

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-47515; File No. SR-CBOE-2003-11]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Linkage Fees**

March 17, 2003.

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

("Act"),<sup>1</sup> and rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 12, 2003 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, 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 proposes to provide that its linkage fee structure operate as a pilot program for one year. The text of the proposed rule change is below; proposed language is italicized.<sup>3</sup>

\* \* \* \* \*

**CHICAGO BOARD OPTIONS EXCHANGE, INC.—FEE SCHEDULE, JANUARY 31, 2003**

	Per contract
1. Option Transaction Fees <sup>1 2 3 4 7</sup> :	
Equity & QQQ Options .....	
* * * * *	
VI. Non-Member Market Maker (not eligible for Prospective Fee Reduction Program) <sup>8</sup> .....	\$ .19
Index Options	
* * * * *	
V. Non-Member Market Maker <sup>8</sup> :	
• S & P 100 (including OEF), PREMIUM > OR = \$1 .....	.30
• S & P 100 (including OEF), PREMIUM < \$1 .....	.15
* * * * *	
2. Trade Match Fee <sup>1 4 7</sup> :	
* * * * *	
• All Other Equity, QQQ and Index Orders <sup>8</sup> .....	.05
3. Floor Brokerage Fee <sup>1 5</sup> :	
• All Other Equity, QQQ and Index Options <sup>8</sup> .....	.04
4. Raes Access Fee (Retail Automatic Execution System) <sup>1 4</sup> :	
* * * * *	
• Non-Customer Transactions (Origin Code Other Than "C") <sup>8</sup> .....	.30

**Notes:**

\* \* \* \* \*

<sup>8</sup> Includes, on a pilot basis until January 31, 2004, orders from members of other exchanges executing Linkage transactions, except for Satisfaction Orders, which are not assessed Exchange fees per Linkage rules.

\* \* \* \* \*

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

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

**A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change****1. Purpose**

On January 31, 2003, the Commission approved a CBOE proposal adding rules concerning the intermarket options linkage.<sup>4</sup> As part of that filing, CBOE submitted an amendment making minor changes to the text of the proposed linkage rules and modifying CBOE's fee schedule to make clear that CBOE fees for linkage orders would be the same as CBOE fees for non-linkage orders from the same originating source (market makers on other exchanges). This filing merely proposes to establish that CBOE's fees for linkage orders will operate under a pilot program to allow

the Commission and CBOE to gauge the suitability of the current linkage fees. The pilot would last until January 31, 2004.

Because all linkage orders received by CBOE are for the account of a broker-dealer market maker on another exchange, CBOE proposes that the fees applicable to such orders to be the same as fees applicable to market makers on other exchanges that submit orders to CBOE outside of the linkage taking into account how those orders are handled at CBOE. More specifically, the "regular" transaction fee applicable to non-member market makers would apply to linkage orders (currently \$.19 per contract for equity options and QQQ options, and \$.30 or \$.15 per contract for OEF options depending on premium). Further, a \$.05 per contract

<sup>1</sup> 15 U.S.C. 78s(b)(1).<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> At the request of the CBOE, nonsubstantive modifications were made to the proposed rule text as filed with the Commission to indicate omitted language. Telephone call between Angelo Evangelou, Senior Attorney, Legal Division, CBOE, and Jennifer Lewis, Attorney, Division of Market Regulation, Commission, on March 17, 2003.

<sup>4</sup> See Securities Exchange Act Release No. 47294 (January 31, 2003), 68 FR 6527 (February 7, 2003) approving SR-CBOE-2002-61.