect changes in the exchange rate between the U.S. dollar and the currency in which any component stock is denominated. If the Intraday Indicative Value does not change during some or all of the period when trading is occurring on CBSX, then the last official calculated Intraday Indicative Value must remain available throughout CBSX's trading hours.

(d) Initial Shares Outstanding. A minimum of 100,000 shares of a series of IPRs is required to be outstanding at start-up of trading.

(e) Surveillance Procedures. The Exchange will implement written surveillance procedures for IPRs.

(f) Creation and Redemption. For Index Portfolio Receipts listed pursuant to Rules 31.5(L).01(a)(2) or (3), the statutory prospectus or the application for exemption from provisions of the Investment Company Act of 1940 for the series of Index Portfolio Receipts must state that the series of Index Portfolio Receipts must comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933.

(M) IPSs.

(a)-(b) No change.

(c) Definitions. For purposes of this Rule 31.5(M), the following terms are defined below:

(1) The term "US Component Stock" shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Exchange Act or an American Depositary Receipt the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Exchange Act.

(2) The term "Non-US Component Stock" shall mean an equity security that is not registered under Sections 12(b) or 12(g) of the Exchange Act and that is issued by an entity that (a) is not organized, domiciled or incorporated in the United States, and (b) is an operating company (including real estate investment trusts (REITs) and income trusts, but excluding investment trusts, unit trusts, mutual funds, and derivatives).

(d) The Exchange will obtain a representation from the issuer of each series of IPSs that the net asset value per share for the series will be calculated daily and will be made available to all market participants at the same time.

. . . Interpretations and Policies

.01 The Exchange may approve a series of IPSs for listing and trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934 provided each of the following criteria is satisfied:

(a) Eligibility Criteria for Index Components.

(1) U.S. Component Stocks. Upon the initial listing of a series of IPSs on the Exchange, or if the Exchange is trading the IPSs pursuant to unlisted trading privileges, upon the initial listing on the original listing exchange, each component of an index or portfolio of U.S. Component Stocks underlying a series of IPSs shall meet the following criteria:

[(1)](A) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio shall have a minimum market value of at least \$75 million;

[(2)](B) The component stocks shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio;

[(3)](C) The most heavily weighted component stock cannot exceed [25]30% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 65% of the weight of the index or portfolio;

[(4)](D) The underlying index or portfolio must include a minimum of 13 stocks; and

[(5)](E) All securities in an underlying index or portfolio must be U.S. Component Stocks listed on a national securities exchange [or The Nasdaq Stock Market (including the Nasdaq SmallCap Market)] and shall be NMS stocks as defined in Rule 600 of Regulation NMS under the Exchange Act.

(2) Non-U.S. Component Stocks or Both U.S. Component Stocks and Non-U.S. Component Stocks. Upon the initial listing of a series of IPSs on the Exchange, or if the Exchange is trading the IPSs pursuant to unlisted trading privileges, upon the initial listing on the original listing exchange, each

component of an index or portfolio underlying a series of IPSs consisting of either (a) only Non-U.S. Component Stocks or (b) both U.S. Component Stocks and Non-U.S. Component Stocks shall meet the following criteria:

[(1)](A) Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio shall have a minimum market value of at least \$100 million;

[(2)](B) The component stocks shall have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio;

[(3)](C) The most heavily weighted component stock cannot exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 60% of the weight of the index or portfolio;

[(4)](D) The underlying index or portfolio must include a minimum of 20 stocks; and

[(5)](E) Each U.S. Component Stock must be listed on a national securities exchange and must be an NMS stock as defined in Rule 600 of Regulation NMS under the Exchange Act, and each Non-U.S. Component Stock must be listed and traded on an exchange that has last sale reporting.

(3) Index or portfolio approved in connection with options or other derivative securities. Upon the initial listing of a series of Index Portfolio Shares, or upon trading pursuant to unlisted trading privileges, pursuant to Rule 19b-4(e) under the Exchange Act, the index or portfolio underlying such series shall have been reviewed and approved for trading of options, Index Portfolio Receipts, Index Portfolio Shares, Index-Linked Exchangeable Notes, or Index-Linked Securities by the Commission under Section 19(b)(2) of the Exchange Act and rules thereunder and the conditions set forth in the Commission's approval order, including comprehensive surveillance sharing agreements regarding dissemination of information continue to be satisfied. Each component stock of the index or portfolio shall be either (A) a US Component Stock that is listed on a national securities exchange and is an NMS Stock or (B) a Non-US Component Stock that is listed and traded on an exchange that has last sale reporting.

(b) Index Methodology and Calculation. (i) The index underlying a series of IPSs will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology; (ii) If the index underlying a series of IPSs is maintained by a broker-dealer or fund advisor, the broker-dealer or fund advisor shall erect a "fire

wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer or fund advisor; and (iii) [The current index value will be disseminated every 15 seconds over the Consolidated Tape Association's Network B.] Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or a major market data vendor or that makes decisions on the index or portfolio composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

(c) Disseminated Information. [The Reporting Authority will disseminate for each series of IPSs an estimate, updated every 15 seconds, of the value of a share of each series. This may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value.] If a series of IPSs is listed for trading, or trades pursuant to unlisted trading privileges, on the Exchange in reliance upon Rule 19b-4(e) under the Exchange Act, and invests solely in US Component Stocks, the current value of the underlying index must be widely disseminated by one or more major market data vendors or disseminated over the consolidated tape at least every 15 seconds during trading hours on the Exchange. If a series of IPSs is listed for trading on the Exchange in reliance upon Rule 19b-4(e) under the Exchange Act and invest in both US Component Stocks and Non-US Component Stocks or only in Non-US Component Stocks, the current value of the underlying index must be widely disseminated by one or more major market data vendors or disseminated over the consolidated tape at least every 60 seconds during trading hours on the Exchange. If the index value does not change during some or all of the period when trading is occurring on the Exchange (for example, for indexes of Non-US Component Stocks because of time zone differences or holidays in the countries where such indexes' component stocks trade), then the last official calculated index value must remain available throughout Exchange trading hours.

