

booths in excess of the initial four will be assessed at the reduced lease rate during the incentive period. All booth fees discounted under the incentive plan will revert to regular rates on July 1, 2004.

(iv) Continuation of Market Share Incentive Program (MIP)

The MIP pilot program was initiated March 1, 2003.<sup>8</sup> The Exchange proposes to extend the program for an additional six-month period from July through December 2003. As set forth in the initial filing, the program will continue to reduce transaction fees for Market Makers and DPMs in the top 300 equities and QQQs if certain monthly market share targets or increases in market share in these option classes are achieved.

(v) Discontinuation of Prospective Fee Reduction Program

The Exchange proposes to discontinue the Prospective Fee Reduction Program ("PFRP") for index option classes. The MIP Program previously replaced the PFRP for the equities and QQQ options classes, and the Exchange will similarly end the PFRP for index option classes in order to help fund various service enhancements for the index option classes.

(vi) Dow Jones Products Market Maker Transaction Fees

The Exchange proposes to increase market-maker transaction fees in Dow Jones option classes by \$.10 per contract, to \$.29 per contract, to partially recover the Exchange's costs to license Dow Jones products. This is consistent with similar fee surcharges that the Exchange has previously implemented to recover licensing costs for the MNX<sup>9</sup> and RUT<sup>10</sup> option classes.

(vii) RAES Access Fees for Non-Customer Orders

In March 2003, the Exchange implemented a pilot program temporarily suspending the \$.30 per contract access fee for non-customer RAES orders in equity option classes

through June 30, 2003.<sup>11</sup> The Exchange proposes to discontinue the pilot program, and reinstate the fee for equity option classes. The fee will also continue unchanged for non-equity option classes.

(viii) Data Lines Installation, Relocation and Removal

The Exchange has not changed its fees for these services since Fiscal Year 1993. The Exchange proposes to increase fees in this area to fully recover labor costs associated with this service. The new fees will be as follows:

1. Installation for (i) Lines from local carrier to trading floor and (ii) lines between Communications Center and trading floor will increase from \$263 to \$350;
2. Installation between local carrier and Communications Center will increase from \$158 to \$200;
3. Relocation on the trading floor will increase from \$315 to \$425;
4. Removal of (i) Lines from local carrier to trading floor and (ii) lines between Communications Center and trading floor will increase from \$158 to \$200;
5. Removal of lines between local carrier and Communications Center—will increase from \$79 to \$100.

(ix) Russell 2000 DPM Supplemental Transaction Fee

Due to the fact that the DPM in the Russell 2000 has been paying a significant periodic fee to CBOE to recover the Exchange's additional costs to license the product,<sup>12</sup> the Exchange has determined that it no longer needs to also impose the \$.16 per contract fee charged to the DPM for each Russell 2000 DPM contract.<sup>13</sup> The Exchange therefore proposes to eliminate the \$.16 per contract fee.

(x) Floor Broker Workstation (FBW)

The Exchange proposes to charge a monthly fee of \$425 to place a new FBW functionality on desktop terminals, equal to the rate currently assessed for ILX devices. If the application resides on a workstation that has the ILX, TNT (both proprietary terminal functionalities) and FBW functionalities, an additional \$100 fee will be assessed. Mobile FBWs will not be assessed a fee at this time in order to encourage their greater usage.

(xi) Pass Through of Additional NASD Fingerprinting Fee

On August 2, 2002, the Exchange entered into a Memorandum of Understanding with the NASD, whereby the registration of associated persons of CBOE member organizations would be processed through Web CRD.<sup>14</sup> This process includes the fingerprinting of associated persons. The NASD has informed the Exchange that beginning on July 14, 2003, it intends to assess a new fee of \$13 for the processing of fingerprint results submitted by members or member firms on behalf of their associated persons who have had their prints processed through a self-regulatory organization other than the NASD. The NASD will be applying this fee equally to all self-regulatory organizations, and will retain the fee proceeds.

The Exchange proposes to pass these costs through to the appropriate member firms. Specifically, CBOE member firms would be charged an additional \$13 for each associated person that is fingerprinted directly through a self-regulatory organization other than NASD (for instance, CBOE). CBOE notes that the NASD intends to raise its fee from \$10 to \$13 for CBOE members that are fingerprinted directly by the NASD.

2. Statutory Basis

The proposed rule change is consistent with section 6(b)<sup>15</sup> of the Act, in general, and furthers the objectives of section 6(b)(4)<sup>16</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.

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

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

<sup>8</sup> See Securities Exchange Act Release No. 47508 (March 14, 2003), 68 FR 13972 (March 21, 2003) (noticing SR-CBOE-2003-06).

<sup>9</sup> See Securities Exchange Act Release No. 43226 (August 29, 2000), 65 FR 54332 (September 7, 2000) (noticing SR-CBOE-2000-33).

<sup>10</sup> See Securities Exchange Act Release Nos. 47169 (January 13, 2003), 68 FR 2596 (January 17, 2003) (noticing SR-CBOE-2002-73) and 47170 (January 13, 2003), 68 FR 2595 (January 17, 2003) (noticing SR-CBOE-2002-72).

<sup>11</sup> See Securities Exchange Act Release No. 47559 (March 21, 2003), 68 FR 15252 (March 28, 2003) (noticing SR-CBOE-2003-10).

<sup>12</sup> See Securities Exchange Act Release No. 47169 (January 13, 2003), 68 FR 2596 (January 17, 2003) (noticing SR-CBOE-2002-73).

<sup>13</sup> See Securities Exchange Act Release No. 47170 (January 13, 2003), 68 FR 2595 (January 17, 2003) (noticing SR-CBOE-2002-72).

<sup>14</sup> See Securities Exchange Act Release No. 46062 (June 11, 2002), 67 FR 41552 (June 18, 2002) (noticing SR-CBOE-2001-66).

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

<sup>16</sup> 15 U.S.C. 78f(b)(4).