

## OMB APPROVAL

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

File No. SR - 2007 - 122  
Amendment No. 1

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

Initial <input type="checkbox"/>	Amendment <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
			Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action <input type="checkbox"/>	Date Expires <input type="text"/>
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Exhibit 2 Sent As Paper Document  
☐Exhibit 3 Sent As Paper Document  
☐**Description**

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

**Contact Information**

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

First Name Jennifer Last Name Lamie  
Title Assistant General Counsel  
E-mail lamie@cboe.com  
Telephone (312) 786-7576 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 12/14/2007

By Jennifer M. Lamie

(Name)

Assistant General Counsel and Assistant Secretary

(Title)

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

Jennifer lamie lamie@cboe.com

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information**

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

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

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

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

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Exhibit Sent As Paper Document

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

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

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Exhibit Sent As Paper Document

☐

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

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item 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 the Proposed Rule Change

The Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) is proposing to amend Rule 24.16, which is the Exchange’s rule applicable to the nullification and adjustment of transactions in index options, options on exchange-traded funds (“ETFs”) and options on HOLDing Company Depository ReceiptS (“HOLDRS”). The Exchange is proposing to amend the rule to change the manner in which it applies the obvious price error provision to transactions occurring as part of the Hybrid Opening System (“HOSS”) process. Set forth below are proposed changes to the rule text, with additions represented by underscoring and deletions represented by [bracketing].

Chicago Board Options Exchange, Incorporated  
Rules

\* \* \* \* \*

Rule 24.16 - Nullification and Adjustment of Transactions  
in Index Options, Options on ETFs and Options on HOLDRS

\* \* \* \* \*

(a) Trades Subject to Review

\* \* \* \* \*

(1) Obvious Price Error:

\* \* \* \* \*

(i) Definition of Fair Market Value: For purposes of this Rule only, the fair market value of an option is the midpoint of the national best bid and national best offer for the series (across all exchanges trading the option). In multiply listed issues, if there are no quotes for comparison purposes, fair market value shall be determined by Trading Officials. For singly-listed issues, fair market value shall be the midpoint of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). For transactions occurring as part of the Rapid Opening System (“ROS trades”) [or Hybrid Opening System (“HOSS”)], fair market value shall be the midpoint of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). For transactions occurring as part of the Hybrid Opening System (“HOSS”), except in the circumstance provided below, fair market value shall be the midpoint of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s), provided that the option contract quantity that is subject to nullification or adjustment shall not exceed the quote size and that any nullification or adjustment shall be applied on a pro-rata basis considering the overall

size of the HOSS opening trade. For transactions occurring as part of HOSS in any index options series being used to calculate the final settlement price of a volatility index on the final settlement day, fair market value shall be the midpoint of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s), provided that the quote size is for at least the overall size of the HOSS opening trade; if the quote size is for less than the overall size of the HOSS opening trade, then the obvious price error provision shall not apply. The determination of fair market value shall be made by Trading Officials in accordance with the provisions of this paragraph.

(ii) No change.

\* \* \* \* \*

(b) – (e) No change.

. . . Interpretations and Policies:

.01 - .02 No change.

\* \* \* \* \*

Item 2. Procedures of the Self-Regulatory Organization

(a) The CBOE's Office of the Chairman pursuant to delegated authority approved the proposed rule change on October 29, 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 Jennifer Lamie, (312) 786-7576.

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

(a) Purpose

Amendment No. 1 makes revisions to the proposed rule text and 19b-4, as originally filed, and replaces and supersedes the original filing in its entirety.

The Exchange is proposing to amend Rule 24.16, which is its obvious error rule pertaining to index options, options on ETFs and options on HOLDRS. The proposal would revise the obvious price error provision that pertains to transactions occurring as part of the HOSS opening rotation process. Currently, Rule 24.16 provides that an obvious price error would be deemed to have occurred when the execution price of a buy (sell) transaction is

above (below) the fair market value of the option by at least a prescribed minimum error amount.<sup>1</sup> For purposes of transactions occurring on HOSS, “fair market value” is currently defined as the midpoint of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). The Exchange is proposing to revise the fair market value calculation to provide additional conditions that would apply during regular HOSS rotations and during HOSS rotations in index options series that are being used to calculate the final settlement price of volatility indexes. The additional conditions are intended to reasonably factor the amount of available liquidity into the fair market value calculation during these rotations.