There must be disseminated for each series of IPSs, whether listed or traded pursuant to unlisted trading privileges, an estimate, updated at least every 15 seconds, of the value of a share of each series (the "Intraday Indicative Value") during Trading on the Exchange. This may be based, for example, upon current information regarding the required deposit of securities plus any cash amount to permit the creation of new shares of the series or upon the index value. The Intraday Indicative Value will be updated at least every 15 seconds during the trading session on CBSX to reflect changes in the exchange rate between the U.S. dollar and the currency in which any component stock is denominated. If the Intraday Indicative Value does not change during some or all of the period when trading is occurring on CBSX, then the last official calculated Intraday Indicative Value must remain available throughout CBSX's trading hours.

(d) Initial Shares Outstanding. A minimum of 100,000 shares of a series of IPSs is required to be outstanding at start-up of trading.

(e) Surveillance Procedures. The Exchange will implement written surveillance procedures for IPSs.

(f) Creation and Redemption. For Index Portfolio Shares listed pursuant to Rules 31.5(M).01(a)(2) or (3), the statutory prospectus or the application for exemption from provisions of the Investment Company Act of 1940 for the series of Index Portfolio Shares must state that the series of Index Portfolio Shares must comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933.

Rule 52.3 - Unusual Market Conditions

RULE 52.3. (a) No change.

(b) Trading Halts for Trading Pursuant to Unlisted Trading Privileges of Exchange Traded Funds on CBSX

(1) No change.

(2) Normal Market Hours. During normal market hours, if a temporary interruption occurs in the calculation or wide dissemination of the applicable IIV or value of the underlying index by a major market data vendor and the listing market halts trading in the ETF, CBSX, upon notification by the listing market of such halt due to such temporary interruption, also shall immediately halt trading in the ETF on CBSX. If the IIV or the value of the underlying index continues not to be calculated or widely available as of the commencement of trading on CBSX on the next business day, CBSX shall not commence trading of the ETF that day. If an interruption in the calculation or wide dissemination of the IIV or the value of the underlying index continues, CBSX may resume trading in the ETF only if calculation and wide dissemination of the IIV or the value of the underlying index resumes or trading in the ETF resumes in the listing market.

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 July 24, 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 Angelo Evangelou, (312) 786-7464.

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

a. Purpose

The purpose of the proposed rule change is to provide for the more efficient and timely listing and trading of ETFs. This proposal would enable the Exchange to list and trade ETFs pursuant to Rule 19b-4(e) under the Exchange Act⁴ if each of the conditions set forth in CBOE Rules 31.5(L) or (M) are satisfied. Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (“SRO”) shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4, if the Commission has approved, pursuant to Section 19(b) of the Exchange Act, the SRO’s trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class.⁵

Exchange Traded Funds

CBOE Rules 31.5(L) and (M) provide standards for listing Index Portfolio Receipts and Index Portfolio Shares, respectively. Index Portfolio Receipts are securities that represent an interest in a unit investment trust that holds securities that comprise a

⁴ 17 CFR 240.19b-4(e).

⁵ When relying on Rule 19b-4(e), the SRO must submit Form 19b-4(e) to the Commission within five business days after the exchange begins trading the new derivative securities products. See 17 CFR 240.19b-4(e)(2)(ii).

stock index on which a series of IPRs is based.⁶ Index Portfolio Shares are securities that are issued by an open-end management investment company and based on a portfolio of stocks or fixed income securities designed to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic stock index or fixed income securities index.⁷ Pursuant to CBOE Rules 1.1.02 and 1.1.03, an IPR or IPS must be issued in a specified aggregate number in return for a deposit of a specified amount of stock and/or cash, with a value equal to the next determined net asset value (“NAV”). When aggregated in the same specified minimum number, the ETF must be redeemable by the issuer for stock and/or cash, with a value equal to the next determined NAV. The NAV is calculated once a day after the close of the regular trading day.

To meet the investment objective of providing investment returns that correspond to the price and the dividend and yield performance of the underlying index, an ETF may use a “replication” strategy or a “representative sampling” strategy with respect to the ETF portfolio.⁸ An ETF using a replication strategy will invest in each stock of the underlying index in about the same proportion as that stock is represented in the index itself. An ETF using a representative sampling strategy will generally invest in a

⁶ See CBOE Rule 1.1.02.

⁷ See CBOE Rule 1.1.03.

⁸ In either case, an ETF, by its terms, may be considered invested in the securities of the underlying index to the extent the ETF invests in sponsored American Depositary Receipts (“ADRs”), Global Depositary Receipts (“GDRs”), European Depositary Receipts (“EDRs”) that trade on exchanges with last-sale reporting representing securities in the underlying index.

significant number, but not all of the component securities of the underlying index, and will hold stocks that, in the aggregate, are intended to approximate the full index in terms of key characteristics, such as price/earnings ratio, earnings growth, and dividend yield.

In addition, an ETF portfolio may be adjusted in accordance with changes in the composition of the underlying index or to maintain compliance with requirements applicable to a regulated investment company under the Internal Revenue Code (“IRC”).⁹

Generic Listing Standards for Exchange-Traded Funds

The Commission has previously approved generic listing standards for ETFs based on indexes that consist of stocks listed on U.S. exchanges.¹⁰ In general, the

⁹ For an ETF to qualify for tax treatment as a regulated investment company, it must meet several requirements under the IRC. Among these is the requirement that, at the close of each quarter of the ETF’s taxable year, (1) at least 50% of the market value of the ETF’s total assets must be represented by cash items, U.S. government securities, securities of other regulated investment companies, and other securities, with such other securities limited for purposes of this calculation in respect of any one issuer to an amount not greater than 5% of the value of the ETF’s assets and not greater than 10% of the outstanding voting securities of such issuer; and (2) not more than 25% of the value of its total assets may be invested in the securities of any one issuer, or two or more issuers that are controlled by the ETF (within the meaning of Section 851(b)(4)(B) of the IRC) and that are engaged in the same or similar trades or businesses or related trades or businesses (other than U.S. government securities or the securities of other regulated investment companies).

