

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67813; File No. SR-CBOE-2012-083)

September 10, 2012

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Availability of a Data Product That Includes Option Valuations Through Market Data Express, LLC, an Affiliate of CBOE

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on August 28, 2012, the Chicago Board Options Exchange, Incorporated (“CBOE” or the “Exchange”) 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 self-regulatory organization. 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 make available, through its affiliate Market Data Express, LLC (“MDX”), a data product that includes option valuations. The text of the proposed rule change is available on the Exchange’s website

<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission.

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 Exchange 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 Exchange 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

The Exchange proposes to make available, through MDX, a new market data product, referred to as the CBOE Customized Option Valuation Service (the “Service”). The Service would provide subscribers with an “end-of-day” file⁴ of valuations for Flexible Exchange (“FLEX”)⁵ options and certain over-the-counter (“OTC”) options (the “Data”). The Data would be available for internal use and distribution by subscribers. MDX would offer the Data for sale to CBOE Trading Permit Holders (“TPHs”) and non-TPHs.

The Data would consist of indicative⁶ values for three categories of “customized” options. The first category of options is all open series of FLEX options listed on any exchange

⁴ An end of day file refers to data that is distributed prior to the opening of the next trading day.

⁵ FLEX options are exchange traded options that provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices.

⁶ “Indicative” values are indications of potential market prices only and as such are neither firm nor the basis for a transaction.

that offers FLEX options for trading.⁷ The second category is OTC options that have the same degree of customization as FLEX options. The third category includes options with strike prices expressed in percentage terms. Values for such options would be expressed in percentage terms and would be theoretical values.⁸

A small number of market data vendors produce option value data that is similar to the Data.⁹ The Options Clearing Corporation (“OCC”) also produces FLEX option value data that is similar to the FLEX option value data that would be included in the Service.¹⁰ These vendors and the OCC use model-driven processes to produce their data. Instead of using a model-driven process, CBOE would use values produced by CBOE registered market-makers to produce the Data. Participating CBOE market-makers would submit values to MDX on options series specified by MDX on a daily basis. These values would be generated by the market-maker’s internal pricing models. The valuations that MDX would ultimately publish would be an average of multiple contributions of values from participating CBOE market-makers. For each value provided by MDX through the Service, MDX would include a corresponding indication of the number of market-maker contributors that factored into that value.¹¹

⁷ Current FLEX options open interest spans over 2,000 series on over 300 different underlying securities.

⁸ These values would be theoretical in that they would be indications of potential market prices for options that have not traded (i.e. do not yet exist). Market participants sometimes express option values in percentage terms rather than in dollar terms because they find it is easier to assess the change, or lack of change, in the marketplace from one day to the next when values are expressed in percentage terms.

⁹ These vendors include SuperDerivatives, Markit, Prism, and Bloomberg’s BVAL service.

¹⁰ The OCC makes this data available on its website at <http://www.theocc.com/webapps/flex-reports>.

¹¹ MDX would publish on its website a description of the methodology used for averaging the values submitted by market-makers to produce a single publishable value.

CBOE market-makers that meet the following objective qualification criteria would be allowed to contribute values to MDX for purposes of producing Data for the Service. Interested CBOE market-makers must be approved by the Exchange, have the ability to provide daily valuations to MDX in a timely manner each day after the close of trading, and sign a services agreement with CBOE.¹² Interested CBOE market-makers must also have the ability to provide valuations on several different types of options, including (i) options on all open FLEX series traded on any exchange that offers FLEX options for trading, (ii) options on any potential new FLEX options series, (iii) OTC options that have the same degree of customization as FLEX options, and (iv) customized options where the strike price is expressed in percentage terms (the valuations provided to MDX must also be expressed in percentage terms). In addition, interested CBOE market-makers must participate in a testing phase with MDX. The values submitted by a market-maker during the testing phase and in live production must meet MDX's quality control standards designed to ensure the integrity and accuracy of the Data. MDX would implement procedures including monthly performance reviews and removal of outlier values in certain instances to help ensure the integrity and accuracy of the Data. MDX would not commence the Service with less than three market-makers committed to provide values for the Service.