With respect to regular HOSS rotations, the Exchange is proposing to add a condition that the option contract quantity subject to nullification or adjustment would not exceed the size of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).<sup>2</sup> For example, assume that the opening transactions in series XYZ totaled 200 contracts at a price \$0.75. Also assume that a member representing non-CBOE Market-Maker A sold 200 contracts, trading 100 contracts with CBOE Market-Maker B and 100 contracts with non-CBOE Market-Maker C. Finally, assume that the first quote after the transaction in question that does not reflect the erroneous transaction is bid 100 contracts for \$0.95 and offered 150 contracts at \$1.15. In this scenario, an erroneous sell transaction

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<sup>1</sup> For example, for series trading with normal bid-ask differentials as established in Rule 8.7(b)(iv), the prescribed minimum error amount is as follows: \$0.125 if the fair market value is below \$2, \$0.20 if the fair market value is \$2 to \$5, \$0.25 if the fair market value is above \$5 to 10, \$0.40 if the fair market value is above \$10 to 20, and \$0.50 if the fair market value is above \$20. See Rule 24.16(a)(1).

<sup>2</sup> For erroneous sell transactions, the size of the bid would be used. For erroneous buy transactions, the size of the offer would be used.

would be deemed to have occurred in accordance with the obvious price error provision because the \$0.75 price received by non-CBOE Market-Maker A is at least \$0.125 lower than the fair market value of \$1.05.<sup>3</sup> In addition, because the size of the bid in the first quote after that does not reflect the erroneous transaction is for 100 contracts, up to 100 contracts executed on the opening on behalf of non-CBOE Market-Maker A would be subject to nullification or adjustment under the obvious price error provision.<sup>4</sup> Any nullifications or adjustments would occur on a pro rata basis considering the overall size of the HOSS opening trade. Thus, 50 contracts executed against CBOE Market-Maker B would have a price adjustment to \$1.05 (provided the adjusted price does not violate A's limit price) and 50 contracts executed against non-CBOE Market-Maker C would have a price adjustment to \$1.05 (provided the adjusted price does not violate A's or C's limit price).

With respect to HOSS rotations in index options series being used to calculate the final settlement price of a volatility index,<sup>5</sup> the Exchange is proposing to add a condition that

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<sup>3</sup> \$1.05 is the midpoint of \$0.95 and \$1.15.

<sup>4</sup> A HOSS transaction involving a non-CBOE Market-Maker is adjusted based on the first non-erroneous quote after the erroneous transaction on CBOE provided the price does not violate the non-CBOE Market-Maker's limit price. Otherwise, the transaction is nullified. See Rule 24.16(a)(1)(ii)(B) and (c)(3).

<sup>5</sup> CBOE's and the CBOE Futures Exchange, LLC's (a designated contract market approved by the Commodity Futures Trading Commission and a wholly-owned subsidiary of CBOE) rules provide for the listing and trading of options and futures, as applicable, on various volatility indexes. This proposed obvious price error provision would be utilized only for those index options series used to calculate the final settlement price of a volatility index and only on the final settlement date of the options and futures contracts on the applicable volatility index in each expiration month. Thus, for example, the proposed obvious price error provision would be used for the relevant Standard & Poor's 500 Stock Index ("SPX") options series on settlement days for CBOE Volatility Index ("VIX") options and futures contracts. The Exchange notes that, during the final settlement date, traders holding hedged volatility futures positions to settlement can be expected to trade out of their SPX

the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s) must be for at least the size of the HOSS opening transaction(s).<sup>6</sup> If the size of the quote is less than the size of the opening transaction(s), then the obvious price error provision shall not apply. For example, if the opening trade in Series XYZ is for a total of 200 contracts and the bid or offer, as applicable, of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s) is for 500 contracts, then the quote would be used to determine the fair market value and whether an obvious price error occurred. If the bid or offer, as applicable, of the quote is for only 100 contracts, then the trade would not be subject to nullification or adjustment under the obvious price error provision.

