

## OMB APPROVAL

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Page 1 of 13

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

File No. SR - 2007 - 115

Amendment No. 1

Proposed Rule Change by Chicago Board Options Exchange

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input type="checkbox"/>	Amendment <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input type="checkbox"/>	Section 19(b)(3)(A) <input checked="" type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
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## Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input checked="" 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)

Pilot  
☐Extension of Time Period  
for Commission Action  
☐

Date Expires

I am submitting this proposed rule change

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I am submitting this proposed rule change

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## Description

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

## Contact Information

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

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

## Signature

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

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

Date 10/04/2007

By Jennifer L. Klebes

(Name)

Senior Attorney / Assistant Secretary

(Title)

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

Jenny Klebes, klebes@cboe.com

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFT 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

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**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**

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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 broaden the application of its existing fees for transactions in CBOE Volatility Index (“VIX”) options to transactions in options on all volatility indexes that are calculated by the Exchange. The text of the proposed rule change is set forth in Exhibit 5.

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 September 14, 2007.

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

(a) Purpose

Amendment 1 replaces the original filing in its entirety. The purpose of Amendment 1 is to clarify in Items 1 and 3 that the Exchange is broadening the application of its existing fees for transactions in options on a single product (i.e., CBOE Volatility Index (“VIX”)) to apply to options on all volatility indexes that the Exchange calculates. Amendment 1 also makes other clarifications relating to transactions fees for options on volatility indexes. Amendment 1 proposes no changes to the rule text changes submitted in the original filing.

This rule change proposes to extend the existing fees for transactions in VIX options to options on all volatility indexes calculated by the Exchange. Currently, the established transaction fees for VIX options are: \$0.20 per contract for Market-Makers, Designated Primary Market-Makers and Remote Market-Makers;<sup>1</sup> \$0.20 per contract for member firm proprietary transactions; \$0.25 per contract for manually executed broker-dealer

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<sup>1</sup> This fee is set forth in the “Index Options” section at paragraph II of the Fees Schedule and is the standard rate that is subject to the Liquidity Provider Sliding Scale as set forth in Footnote 10 to the Fees Schedule.

transactions;<sup>2</sup> \$0.45 per contract for electronically executed broker-dealer transactions (i.e., broker-dealer orders that are automatically executed on the CBOE Hybrid Trading System),<sup>3</sup> and \$0.40 per contract for public customer transactions. In addition, there is a \$.04 surcharge fee currently assessed to non-public customer transactions in VIX options.<sup>4</sup>

To affect the current proposal, the Exchange proposes to replace the two references to “VIX” in the Fees Schedule with the category “VOLATILITY INDEXES.” The transaction fees for options on “VOLATILITY INDEXES” will apply to currently listed volatility index options and volatility index options to be listed in the future. The impetus for this rule change is the launch of options on the CBOE Nasdaq-100 Volatility Index (“VXN”) and on the CBOE Russell 2000 Volatility Index (“RVX”).<sup>5</sup>

The Exchange believes the rule change will further the Exchange’s goal of introducing new products to the marketplace that are competitively priced.<sup>6</sup> Also, the Exchange states that

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<sup>2</sup> This fee is set forth in the “Index Options” section at paragraph IV (4<sup>th</sup> bullet point) of the Fees Schedule.

<sup>3</sup> This fee is set forth in the “Index Options” section at paragraph IV (5<sup>th</sup> bullet point) of the Fees Schedule. Broker-dealer manual and electronic transaction fees will apply to broker-dealer orders (orders with “B” origin code), non-member market-maker orders (orders with “N” origin code) and orders from specialists in the underlying security (orders with “Y” origin code).

<sup>4</sup> There is also a \$.04 surcharge fee assessed to non-public customers for options on the S&P 100 Index (“OEX” and “XEO”) and for options on the S&P 500 Index (“SPX”).