¹⁰ In 1998, the Commission approved CBOE Rule 31.5(L), which sets forth rules related to the listing of Index Portfolio Receipts. See Securities Exchange Act Release No. 39581 (January 26, 1998), 63 FR 5579 (February 3, 1998) (SR-CBOE-97-38). In 2001, the Commission approved the Exchange’s generic listing standards for the listing and trading, including the trading pursuant to unlisted trading privileges, of Index Portfolio Receipts under CBOE Rule 31.5(L). See Securities Exchange Act Release No. 44046 (March 7, 2001), 66 FR 15152 (March 15, 2001) (SR-CBOE-00-51). In 2001, the Commission approved CBOE Rule 31.5(M), which sets forth the rules, including generic listing standards, for the listing and trading, including the trading pursuant to unlisted trading privileges, of Index Portfolio Shares under CBOE Rule 31.5(M). See Securities Exchange Act Release No. 44046 (March 7, 2001), 66 FR 15152 (March 15, 2001) (SR-CBOE-00-51).

proposed criteria for the underlying component securities in the international and global indexes are similar to those for the domestic indexes, but with modifications as appropriate for the issues and risks associated with non-U.S. securities.

In addition, the Commission has previously approved generic listing standards rules based on international indexes – those based on non-U.S. component stocks – as well as global indexes – those based on non-U.S. and U.S. component stocks.¹¹

The Commission has also approved rules that permit the listing pursuant to Rule 19b-4(e) under the Act of index-based derivatives securities products where the Commission had previously approved rules contemplating the trading of specified index-based derivatives on the same index, on the condition that all of the standards set forth in those orders, in particular with respect to surveillance sharing agreements, continued to be satisfied.¹²

In approving ETFs for trading on exchanges, the Commission thoroughly considered the structure of the ETFs, their usefulness to investors and to the markets, and Exchange rules that govern their trading. The Exchange believes that adopting additional generic listing standards for these securities and applying Rule 19b-4(e) should fulfill the intended objective of that rule by allowing those ETFs that satisfy the proposed generic listing standards to commence trading, without the need for the public comment period

¹¹ See Securities Exchange Act Release No. 55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR-NYSEArca-2006-86); 55269 (February 9, 2007), 72 FR 7490 (February 15, 2007) (SR-NASDAQ-2006-50); and 55113 (January 17, 2007), 72 FR 3179 (SR-NYSE-2006-101).

¹² See, e.g., Securities Exchange Act Release No. 51563 (April 15, 2005) 70 FR 21257 (April 25, 2005) (SR-Amex-2005-001); Securities Exchange Act Release No. 52204 (August 3, 2005), 70 FR 46559 (August 10, 2005) (SR-PCX-2005-63).

and Commission approval. The proposed rules have the potential to reduce the time frame for bringing ETFs to market, thereby reducing the burdens on issuers and other market participants. The failure of a particular ETF to comply with the proposed generic listing standards under Rule 19b-4(e) would not, however, preclude the Exchange from submitting a separate filing pursuant to Section 19(b)(2) requesting Commission approval to list and trade a particular ETF.

Requirements for Listing and Trading ETFs Based on International and Global Indexes

Exchange-traded funds listed pursuant to the proposed generic listing standards would be traded, in all other respects, under the Exchange's existing trading rules and procedures that apply to ETFs and would be covered under the Exchange's surveillance program for ETFs.¹³

To list an ETF pursuant to the proposed generic listing standards for international and global indexes, the index underlying an ETF must satisfy all the conditions contained in proposed CBOE Rules 31.5(L).01(a)(2) and 31.5(M).01(a)(2). As with the existing generic standards for ETFs based on domestic indexes, these generic listing standards are intended to ensure that stocks with substantial market capitalization and trading volume account for a substantial portion of the weight of an index or portfolio. While the standards in this proposal are based on the standards contained in the current generic listing standards for ETFs based on domestic indexes, they have been adapted as appropriate to apply to international and global indexes.

As proposed, CBOE 31.5(L)(e) and 31.5(M)(c) would be adopted to provide

¹³ See CBOE Rules 31.5(L).01(e) and (M).01(e).

definitions of U.S. Component Stock and Non-U.S. Component Stock. These new definitions would provide the basis for the standards for indexes with either domestic or international stocks, or a combination of both. A “Non-U.S. Component Stock” would mean an equity security that is not registered under Section 12(b) or 12(g) of the Exchange Act,¹⁴ and that is issued by an entity that (1) is not organized, domiciled, or incorporated in the United States, and (2) is an operating company (including a real estate investment trust (REIT) or income trust, but excluding an investment trust, unit trust, mutual fund, or derivative). This definition is designed to create a category of component stocks that are issued by companies that are not based in the United States, are not subject to oversight through Commission registration, and would include sponsored GDRs and EDRs. A “U.S. Component Stock” would mean an equity security that is registered under Section 12(b) or 12(g) of the Exchange Act or an ADR the underlying equity security of which is registered under Section 12(b) or 12(g) of the Exchange Act. An ADR with an underlying equity security that is registered pursuant to the Exchange Act is considered a U.S. Component Stock because the issuer of that security is subject to Commission jurisdiction and must comply with Commission rules.

The Exchange proposes that, to list an ETF based on an international or global index or portfolio pursuant to the generic listing standards, such index or portfolio must meet the following criteria:

- Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each must have a minimum market value of at least \$100 million

(CBOE Rules 31.5(L).01(a)(2)(A) and 31.5(M).01(a)(2)(A));

- Component stocks representing at least 90% of the weight of the index or portfolio each must have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares (CBOE Rules 31.5(L).01(a)(2)(B) and 31.5(M).01(a)(2)(B));
- The most heavily weighted component stock may not exceed 25% of the weight of the index or portfolio and the five most heavily weighted component stocks may not exceed 60% of the weight of the index or portfolio (CBOE Rules 31.5(L).01(a)(2)(C) and 31.5(M).01(a)(2)(C));
- The index or portfolio shall include a minimum of 20 component stocks (CBOE Rules 31.5(L).01(a)(2)(D) and 31.5(M).01(a)(2)(D)); and
- Each U.S. Component Stock must be listed on a national securities exchange and an NMS stock as defined in Rule 600 of Regulation NMS under the Exchange Act, and each Non-U.S. Component Stock must be listed on an exchange that has last-sale reporting (CBOE Rules 31.5(L).01(a)(2)(E) and 31.5(M).01(a)(2)(E)).