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options on that date. Traders who hold short, hedged VIX futures would liquidate that hedge by selling their SPX options, while traders holding long, hedged VIX positions would liquidate their hedge by buying SPX options. In order to seek convergence with the VIX final settlement value, these traders would be expected to liquidate their hedges by submitting orders in the appropriate SPX option series during the SPX opening on the final settlement date of the VIX futures contract. To the extent (i) traders who are liquidating hedges predominately are on one side of the market (e.g., seek to buy the particular SPX options) and (ii) those traders' orders predominate over other orders during the SPX opening on the final settlement date for the VIX futures contract, trades to liquidate hedges may contribute to an order imbalance during the SPX opening on that date. The same is equally applicable with respect to the final settlement dates of other volatility index options and futures. In light of this potential for a large order imbalance in the applicable series on these dates, the Exchange believes that the application of a modified obvious price error provision is reasonable and appropriate and will contribute to a fair and orderly opening.

<sup>6</sup> See note 2, supra.

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”)<sup>7</sup> and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

Item 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 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

The Exchange neither solicited nor received comments on the proposal.

Item 6. Extension of Time Period for Commission Action

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

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

Not applicable.

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<sup>7</sup> 15 U.S.C. 78s(b)(1).

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).



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

Not applicable.

Item 9. Exhibits

Exhibit 1. Notice of proposed rule change for publication in the Federal Register.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-CBOE-2007-122)

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

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Amending its Obvious Error Rule for Options on Indices, ETFs and HOLDRS

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 (the “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 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 is proposing to amend Rule 24.16, which is the Exchange’s rule applicable to the nullification and adjustment of transactions in index options, options on exchange-traded funds (“ETFs”) and options on HOLDing Company Depository Receipts (“HOLDRS”). The Exchange is proposing to amend the rule to change the manner in which it applies the obvious price error provision to transactions occurring as part of the Hybrid Opening System (“HOSS”) process. The text of the proposed rule change is available on the

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

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

Exchange's website (<http://www.cboe.org/Legal>), at the Office of the Secretary, CBOE 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 No. 1 makes revisions to the proposed rule text and 19b-4, as originally filed, and replaces and supersedes the original filing in its entirety.

The Exchange is proposing to amend Rule 24.16, which is its obvious error rule pertaining to index options, options on ETFs and options on HOLDRS. The proposal would revise the obvious price error provision that pertains to transactions occurring as part of the HOSS opening rotation process. Currently, Rule 24.16 provides that an obvious price error would be deemed to have occurred when the execution price of a buy (sell) transaction is above (below) the fair market value of the option by at least a prescribed minimum error amount.<sup>3</sup> For purposes of transactions occurring on HOSS, "fair market value" is currently

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<sup>3</sup> For example, for series trading with normal bid-ask differentials as established in Rule 8.7(b)(iv), the prescribed minimum error amount is as follows: \$0.125 if the fair market value is below \$2, \$0.20 if the fair market value is \$2 to \$5, \$0.25 if the fair market value is above \$5 to 10, \$0.40 if the fair market value is above \$10 to 20, and \$0.50 if the fair market value is above \$20. See Rule 24.16(a)(1).

defined as the midpoint of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). The Exchange is proposing to revise the fair market value calculation to provide additional conditions that would apply during regular HOSS rotations and during HOSS rotations in index options series that are being used to calculate the final settlement price of volatility indexes. The additional conditions are intended to reasonably factor the amount of available liquidity into the fair market value calculation during these rotations.

With respect to regular HOSS rotations, the Exchange is proposing to add a condition that the option contract quantity subject to nullification or adjustment would not exceed the size of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).<sup>4</sup> For example, assume that the opening transactions in series XYZ totaled 200 contracts at a price \$0.75. Also assume that a member representing non-CBOE Market-Maker A sold 200 contracts, trading 100 contracts with CBOE Market-Maker B and 100 contracts with non-CBOE Market-Maker C. Finally, assume that the first quote after the transaction in question that does not reflect the erroneous transaction is bid 100 contracts for \$0.95 and offered 150 contracts at \$1.15. In this scenario, an erroneous sell transaction would be deemed to have occurred in accordance with the obvious price error provision because the \$0.75 price received by non-CBOE Market-Maker A is at least \$0.125 lower than the fair market value of \$1.05.<sup>5</sup> In addition, because the size of the bid in the first quote after that does not reflect the erroneous transaction is for 100 contracts, up to 100 contracts

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<sup>4</sup> For erroneous sell transactions, the size of the bid would be used. For erroneous buy transactions, the size of the offer would be used.

