

customer from assuming an imprudent position in binary index options.

In support of this proposal, the CBOE made the following representations:

- The CBOE has in place an adequate surveillance program to monitor trading in binary options on broad-based indexes and intends to largely apply its existing surveillance program for options to the trading of binary options on broad-based indexes; and
- The CBOE has the necessary systems capacity to support the new options series that would result from the introduction of binary options on broad-based indexes.

This approval order is based on the CBOE's representations.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁴⁹ that the proposed rule change (SR-CBOE-2006-105), as modified by Amendment No. 2, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁰

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57865; File No. SR-CBOE-2008-02]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Replace References to Certain Committees With a Reference to the Exchange

May 23, 2008.

I. Introduction

On March 17, 2008, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its rules to replace references to certain committees with a reference to the "Exchange." On April 7, 2008, CBOE submitted Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment

in the **Federal Register** on April 14, 2008.³ The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal

The Exchange proposes to amend CBOE Rules to delete certain references to the appropriate Procedure, Floor Officials, appropriate Market Performance, Membership, and Product Development Committees, as well as certain general references to committees such as the "appropriate Exchange committee." These references are being replaced with a reference to the "Exchange."

The Exchange proposes to make these changes to simplify and standardize its delegations of authority with respect to these Exchange committees. Under CBOE's organizational structure, Exchange committees can derive their authority in one of two ways. In addition to any powers and duties specifically granted in CBOE's Constitution or Rules, each committee has such other powers and duties as may be delegated to it by the Board of Directors ("Board").⁴ Thus, in some instances CBOE's Constitution or Rules specifically reference a particular committee or "appropriate Exchange committee." In other instances, the Board separately delegates a particular authority to a committee. Because the authority exercised by committees may be delegated by the Board, the Exchange believes that referencing these committees in the rule text is not necessary. Instead, the Exchange believes a better approach than making a specific reference to the above-listed committees or a general reference to the "appropriate Exchange committee" in the rule text is to simply reference the "Exchange." In this way, the Exchange would have the flexibility to determine who would perform the authorities under the CBOE Rules, which might include Exchange officials or the Board determining to delegate certain authorities to an appropriate Exchange committee.⁵ In addition, deleting references to these committees and

specifying the "Exchange" instead would be more efficient from an administrative perspective because the Exchange would not have to make a rule change merely, for instance, to accommodate a change in the title of a committee or to accommodate the reassignment of an authority to another committee.⁶

In addition, the Exchange proposes various other amendments to CBOE Rules that would accommodate the above-described changes and simplify the pertinent rule text. The Exchange has not proposed any revisions to its current disciplinary, arbitration or appeals procedures (or related Business Conduct, Arbitration and Appeals Committees) as part of the proposed rule change.⁷

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁸ In particular, the Commission finds that the proposal is consistent with Section 6(b)(1) of the Act,⁹ which requires that an exchange be so organized and have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the Act, the rules and regulations thereunder, and the rules of the exchange. In addition, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,¹⁰ in that it is designed 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

⁶ See, e.g., Securities Exchange Act Release Nos. 53537 (March 21, 2006), 71 FR 15778 (March 29, 2006) (SR-CBOE-2006-15) (deleting from the CBOE Rules any specific references to the certain named committees because the Exchange determined to eliminate these committees and reassign their respective authorities to other committees and/or to Exchange staff) and 39479 (December 22, 1997), 62 FR 68326 (December 31, 1997) (SR-CBOE-97-61) (deleting from the CBOE Rules any specific references to, and adding "appropriate" to all references that related to certain named committees).

⁷ The Commission notes that CBOE's committees relating to disciplinary, arbitration, and appeals matters and procedures are specifically defined in the CBOE Rules; any amendments to the rules relating to such committees and procedures would require CBOE to file a proposed rule change under Section 19(b) of the Act. 15 U.S.C. 78s(b).

⁸ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78f(b)(1).

¹⁰ 15 U.S.C. 78f(b)(5).

³ See Securities Exchange Act Release No. 57629 (April 7, 2008), 73 FR 20076 ("Notice").

⁴ See Rule 2.1(d).

⁵ As indicated above, Exchange committees only have authorities to the extent specifically granted in CBOE's Constitution or Rules or by Board delegation. The Board may also exercise authorities of the "Exchange" under CBOE's Constitution and Rules. In addition, authorities of the "Exchange" may be performed by other Exchange officials. For example, the Exchange's Chief Executive Officer, President or other officials or designees may have authorities of the "Exchange" as long as it is not inconsistent with CBOE's Constitution or Rules or any Board directive.