The Exchange believes that the proposed standards are reasonable for international and global indexes, and, when applied in conjunction with the other listing requirements, would result in the listing and trading on the Exchange of ETFs that are sufficiently broad-based in scope and not readily susceptible to manipulation. The Exchange also believes that the proposed standards would result in ETFs that are adequately diversified in weighting for any single security or small group of securities to significantly reduce concerns that trading in an ETF based on an international or global

index could become a surrogate for trading in unregistered securities.

The Exchange further notes that, while these standards are similar to those for indexes that include only U.S. Component Stocks, they differ in certain important respects and are generally more restrictive, reflecting greater concerns over portfolio diversification with respect to ETFs investing in components that are not individually registered with the Commission. First, in the proposed standards, component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each shall have a minimum market value of at least \$100 million, compared to a minimum market value of at least \$75 million for indexes with only U.S. Component Stocks. (Market value is calculated by multiplying the total shares outstanding by the price per share of the component stock). Second, in the proposed standards, the most heavily weighted component stock cannot exceed 25% of the weight of the index or portfolio, in contrast to a 30% standard for an index or portfolio comprised of only U.S. Component Stocks. Third, in the proposed standards, the five most heavily weighted component stocks shall not exceed 60% of the weight of the index or portfolio, compared to a 65% standard for indexes comprised of only U.S. Component Stocks. Fourth, the minimum number of stocks in the proposed standards is 20, in contrast to a minimum of 13 in the standards for an index or portfolio with only U.S. Component Stocks. Finally, the proposed standards require that each Non-U.S. Component Stock included in the index or portfolio be listed and traded on an exchange that has last-sale reporting.

The Exchange also proposes to modify CBOE Rules 31.5(L).01(c) and 31.5(M).01(c) to require that the index value for an ETF listed pursuant to the proposed standards for international and global indexes be widely disseminated by one or more

major market data vendors at least every 60 seconds during the time when the ETF shares trade on the Exchange. If the index value does not change during some or all of the period when trading is occurring on the Exchange, the last official calculated index value must remain available throughout Exchange trading hours. In contrast, the index value for an ETF listed pursuant to the existing standards for domestic indexes must be disseminated at least every 15 seconds during the trading day. This modification reflects limitations, in some instances, on the frequency of intra-day trading information with respect to Non-U.S. Component Stocks and that, in many cases, trading hours for overseas markets overlap only in part, or not at all, with Exchange trading hours.

In addition, CBOE Rules 31.5(L).01(c) and 31.5(L).01(c) would be modified to define the term “Intraday Indicative Value” (“IIV”) as the estimate of the value of a share of each ETF that is updated at least every 15 seconds during trading in the ETF on the Exchange. CBOE also proposes to clarify in these rules that the IIV would be updated at least every 15 seconds during trading in the ETF on the Exchange to reflect changes in the exchange rate between the U.S. dollar and the currency in which any component stock is denominated. If the IIV does not change during some or all of the period when trading is occurring on CBSX, then the last official calculated IIV must remain available throughout CBSX’s trading hours.

CBOE is proposing that it may designate an ETF for trading during the trading hours specified in Rule 51.2(d)¹⁵ for IPRs and IPSs as long as the index value and IIV

¹⁵ Rule 51.2(d) provides that the hours during which IPR transactions may be made on CBSX are 8:15 a.m. (Central Time) until 3:15 p.m., and that the hours during which IPS transactions may be made on CBSX are 8:15 a.m. until 3:00 p.m. or 3:15 p.m. for each series of IPSs, as specified by CBSX.

dissemination requirements of CBOE Rules 31.5(L).01(c) and 31.5(M).01(c) are met.

The Exchange is also proposing to add new sections, CBOE Rules 31.5(L).01(f) and 31.5(M).01(f) regarding the creation and redemption process for ETFs and compliance with federal securities laws for, in particular, ETFs listed pursuant to the new generic listing standards. These new subsections would apply to ETFs listed pursuant to CBOE Rules 31.5(L) and (M), respectively. They would require that the statutory prospectus or the application for exemption from provisions of the 40 Act¹⁶ for the ETF being listed pursuant to these new standards must state that the ETF must comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933.¹⁷

The Commission has approved generic listing standards providing for the listing pursuant to Rule 19b-4(e) of other derivative products based on indexes described in rules previously approved by the Commission under Section 19(b)(2) of the Exchange Act.¹⁸ The Exchange proposes to include in the generic listing standards for the listing of ETFs indexes that have been approved by the Commission in connection with the listing of options, Index Portfolio Receipts, Index Portfolio Shares, Index-Linked Securities, or Index-Linked Exchangeable Notes. The Exchange believes that the application of that standard to ETFs is appropriate because the underlying index would have been subject to

¹⁶ 15 U.S.C. 80a et seq.

¹⁷ 15 U.S.C. 77a et seq.

¹⁸ See supra note 12.

detailed and specific Commission review in the context of the approval of listing of those other derivatives.¹⁹

This new generic standard would be limited to stock indexes and would require that each component stock be either: (1) a U.S. Component Stock that is listed on a national securities exchange and is an NMS stock as defined in Rule 600 of Regulation NMS; or (2) a Non-U.S. Component Stock that is listed and traded on an exchange that has last-sale reporting.

The Exchange is also proposing to include additional continued listing standards relating to ETFs. The Exchange would commence delisting proceedings if the value of the index or portfolio of securities on which the ETF is based is no longer calculated or disseminated.

The Exchange proposes to adopt CBOE Rules 31.5(L)(f) and 31.5(M)(d) to formalize in the rules existing best practices for providing equal access to material information about the value of ETFs. In addition, prior to approving an ETF for listing, the Exchange would obtain a representation from the ETF issuer that the NAV per share would be calculated daily and made available to all market participants at the same time.

CBOE Rule 52.3(b) sets out trading halt parameters for ETFs and other derivative securities. The Exchange proposes to amend Rule 52.3(b) to more thoroughly address

¹⁹ For example, rules of the American Stock Exchange (“Amex”) and NYSE Arca, Inc. provide that one element of the standards for listing Index-Linked Securities pursuant to Rule 19b-4(e) is the previous review and approval for trading of options or other derivatives by the Commission under Section 19(b)(2) of the Exchange Act and rules thereunder. See supra note 13.

trading halts. Currently, Rule 52.3(b) requires the Exchange to immediately halt trading in an ETF if a temporary interruption occurs in the calculation or wide dissemination of the applicable IIV or value of the underlying index by a major market data vendor and the listing market halts trading in the ETF. Proposed Rule 52.3(b) also provides that, if the IIV or the value of the underlying index continues not to be calculated or widely available as of the next business day, CBSX will not begin trading that ETF. In addition, proposed Rule 52.3(b) states that, if an interruption in the calculation or wide dissemination of the IIV or the value of the underlying index continues, CBSX may resume trading in the ETF only if calculation and wide dissemination of the IIV or the value of the underlying index resumes or trading in the ETF resumes in the listing market.