<sup>5</sup> The Exchange previously received Commission approval to list and trade VXN and RVX options. See Securities Exchange Act Release No. 49563 (April 14, 2004), 69 FR 21589 (April 21, 2004) (order approving SR-CBOE-2003-40 to list and trade VXN options); see also Securities Exchange Act Release No. 55425 (March 8, 2007), 72 FR 12238 (March 15, 2007) (order approving SR-CBOE-2006-73 to list and trade RVX options).

<sup>6</sup> Linkage order fees are inapplicable for options on CBOE’s proprietary volatility indexes.

the surcharge fee on all non-public customer transactions in options on volatility indexes is to help the Exchange recoup license fees the Exchange pays to the respective reporting authorities for the options that the Exchange uses to calculate the volatility indexes (e.g., The Nasdaq Stock Market, Inc. and The Frank Russell Company).

(b) Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act")<sup>7</sup>, in general, and furthers the objectives of Section 6(b)(4)<sup>8</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 and other persons using its facilities.

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

Not applicable.

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

The proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge applicable to a member, thereby qualifying for effectiveness on filing

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

pursuant to Section 19(b)(3)(A)(ii)<sup>9</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>10</sup> thereunder.

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 5. Text of Proposed Rule Change.

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 C.F.R. 240.19b-4(f)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-CBOE-2007-115)

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

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Broaden the Application of Existing Transaction Fees for VIX Options to Options on All Volatility Indexes Calculated by CBOE

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on \_\_\_\_\_, 2007, the Chicago Board Options Exchange, Incorporated ( "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by CBOE under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend its Fees Schedule to broaden the application of its existing fees for transactions in CBOE Volatility Index ("VIX") options to transactions in options on all volatility indexes that are calculated by the Exchange. The text of the proposed

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

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, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

Amendment 1 replaces the original filing in its entirety. The purpose of Amendment 1 is to clarify in Items 1 and 3 that the Exchange is broadening the application of its existing fees for transactions in options on a single product (i.e., VIX) to apply to options on all volatility indexes that the Exchange calculates. Amendment 1 also makes other clarifications relating to transactions fees for options on volatility indexes. Amendment 1 proposes no changes to the rule text changes submitted in the original filing.

This rule change proposes to extend the existing fees for transactions in VIX options to options on all volatility indexes calculated by the Exchange. Currently, the established transaction fees for VIX options are: \$0.20 per contract for Market-Makers, Designated Primary Market-Makers and Remote Market-Makers;<sup>5</sup> \$0.20 per contract for member firm

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<sup>5</sup> This fee is set forth in the "Index Options" section at paragraph II of the Fees Schedule and is the standard rate that is subject to the Liquidity Provider Sliding Scale as set forth in Footnote 10 to the Fees Schedule.



proprietary transactions; \$0.25 per contract for manually executed broker-dealer transactions;<sup>6</sup> \$0.45 per contract for electronically executed broker-dealer transactions (*i.e.*, broker-dealer orders that are automatically executed on the CBOE Hybrid Trading System),<sup>7</sup> and \$0.40 per contract for public customer transactions. In addition, there is a \$.04 surcharge fee currently assessed to non-public customer transactions in VIX options.<sup>8</sup>

To affect the current proposal, the Exchange proposes to replace the two references to “VIX” in the Fees Schedule with the category “VOLATILITY INDEXES.” The transaction fees for options on “VOLATILITY INDEXES” will apply to currently listed volatility index options and volatility index options to be listed in the future. The impetus for this rule change is the launch of options on the CBOE Nasdaq-100 Volatility Index (“VXN”) and on the CBOE Russell 2000 Volatility Index (“RVX”).<sup>9</sup>

The Exchange believes the rule change will further the Exchange’s goal of introducing new products to the marketplace that are competitively priced.<sup>10</sup> Also, the Exchange states that

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<sup>6</sup> This fee is set forth in the “Index Options” section at paragraph IV (4<sup>th</sup> bullet point) of the Fees Schedule.

