

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60264; File No. SR-CBOE-2009-045)

July 8, 2009

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its CBOE Stock Exchange (“CBSX”) Fees Schedule to Establish Regulatory and Inactivity Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 1, 2009, the Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) 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 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 amend its CBOE Stock Exchange (“CBSX”) Fees Schedule to establish regulatory and inactivity fees. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.org/legal>), at the Exchange’s Office of the Secretary, and at the Commission.

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 self-regulatory organization 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 those statements may be examined at the places

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts 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 amend its CBSX Fees Schedule to impose new CBSX regulatory fees³ and an inactivity fee⁴. Currently, CBOE charges no fee to CBSX Trading Permit Holders who either apply for CBOE to act as their designated examining authority or for whom CBOE acts as the designated examining authority. However, processing these applications and acting as the regulatory authority can be costly and time-intensive, so it is necessary that CBOE be compensated for these expenses so that CBOE can pay the costs associated with them. The proposed Inactivity Fee will ensure that Trading Permit Holders are sufficiently active on CBSX (CBSX is only authorized to issue 100 CBSX Trading Permits). The Exchange believes the regulatory fees are reasonable in that they help offset costs incurred in connection with CBSX regulation. The Exchange also believes the inactivity fee is appropriate since CBSX is only permitted to issue a finite number of Trading Permits and when permits are occupied by users

³ The Commission notes that the proposed regulatory fees are as follows:

Initial Regulatory Review Fee: This fee is charged to any CBSX Trading Permit Holder applicant that applies for a CBSX Trading Permit that, if approved, would result in CBOE serving as the Trading Permit Holder's designated examining authority. The amount of the fee is \$2,500.

Monthly Regulatory Fee: This fee is charged to any CBSX Trading Permit Holder for whom CBOE acts as the Trading Permit Holder's designated examining authority. The amount of the fee is \$2,500 per month.

⁴ The Commission notes that the proposed inactivity fee is as follows:

This fee is charged to any CBSX Trading Permit Holder that trades less than an average of 50,000 shares per day over a calendar month period. This fee will be calculated monthly. The amount of this fee is \$5,000 per month.

that don't engage in meaningful trading on CBSX, it could be at the expense of a potential permit holder that might be willing to add meaningful liquidity to the CBSX marketplace.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act")⁵, in general, and furthers the objectives of Section 6(b)(4)⁶ 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.

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 not necessary or appropriate in furtherance of the 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

The proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A)(ii)⁷ of the Act and subparagraph (f)(2) of Rule 19b-4⁸ 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

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸ 17 C.F.R. 240.19b-4(f)(2).

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 proposal 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 No. SR-CBOE-2009-045 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 No. SR-CBOE-2009-045. 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, 100 F Street,

NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. 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 No. SR-CBOE-2009-045 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.⁹

Elizabeth M. Murphy
Secretary

⁹ 17 CFR 200.30-3(a)(12).