The Exchange is proposing to amend CBOE Rules 31.5(L) and (M) to stipulate that, as provided by SEC Rule 12f-5,²⁰ the Exchange may extend unlisted trading privileges to any security, such as ETFs, for which the Exchange has in effect rules providing or transactions in such class or type of security. The provision of CBOE Rule 31.5(L) and (M) that governs surveillance procedures, the provisions of CBOE Rule 54.1 and 54.2 that relate to information circulars and prospectus delivery, and CBOE Rule 51.2(d), which governs trading hours for transactions in IPRs and IPSs, would apply to securities traded on an unlisted trading privileges basis (as does the applicable proposed trading halt provision of CBOE Rule 52.3(b)). The Exchange will not, however, apply quantitative listing standards to securities traded on an unlisted trading privileges basis.

²⁰ 17 CFR 240.12f-5.

The Exchange is proposing other minor and clarifying changes to CBOE Rules 31.5(L) and (M). CBOE Rules 31.5(L).01(b) and 31.5(M).01(b) have been amended to ensure that an entity that advises index providers or calculators and related entities has in place procedures designed to prevent the use and dissemination of material non-public information regarding the index underlying the ETF.

CBOE Rules 31.5(L).01(a)(1)(C) and 31.5(M).01(a)(1)(C) are being amended to change the maximum weighting requirement for the most heavily weighted component stock from 25% to 30% of the weight of the index or portfolio for IPRs and IPSs, respectively.²¹

The Exchange will closely monitor activity in ETFs to identify and deter any potential improper trading activity in ETFs. The Exchange represents that its surveillance procedures will be adequate to properly monitor the trading of ETFs that would be listed or traded pursuant to unlisted trading privileges. Specifically, CBOE will rely on its existing surveillance procedures governing equities, options and exchange-traded funds. Additionally, the Exchange will develop procedures to closely monitor activity in the ETFs and related securities to identify and deter potential improper trading activity. In addition, the Exchange has a general policy prohibiting the dissemination of material, non-public information by its employees.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the

²¹ See Securities Exchange Act Release Nos. 44532 (July 10, 2001), 66 FR 37078 (July 16, 2001) (SR-Amex-2001-25).

Act²² in general, and furthers the objectives of Section 6(b)(5) of the Act²⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system.

4. 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 the purposes of the Act.

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

The Exchange neither solicited nor received comments on the proposal.

6. Extension of Time Period for Commission Action

CBOE does not consent to an extension of the time-period for Commission action.

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

The Exchange requests accelerated approval of this proposed rule change as CBOE believes that it is consistent with the protection of investors and the public interest because accelerated approval would enable the Exchange to begin offering the benefits of the proposed rule change for Exchange members and member organizations by allowing them to trade international and global index-based ETFs immediately, pursuant to Rule 19b-4(e).

²² 15 U.S.C. 78f(b).

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

The proposed rule change is based on the rules of the Philadelphia Stock Exchange, International Securities Exchange, New York Stock Exchange, NYSE Arca, Inc. and the Nasdaq Stock Market LLC.²³

9. Exhibits

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

²³ 15 U.S.C. 78f(b)(5).

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-CBOE-2007-109)

[date]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange Relating to Generic Listing Standards for Index Portfolio Receipts and Index Portfolio Shares

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 11, 2007, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II 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 Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")³ and Rule 19b-4 thereunder,⁴ proposes to amend CBOE Rules 52.3(b) (Trading Halts for Trading Pursuant to Unlisted Trading Privileges of Exchange Traded Funds on CBSX) and 31.5 (Criteria for Eligibility of Securities) for the purpose of adopting generic listing standards,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(1).

⁴ 17 CFR 240.19b-4.

pursuant to Rule 19b-4(e),⁵ for Index Portfolio Receipts and Index Portfolio Shares (which are also referred to together herein as “exchange-traded funds” or “ETFs”) based on international or global indexes, or on indexes described in rules previously approved by the Commission under Section 19(b)(2) under the Act.⁶

The text of the proposed rule change is available from the Exchange’s website (<http://www.cboe.org/Legal>), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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 Exchange 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 III below. The Exchange 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, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide for the more efficient and timely listing and trading of ETFs. This proposal would enable the Exchange to list and trade ETFs pursuant to Rule 19b-4(e) under the Exchange Act⁷ if each of the conditions set forth in CBOE Rules 31.5(L) or (M) are satisfied. Rule 19b-4(e) provides that the

⁵ 17 CFR 240.19b-4(e).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 240.19b-4(e).

listing and trading of a new derivative securities product by a self-regulatory organization (“SRO”) shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4, if the Commission has approved, pursuant to Section 19(b) of the Exchange Act, the SRO’s trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class.⁸

Exchange Traded Funds

CBOE Rules 31.5(L) and (M) provide standards for listing Index Portfolio Receipts and Index Portfolio Shares, respectively. Index Portfolio Receipts are securities that represent an interest in a unit investment trust that holds securities that comprise a stock index on which a series of IPRs is based.⁹ Index Portfolio Shares are securities that are issued by an open-end management investment company and based on a portfolio of stocks or fixed income securities designed to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic stock index or fixed income securities index.¹⁰ Pursuant to CBOE Rules 1.1.02 and 1.1.03, an IPR or IPS must be issued in a specified aggregate number in return for a deposit of a specified amount of stock and/or cash, with a value equal to the next determined net asset value (“NAV”). When aggregated in the same specified minimum number, the ETF must be redeemable by the issuer for stock and/or cash, with a value equal to the next

⁸ When relying on Rule 19b-4(e), the SRO must submit Form 19b-4(e) to the Commission within five business days after the exchange begins trading the new derivative securities products. See 17 CFR 240.19b-4(e)(2)(ii).