<sup>7</sup> This fee is set forth in the “Index Options” section at paragraph IV (5<sup>th</sup> bullet point) of the Fees Schedule. Broker-dealer manual and electronic transaction fees will apply to broker-dealer orders (orders with “B” origin code), non-member market-maker orders (orders with “N” origin code) and orders from specialists in the underlying security (orders with “Y” origin code).

<sup>8</sup> There is also a \$.04 surcharge fee assessed to non-public customers for options on the S&P 100 Index (“OEX” and “XEO”) and for options on the S&P 500 Index (“SPX”).

<sup>9</sup> The Exchange previously received Commission approval to list and trade VXN and RVX options. See Securities Exchange Act Release No. 49563 (April 14, 2004), 69 FR 21589 (April 21, 2004) (order approving SR-CBOE-2003-40 to list and trade VXN options); see also Securities Exchange Act Release No. 55425 (March 8, 2007), 72 FR 12238 (March 15, 2007) (order approving SR-CBOE-2006-73 to list and trade RVX options).

<sup>10</sup> Linkage order fees are inapplicable for options on CBOE’s proprietary volatility

the surcharge fee on all non-public customer transactions in options on volatility indexes is to help the Exchange recoup license fees the Exchange pays to the respective reporting authorities for the options that the Exchange uses to calculate the volatility indexes (e.g., The Nasdaq Stock Market, Inc. and The Frank Russell Company).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>12</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 and other persons using its facilities.

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

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and subparagraph (f)(2) of Rule 19b-4<sup>14</sup> thereunder. At any time

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indexes.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(4).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>);  
or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2007-115 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-CBOE-2007-115. 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

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<sup>14</sup> 17 C.F.R. 240.19b-4(f)(2).

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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2007-115 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>15</sup>

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

Nancy M. Morris  
Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).

Exhibit 5

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

**CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED**  
**FEES SCHEDULE**  
**SEPTEMBER 27 [AUGUST 29], 2007**

1.	<b>OPTIONS TRANSACTION FEES (1)(3)(4)(7)(15):</b>	<b>PER CONTRACT</b>
	<b>EQUITY OPTIONS (13):</b>	
	I. – V. No change.	
	<b>QQQQ and SPDR OPTIONS:</b>	
	I. – V. No change.	
	<b>INDEX OPTIONS (includes ETF and HOLDRs options):</b>	
I.	<b>CUSTOMER (2):</b>	
	• OEX and XEO.....	\$ .30
	• SPX, PREMIUM > or = \$1 .....	\$ .44
	• SPX, PREMIUM < \$1 .....	\$ .27
	• DXL, MVR and [VIX] <u>VOLATILITY INDEXES</u> .....	\$ .40
	• OTHER INDEXES, ETFs and HOLDRs .....	\$ .18
II.	<b>CBOE MARKET-MAKER/DPM/RMM (standard rate, subject to sliding scale) (10) .....</b>	<b>\$ .20</b>
III.	<b>MEMBER FIRM PROPRIETARY: (11) .....</b>	<b>\$ .20</b>
IV.	<b>BROKER-DEALER (16)</b>	
	• OEX and XEO.....	\$ .30
	• SPX.....	\$ .40
	• IWM and MVR .....	\$ .25
	• OTHER INDEXES, ETFs and HOLDRs - MANUAL .....	\$ .25
	• OTHER INDEXES, ETFs and HOLDRs - ELECTRONIC.....	\$ .45
V.	<b>SURCHARGE FEE: (14)</b>	
	• OEX, XEO, SPX [, VIX] <u>and VOLATILITY INDEXES</u> .....	\$ .04
	• DJX, DXL, MNX, NDX and RUT .....	\$ .10
VI.	<b>LINKAGE ORDERS (8)(14)...</b>	<b>\$ .26</b>

Remainder of Fees Schedule – Unchanged.