⁴⁹ 15 U.S.C. 78s(b)(2).

⁵⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that the proposed rule change is designed to simplify and standardize delegations of authority under the CBOE Rules. The Commission notes that, under the proposed rule change, the Exchange would have the flexibility to delegate authorities under its rules to Exchange staff or an Exchange committee, as appropriate, which could foster greater efficiency from an administrative perspective. The Commission further notes that the Exchange has not proposed any revisions to its current disciplinary, arbitration or appeals procedures (or related Business Conduct, Arbitration and Appeals Committees) as part of the proposed rule change. The Commission believes that CBOE's proposal is consistent with the requirements of the Act.

III. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-CBOE-2008-02) is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57854; File No. SR-ISE-2008-40]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Schedule of Fees To Establish Fees for Transactions in Options on One Premium Product

May 22, 2008.

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 May 20, 2008, International Securities Exchange, LLC ("ISE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items

have been prepared by ISE. The Exchange has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by ISE under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. 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

ISE is proposing to amend its Schedule of Fees to establish fees for transactions in options on one Premium Product.⁵ The text of the proposed rule change is available at <http://www.ise.com>, the principal offices of the Exchange, and 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, ISE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ISE 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 Exchange is proposing to amend its Schedule of Fees to establish fees for transactions in options on the Claymore/MAC Global Solar Energy Index ETF ("TAN").⁶ The Exchange

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ Premium Product is defined in the Schedule of Fees as the products enumerated therein.

⁶ Claymore® is a registered trademark of Claymore Securities, Inc. ("Claymore"). MAC Indexing LLC ("MAC") is the Index Provider for the Claymore/MAC Global Solar Energy Index ETF ("TAN"). Claymore Advisors, LLC is the Investment Advisor for TAN. Claymore is the Distributor for TAN. MAC is not affiliated with the Investment Adviser or the Distributor. The Investment Adviser has entered into a license agreement with MAC to use the MAC Global Solar Energy Index. TAN is not sponsored, endorsed, issued, sold or promoted by MAC. MAC and Claymore Securities have not licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on TAN or (ii) to use and refer to any of their trademarks or service marks in

represents that TAN is eligible for options trading because it constitutes an "Exchange-Traded Fund Share," as defined by ISE Rule 502(h).

All of the applicable fees covered by this filing are identical to fees charged by the Exchange for all other Premium Products. Specifically, the Exchange is proposing to adopt an execution fee and a comparison fee for all transactions in options on TAN.⁷ The amount of the execution fee and comparison fee for products covered by this filing shall be \$0.15 and \$0.03 per contract, respectively, for all Public Customer Orders⁸ and Firm Proprietary orders. The amount of the execution fee and comparison fee for all ISE Market Maker transactions shall be equal to the execution fee and comparison fee currently charged by the Exchange for ISE Market Maker transactions in equity options.⁹ Finally, the amount of the execution fee and comparison fee for all non-ISE Market Maker transactions shall be \$0.37 and \$0.03 per contract, respectively.¹⁰ Further, since options on TAN are multiply-listed, the Exchange's Payment for Order Flow fee shall apply to this product. The Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,¹¹

connection with the listing, provision of a market for trading, marketing, and promotion of options on TAN or with making disclosures concerning options on TAN under any applicable federal or state laws, rules or regulations. MAC and Claymore Securities do not sponsor, endorse, or promote such activity by ISE, and are not affiliated in any manner with ISE.

⁷ These fees will be charged only to Exchange members. Under a pilot program that is set to expire on July 31, 2008, these fees will also be charged to Linkage Principal Orders ("Linkage P Orders") and Linkage Principal Acting as Agent Orders ("Linkage P/A Orders"). The amount of the execution fee charged by the Exchange for Linkage P Orders and Linkage P/A Orders is \$0.24 per contract side and \$0.15 per contract side, respectively. See Securities Exchange Act Release No. 56128 (July 24, 2007), 72 FR 42161 (August 1, 2007) (SR-ISE-2007-55).

⁸ Public Customer Order is defined in Exchange Rule 100(a)(39) as an order for the account of a Public Customer. Public Customer is defined in Exchange Rule 100(a)(38) as a person or entity that is not a broker or dealer in securities.

⁹ The execution fee is currently between \$.21 and \$.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently \$.03 per contract side.

¹⁰ The amount of the execution and comparison fee for non-ISE Market Maker transactions executed in the Exchange's Facilitation and Solicitation Mechanisms is \$0.16 and \$0.03 per contract, respectively.

¹¹ 15 U.S.C. 78f.

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.