⁹ See CBOE Rule 1.1.02.

¹⁰ See CBOE Rule 1.1.03.

determined NAV. The NAV is calculated once a day after the close of the regular trading day.

To meet the investment objective of providing investment returns that correspond to the price and the dividend and yield performance of the underlying index, an ETF may use a “replication” strategy or a “representative sampling” strategy with respect to the ETF portfolio.¹¹ An ETF using a replication strategy will invest in each stock of the underlying index in about the same proportion as that stock is represented in the index itself. An ETF using a representative sampling strategy will generally invest in a significant number, but not all of the component securities of the underlying index, and will hold stocks that, in the aggregate, are intended to approximate the full index in terms of key characteristics, such as price/earnings ratio, earnings growth, and dividend yield.

In addition, an ETF portfolio may be adjusted in accordance with changes in the composition of the underlying index or to maintain compliance with requirements applicable to a regulated investment company under the Internal Revenue Code (“IRC”).¹²

¹¹ In either case, an ETF, by its terms, may be considered invested in the securities of the underlying index to the extent the ETF invests in sponsored American Depositary Receipts (“ADRs”), Global Depositary Receipts (“GDRs”), European Depositary Receipts (“EDRs”) that trade on exchanges with last-sale reporting representing securities in the underlying index.

¹² For an ETF to qualify for tax treatment as a regulated investment company, it must meet several requirements under the IRC. Among these is the requirement that, at the close of each quarter of the ETF’s taxable year, (1) at least 50% of the market value of the ETF’s total assets must be represented by cash items, U.S. government securities, securities of other regulated investment companies, and other securities, with such other securities limited for purposes of this calculation in respect of any one issuer to an amount not greater than 5% of the value of the ETF’s assets and not greater than 10% of the outstanding voting securities of such issuer; and (2) not more than 25% of the value of its total assets may be invested

Generic Listing Standards for Exchange-Traded Funds

The Commission has previously approved generic listing standards for ETFs based on indexes that consist of stocks listed on U.S. exchanges.¹³ In general, the proposed criteria for the underlying component securities in the international and global indexes are similar to those for the domestic indexes, but with modifications as appropriate for the issues and risks associated with non-U.S. securities.

In addition, the Commission has previously approved generic listing standards rules based on international indexes – those based on non-U.S. component stocks – as well as global indexes – those based on non-U.S. and U.S. component stocks.¹⁴

The Commission has also approved rules that permit the listing pursuant to Rule

in the securities of any one issuer, or two or more issuers that are controlled by the ETF (within the meaning of Section 851(b)(4)(B) of the IRC) and that are engaged in the same or similar trades or businesses or related trades or businesses (other than U.S. government securities or the securities of other regulated investment companies).

¹³ In 1998, the Commission approved CBOE Rule 31.5(L), which sets forth rules related to the listing of Index Portfolio Receipts. See Securities Exchange Act Release No. 39581 (January 26, 1998), 63 FR 5579 (February 3, 1998) (SR-CBOE-97-38). In 2001, the Commission approved the Exchange's generic listing standards for the listing and trading, including the trading pursuant to unlisted trading privileges, of Index Portfolio Receipts under CBOE Rule 31.5(L). See Securities Exchange Act Release No. 44046 (March 7, 2001), 66 FR 15152 (March 15, 2001) (SR-CBOE-00-51). In 2001, the Commission approved CBOE Rule 31.5(M), which sets forth the rules, including generic listing standards, for the listing and trading, including the trading pursuant to unlisted trading privileges, of Index Portfolio Shares under CBOE Rule 31.5(M). See Securities Exchange Act Release No. 44046 (March 7, 2001), 66 FR 15152 (March 15, 2001) (SR-CBOE-00-51).

¹⁴ See Securities Exchange Act Release No. 55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR-NYSEArca-2006-86); 55269 (February 9, 2007), 72 FR 7490 (February 15, 2007) (SR-NASDAQ-2006-50); and 55113 (January 17, 2007), 72 FR 3179 (SR-NYSE-2006-101).

19b-4(e) under the Act of index-based derivatives securities products where the Commission had previously approved rules contemplating the trading of specified index-based derivatives on the same index, on the condition that all of the standards set forth in those orders, in particular with respect to surveillance sharing agreements, continued to be satisfied.¹⁵

In approving ETFs for trading on exchanges, the Commission thoroughly considered the structure of the ETFs, their usefulness to investors and to the markets, and Exchange rules that govern their trading. The Exchange believes that adopting additional generic listing standards for these securities and applying Rule 19b-4(e) should fulfill the intended objective of that rule by allowing those ETFs that satisfy the proposed generic listing standards to commence trading, without the need for the public comment period and Commission approval. The proposed rules have the potential to reduce the time frame for bringing ETFs to market, thereby reducing the burdens on issuers and other market participants. The failure of a particular ETF to comply with the proposed generic listing standards under Rule 19b-4(e) would not, however, preclude the Exchange from submitting a separate filing pursuant to Section 19(b)(2) requesting Commission approval to list and trade a particular ETF.

Requirements for Listing and Trading ETFs Based on International and Global Indexes

Exchange-traded funds listed pursuant to the proposed generic listing standards would be traded, in all other respects, under the Exchange's existing trading rules and procedures that apply to ETFs and would be covered under the Exchange's surveillance

¹⁵ See, e.g., Securities Exchange Act Release No. 51563 (April 15, 2005) 70 FR 21257 (April 25, 2005) (SR-Amex-2005-001); Securities Exchange Act Release No. 52204 (August 3, 2005), 70 FR 46559 (August 10, 2005) (SR-PCX-2005-63).

program for ETFs.¹⁶

To list an ETF pursuant to the proposed generic listing standards for international and global indexes, the index underlying an ETF must satisfy all the conditions contained in proposed CBOE Rules 31.5(L).01(a)(2) and 31.5(M).01(a)(2). As with the existing generic standards for ETFs based on domestic indexes, these generic listing standards are intended to ensure that stocks with substantial market capitalization and trading volume account for a substantial portion of the weight of an index or portfolio. While the standards in this proposal are based on the standards contained in the current generic listing standards for ETFs based on domestic indexes, they have been adapted as appropriate to apply to international and global indexes.

