

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61232; File No. SR-CBOE-2009-094)

December 23, 2009

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Increasing the Session Fee for the Regulatory Element of Continuing Education Requirements

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 December 17, 2009, the Chicago Board Options Exchange, Incorporated (“CBOE” 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 the CBOE. CBOE has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member 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 parties.

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

CBOE proposes to amend its Fees Schedule to increase the session fee for the Regulatory Element of the Continuing Education requirements of Rule 9.3A with an implementation date January 4, 2010. The text of the proposed rule change is available on the Exchange’s website at <http://www.cboe.org/Legal>, at the Exchange’s Office of the Secretary, and at the Commission.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

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. The 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Regulatory Element, a computer-based education program administered by the Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) to help ensure that registered persons are kept up-to-date on regulatory, compliance, and sales practice matters in the industry, is a component of the Securities Industry Continuing Education Program (“Program”) under Rule 9.3A. The Securities Industry/Regulatory Council on Continuing Education (“Council”) was organized in 1995 to facilitate cooperative industry/regulatory coordination of the administration and future development of the Program in keeping with applicable industry regulations and changing industry needs. Its roles include recommending and helping develop specific content and questions for the Regulatory Element, defining minimum core curricula for the Firm Element component of the Program, and developing and updating information about the Program for industry-wide dissemination.⁵

⁵ The Council currently consists of 20 individuals, 14 of whom are securities industry professionals and six of whom represent self-regulatory organizations, including CBOE.

It is the Council's responsibility to maintain the Program on a revenue neutral basis while maintaining adequate reserves for unanticipated future expenditures.⁶ CBOE members currently pay \$75 each time one of their registered persons participates in the Regulatory Element. Following the consolidation of NASD's and NYSE Regulation's member regulation operations and the creation of FINRA, FINRA assumed responsibility for all aspects of the Program and thereafter conducted a financial review and evaluation of the program's budget. Based on this assessment, FINRA determined that an increase in the Regulatory Element session fee is necessary to cover the full costs associated with the Program, including costs associated with the redesign of the Regulatory Element.⁷

CBOE's proposed implementation date is January 4, 2010.⁸

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act")⁹, in general, and furthers the objectives of Sections 6(b)(4)¹⁰ and 6(b)(5)¹¹ 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, and that CBOE

⁶ The Regulatory Element session fee was initially set at \$75 when NASD established the continuing education requirements in 1995.

⁷ The redesign updates the presentation and content of the Regulatory Element to take advantage of the latest innovations in adult learning theories and technological advances. This is the first such large-scale redesign since the inception of the Program and should result in a significantly improved product and experience for members. FINRA will first implement the redesign of the General Program (S101) and the Series 6 Program (S106). The redesign of the Supervisors Program (S201) will be implemented at a later stage.

⁸ The Commission notes that this proposed rule change would increase the Regulatory Element session fee from \$75 to \$100.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78f(b)(5).

rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

CBOE believes that the proposed rule change is designed to accomplish these ends by enabling the Program to be maintained on a revenue neutral basis while maintaining adequate reserves for unanticipated future expenditures.

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 that is not necessary or appropriate in furtherance of [sic] 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

Because the foregoing 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 Act¹² and subparagraph (f)(2) of Rule 19b-4¹³ thereunder. At any time 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:

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 C.F.R. 240.19b-4(f)(2).

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. Please include File Number SR-CBOE-2009-094 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CBOE-2009-094. 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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-2009-094 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).