In order to help ensure that MDX receives numerous values from multiple market-makers on a consistent basis, MDX would share revenue from the sale of the Data with qualifying CBOE market-makers that participate in this program. The amount of revenue that MDX would share with participating market-makers would not exceed thirty percent (30%) of the total revenue received by MDX from the sale of the Data. The revenue sharing would be based on the following table:

¹² Among other terms, the services agreement will include a provision that CBOE does not guarantee the accuracy or completeness of the Data in the Service.

| <u># of participating market-makers</u> | <u>Total revenue share</u> | <u>Rev. share per market-maker</u> |
|---|----------------------------|--|
| 3 | 21% | 7% |
| 4 | 24% | 6% |
| 5 or more | 30% | 30% divided by the number of participating market-makers |

If only three market-makers participate, MDX would share 21% of total revenue with each market-maker receiving a 7% share. If four market-makers participate, MDX would share 24% of total revenue with each market-maker receiving a 6% share. If five or more market-makers participate, MDX would share 30% of total revenue divided equally among the market-makers.

In order to help ensure that participating market-makers submit values to MDX on 100% of the series to be valued, a market-maker's revenue share would be reduced as follows:

- There is one "grace day" per month, i.e., if a market-maker does not submit values for 100% of the series on just one day within a given month, that market-maker will not lose any portion of its revenue share for that month.
- If a market-maker submits values for less than 100% of the series on any two days within a month, that market-maker will forfeit 10% of its revenue share for that month.
- If a market-maker submits values for less than 100% of the series on any three days within a month, that market-maker will forfeit 25% of its revenue share for that month.

- If a market-maker submits values for less than 100% of the series on any four days within a month, that market-maker will forfeit 50% of its revenue share for that month.
- If a market-maker submits values for less than 100% of the series on any five days within a month, that market-maker will forfeit 75% of its revenue share for that month.
- If a market-maker submits values for less than 100% of the series on any six or more days within a month, that market-maker will forfeit 100% of its revenue share for that month.

Subscribers would be able to purchase options daily, weekly, monthly or quarterly through the MDX website. TPHs and non-TPHs would be charged the same fees for the Data. The Exchange will file a separate proposed rule change to establish the fees to be charged by MDX for the Service. The Data would be delivered to subscribers via File Transfer Protocol (FTP) or secure copy shortly after the close of trading each day. MDX expects to launch the Service during the fourth quarter of 2012.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the “Act”)¹³ in general and with Section 6(b)(5) of the Act¹⁴ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers,

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(4) and (5).

issuers, brokers, or dealers. The proposed rule change would allow the Exchange, through MDX, to disseminate a new data service on a voluntary basis.

The Exchange believes the proposal to share revenue from the sale of the Data with qualifying CBOE market-makers that decide to contribute values to MDX for purposes of producing the Data is reasonable in that the Exchange believes it will encourage market-makers to provide values for the Service, which should enhance the quality of the Service. The Exchange believes using values produced by CBOE market-makers would not only differentiate the Service from the services of competing market data vendors, but would also add validity to the Data since the Data would be more closely related to tradable prices. The Exchange believes the proposal is equitable in that the revenue shared by MDX would be divided equally among participating market-makers. Further, the Exchange believes the proposal is not unfairly discriminatory in that CBOE market-makers would be selected to participate in this program based on objective qualifying criteria.

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 the purposes of the Act. To the contrary, the Exchange believes the proposed rule change is pro-competitive in that it would allow the Exchange, through MDX, to disseminate a new data service on a voluntary basis. The Service is voluntary on the part of the Exchange, which is not required to offer such services, and voluntary on the part of prospective subscribers that are not required to use it. The Exchange believes that the Service would help attract new users and new order flow to the Exchange, thereby improving the Exchange's ability to compete in the market for options order flow and executions.

C. 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 proposed rule change.

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

Because the foregoing proposed rule change does not:

- A. significantly affect the protection of investors or the public interest;
- B. impose any significant burden on competition; and
- C. become operative for 30 days from the date on which it was filed, or such shorter

time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)¹⁵ of the Act and Rule 19b-4(f)(6)¹⁶ thereunder.

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend 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:

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-2012-083 on the subject line.

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6).

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-2012-083. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-2012-083 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.¹⁷

Kevin M. O'Neill
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).