<sup>5</sup> \$1.05 is the midpoint of \$0.95 and \$1.15.

executed on the opening on behalf of non-CBOE Market-Maker A would be subject to nullification or adjustment under the obvious price error provision.<sup>6</sup> Any nullifications or adjustments would occur on a pro rata basis considering the overall size of the HOSS opening trade. Thus, 50 contracts executed against CBOE Market-Maker B would have a price adjustment to \$1.05 (provided the adjusted price does not violate A's limit price) and 50 contracts executed against non-CBOE Market-Maker C would have a price adjustment to \$1.05 (provided the adjusted price does not violate A's or C's limit price).

With respect to HOSS rotations in index options series being used to calculate the final settlement price of a volatility index,<sup>7</sup> the Exchange is proposing to add a condition that

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<sup>6</sup> A HOSS transaction involving a non-CBOE Market-Maker is adjusted based on the first non-erroneous quote after the erroneous transaction on CBOE provided the price does not violate the non-CBOE Market-Maker's limit price. Otherwise, the transaction is nullified. See Rule 24.16(a)(1)(ii)(B) and (c)(3).

<sup>7</sup> CBOE's and the CBOE Futures Exchange, LLC's (a designated contract market approved by the Commodity Futures Trading Commission and a wholly-owned subsidiary of CBOE) rules provide for the listing and trading of options and futures, as applicable, on various volatility indexes. This proposed obvious price error provision would be utilized only for those index options series used to calculate the final settlement price of a volatility index and only on the final settlement date of the options and futures contracts on the applicable volatility index in each expiration month. Thus, for example, the proposed obvious price error provision would be used for the relevant Standard & Poor's 500 Stock Index ("SPX") options series on settlement days for CBOE Volatility Index ("VIX") options and futures contracts. The Exchange notes that, during the final settlement date, traders holding hedged volatility futures positions to settlement can be expected to trade out of their SPX options on that date. Traders who hold short, hedged VIX futures would liquidate that hedge by selling their SPX options, while traders holding long, hedged VIX positions would liquidate their hedge by buying SPX options. In order to seek convergence with the VIX final settlement value, these traders would be expected to liquidate their hedges by submitting orders in the appropriate SPX option series during the SPX opening on the final settlement date of the VIX futures contract. To the extent (i) traders who are liquidating hedges predominately are on one side of the market (e.g., seek to buy the particular SPX options) and (ii) those traders' orders predominate over other orders during the SPX opening on the final settlement date for the VIX futures contract, trades to liquidate hedges may contribute to an order

the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s) must be for at least the size of the HOSS opening transaction(s).<sup>8</sup> If the size of the quote is less than the size of the opening transaction(s), then the obvious price error provision shall not apply. For example, if the opening trade in Series XYZ is for a total of 200 contracts and the bid or offer, as applicable, of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s) is for 500 contracts, then the quote would be used to determine the fair market value and whether an obvious price error occurred. If the bid or offer, as applicable, of the quote is for only 100 contracts, then the trade would not be subject to nullification or adjustment under the obvious price error provision.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act<sup>9</sup> and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.<sup>10</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>11</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove

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imbalance during the SPX opening on that date. The same is equally applicable with respect to the final settlement dates of other volatility index options and futures. In light of this potential for a large order imbalance in the applicable series on these dates, the Exchange believes that the application of a modified obvious price error provision is reasonable and appropriate and will contribute to a fair and orderly opening.

<sup>8</sup> See note 4, supra.

<sup>9</sup> 15 U.S.C. 78s(b)(1).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

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

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

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

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

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

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

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

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>);  
or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2007-122 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-2007-122. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference 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-2007-122 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>12</sup>

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

Nancy M. Morris  
Secretary

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