As proposed, CBOE 31.5(L)(e) and 31.5(M)(c) would be adopted to provide definitions of U.S. Component Stock and Non-U.S. Component Stock. These new definitions would provide the basis for the standards for indexes with either domestic or international stocks, or a combination of both. A “Non-U.S. Component Stock” would mean an equity security that is not registered under Section 12(b) or 12(g) of the Exchange Act,¹⁷ and that is issued by an entity that (1) is not organized, domiciled, or incorporated in the United States, and (2) is an operating company (including a real estate investment trust (REIT) or income trust, but excluding an investment trust, unit trust, mutual fund, or derivative). This definition is designed to create a category of component stocks that are issued by companies that are not based in the United States, are not subject to oversight through Commission registration, and would include sponsored GDRs and

¹⁶ See CBOE Rules 31.5(L).01(e) and (M).01(e).

¹⁷ 15 U.S.C. 78l(b) or (g).

EDRs. A “U.S. Component Stock” would mean an equity security that is registered under Section 12(b) or 12(g) of the Exchange Act or an ADR the underlying equity security of which is registered under Section 12(b) or 12(g) of the Exchange Act. An ADR with an underlying equity security that is registered pursuant to the Exchange Act is considered a U.S. Component Stock because the issuer of that security is subject to Commission jurisdiction and must comply with Commission rules.

The Exchange proposes that, to list an ETF based on an international or global index or portfolio pursuant to the generic listing standards, such index or portfolio must meet the following criteria:

- Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each must have a minimum market value of at least \$100 million (CBOE Rules 31.5(L).01(a)(2)(A) and 31.5(M).01(a)(2)(A));
- Component stocks representing at least 90% of the weight of the index or portfolio each must have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares (CBOE Rules 31.5(L).01(a)(2)(B) and 31.5(M).01(a)(2)(B));
- The most heavily weighted component stock may not exceed 25% of the weight of the index or portfolio and the five most heavily weighted component stocks may not exceed 60% of the weight of the index or portfolio (CBOE Rules 31.5(L).01(a)(2)(C) and 31.5(M).01(a)(2)(C));
- The index or portfolio shall include a minimum of 20 component stocks (CBOE Rules 31.5(L).01(a)(2)(D) and 31.5(M).01(a)(2)(D)); and

- Each U.S. Component Stock must be listed on a national securities exchange and an NMS stock as defined in Rule 600 of Regulation NMS under the Exchange Act, and each Non-U.S. Component Stock must be listed on an exchange that has last-sale reporting (CBOE Rules 31.5(L).01(a)(2)(E) and 31.5(M).01(a)(2)(E)).

The Exchange believes that the proposed standards are reasonable for international and global indexes, and, when applied in conjunction with the other listing requirements, would result in the listing and trading on the Exchange of ETFs that are sufficiently broad-based in scope and not readily susceptible to manipulation. The Exchange also believes that the proposed standards would result in ETFs that are adequately diversified in weighting for any single security or small group of securities to significantly reduce concerns that trading in an ETF based on an international or global index could become a surrogate for trading in unregistered securities.

The Exchange further notes that, while these standards are similar to those for indexes that include only U.S. Component Stocks, they differ in certain important respects and are generally more restrictive, reflecting greater concerns over portfolio diversification with respect to ETFs investing in components that are not individually registered with the Commission. First, in the proposed standards, component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each shall have a minimum market value of at least \$100 million, compared to a minimum market value of at least \$75 million for indexes with only U.S. Component Stocks. (Market value is calculated by multiplying the total shares outstanding by the price per share of the component stock). Second, in the proposed standards, the most heavily weighted component stock cannot exceed 25% of the weight of the index or portfolio, in contrast to

a 30% standard for an index or portfolio comprised of only U.S. Component Stocks.

Third, in the proposed standards, the five most heavily weighted component stocks shall not exceed 60% of the weight of the index or portfolio, compared to a 65% standard for indexes comprised of only U.S. Component Stocks. Fourth, the minimum number of stocks in the proposed standards is 20, in contrast to a minimum of 13 in the standards for an index or portfolio with only U.S. Component Stocks. Finally, the proposed standards require that each Non-U.S. Component Stock included in the index or portfolio be listed and traded on an exchange that has last-sale reporting.

The Exchange also proposes to modify CBOE Rules 31.5(L).01(c) and 31.5(M).01(c) to require that the index value for an ETF listed pursuant to the proposed standards for international and global indexes be widely disseminated by one or more major market data vendors at least every 60 seconds during the time when the ETF shares trade on the Exchange. If the index value does not change during some or all of the period when trading is occurring on the Exchange, the last official calculated index value must remain available throughout Exchange trading hours. In contrast, the index value for an ETF listed pursuant to the existing standards for domestic indexes must be disseminated at least every 15 seconds during the trading day. This modification reflects limitations, in some instances, on the frequency of intra-day trading information with respect to Non-U.S. Component Stocks and that, in many cases, trading hours for overseas markets overlap only in part, or not at all, with Exchange trading hours.

In addition, CBOE Rules 31.5(L).01(c) and 31.5(L).01(c) would be modified to define the term “Intraday Indicative Value” (“IIV”) as the estimate of the value of a share of each ETF that is updated at least every 15 seconds during trading in the ETF on the

Exchange. CBOE also proposes to clarify in these rules that the IIV would be updated at least every 15 seconds during trading in the ETF on the Exchange to reflect changes in the exchange rate between the U.S. dollar and the currency in which any component stock is denominated. If the IIV does not change during some or all of the period when trading is occurring on CBSX, then the last official calculated IIV must remain available throughout CBSX's trading hours.

CBOE is proposing that it may designate an ETF for trading during the trading hours specified in Rule 51.2(d)¹⁸ for IPRs and IPSs as long as the index value and IIV dissemination requirements of CBOE Rules 31.5(L).01(c) and 31.5(M).01(c) are met.

The Exchange is also proposing to add new sections, CBOE Rules 31.5(L).01(f) and 31.5(M).01(f) regarding the creation and redemption process for ETFs and compliance with federal securities laws for, in particular, ETFs listed pursuant to the new generic listing standards. These new subsections would apply to ETFs listed pursuant to CBOE Rules 31.5(L) and (M), respectively. They would require that the statutory prospectus or the application for exemption from provisions of the 40 Act¹⁹ for the ETF being listed pursuant to these new standards must state that the ETF must comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be

¹⁸ Rule 51.2(d) provides that the hours during which IPR transactions may be made on CBSX are 8:15 a.m. (Central Time) until 3:15 p.m., and that the hours during which IPS transactions may be made on CBSX are 8:15 a.m. until 3:00 p.m. or 3:15 p.m. for each series of IPSs, as specified by CBSX.

¹⁹ 15 U.S.C. 80a et seq.

exempt from registration under the Securities Act of 1933.²⁰

The Commission has approved generic listing standards providing for the listing pursuant to Rule 19b-4(e) of other derivative products based on indexes described in rules previously approved by the Commission under Section 19(b)(2) of the Exchange Act.²¹ The Exchange proposes to include in the generic listing standards for the listing of ETFs indexes that have been approved by the Commission in connection with the listing of options, Index Portfolio Receipts, Index Portfolio Shares, Index-Linked Securities, or Index-Linked Exchangeable Notes. The Exchange believes that the application of that standard to ETFs is appropriate because the underlying index would have been subject to detailed and specific Commission review in the context of the approval of listing of those other derivatives.²²

This new generic standard would be limited to stock indexes and would require that each component stock be either: (1) a U.S. Component Stock that is listed on a national securities exchange and is an NMS stock as defined in Rule 600 of Regulation NMS; or (2) a Non-U.S. Component Stock that is listed and traded on an exchange that has last-sale reporting.

The Exchange is also proposing to include additional continued listing standards relating to ETFs. The Exchange would commence delisting proceedings if the value of

²⁰ 15 U.S.C. 77a et seq.

²¹ See supra note 12.

²² For example, rules of the American Stock Exchange (“Amex”) and NYSE Arca, Inc. provide that one element of the standards for listing Index-Linked Securities pursuant to Rule 19b-4(e) is the previous review and approval for trading of options or other derivatives by the Commission under Section 19(b)(2) of the Exchange Act and rules thereunder. See supra note 13.

the index or portfolio of securities on which the ETF is based is no longer calculated or disseminated.

The Exchange proposes to adopt CBOE Rules 31.5(L)(f) and 31.5(M)(d) to formalize in the rules existing best practices for providing equal access to material information about the value of ETFs. In addition, prior to approving an ETF for listing, the Exchange would obtain a representation from the ETF issuer that the NAV per share would be calculated daily and made available to all market participants at the same time.

CBOE Rule 52.3(b) sets out trading halt parameters for ETFs and other derivative securities. The Exchange proposes to amend Rule 52.3(b) to more thoroughly address trading halts. Currently, Rule 52.3(b) requires the Exchange to immediately halt trading in an ETF if a temporary interruption occurs in the calculation or wide dissemination of the applicable IIV or value of the underlying index by a major market data vendor and the listing market halts trading in the ETF. Proposed Rule 52.3(b) also provides that, if the IIV or the value of the underlying index continues not to be calculated or widely available as of the next business day, CBSX will not begin trading that ETF. In addition, proposed Rule 52.3(b) states that, if an interruption in the calculation or wide dissemination of the IIV or the value of the underlying index continues, CBSX may resume trading in the ETF only if calculation and wide dissemination of the IIV or the value of the underlying index resumes or trading in the ETF resumes in the listing market.

The Exchange is proposing to amend CBOE Rules 31.5(L) and (M) to stipulate that, as provided by SEC Rule 12f-5,²³ the Exchange may extend unlisted trading

²³ 17 CFR 240.12f-5.

will rely on its existing surveillance procedures governing equities, options and exchange-traded funds. Additionally, the Exchange will develop procedures to closely monitor activity in the ETFs and related securities to identify and deter potential improper trading activity. In addition, the Exchange has a general policy prohibiting the dissemination of material, non-public information by its employees.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act²⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act²⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange neither solicited nor received comments on the proposal.

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

The Exchange requests accelerated approval of this proposed rule change as CBOE believes that it is consistent with the protection of investors and the public interest because accelerated approval would enable the Exchange to begin offering the benefits of

²⁵ 15 U.S.C. 78f(b).

privileges to any security, such as ETFs, for which the Exchange has in effect rules providing or transactions in such class or type of security. The provision of CBOE Rule 31.5(L) and (M) that governs surveillance procedures, the provisions of CBOE Rule 54.1 and 54.2 that relate to information circulars and prospectus delivery, and CBOE Rule 51.2(d), which governs trading hours for transactions in IPRs and IPSs, would apply to securities traded on an unlisted trading privileges basis (as does the applicable proposed trading halt provision of CBOE Rule 52.3(b)). The Exchange will not, however, apply quantitative listing standards to securities traded on an unlisted trading privileges basis.

The Exchange is proposing other minor and clarifying changes to CBOE Rules 31.5(L) and (M). CBOE Rules 31.5(L).01(b) and 31.5(M).01(b) have been amended to ensure that an entity that advises index providers or calculators and related entities has in place procedures designed to prevent the use and dissemination of material non-public information regarding the index underlying the ETF.

CBOE Rules 31.5(L).01(a)(1)(C) and 31.5(M).01(a)(1)(C) are being amended to change the maximum weighting requirement for the most heavily weighted component stock from 25% to 30% of the weight of the index or portfolio for IPRs and IPSs, respectively.²⁴

The Exchange will closely monitor activity in ETFs to identify and deter any potential improper trading activity in ETFs. The Exchange represents that its surveillance procedures will be adequate to properly monitor the trading of ETFs that would be listed or traded pursuant to unlisted trading privileges. Specifically, CBOE

²⁴ See Securities Exchange Act Release Nos. 44532 (July 10, 2001), 66 FR 37078 (July 16, 2001) (SR-Amex-2001-25).

the proposed rule change for Exchange members and member organizations by allowing them to trade international and global index-based ETFs immediately, pursuant to Rule 19b-4(e).

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-2007-109 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-CBOE-2007-109. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule

change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, Station Place, 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 Chicago Board Options Exchange, Incorporated. 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-2007-109 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.²⁶

Secretary

²⁶ 17 CFR 200.30-3(a)(12).