

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63887; File No. SR-CBOE-2011-015)

February 10, 2011

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the CFLEX Surcharge Fee Cap

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 February 1, 2011, Chicago Board Options Exchange, Incorporated (the “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

Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) proposes to amend its Fees Schedule to extend the CFLEX Surcharge Fee cap to all orders. The text of the proposed rule change is available on the Exchange’s website (<http://www.cboe.org/legal>), at the Exchange’s principal office, and at the Commission’s Public Reference Room.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

On November 15, 2007, the Commission approved Exchange rules that provide for the trading of Flexible Exchange ("FLEX") options on the Exchange's new FLEX Hybrid Trading System ("CFLEX").³ CFLEX is a trading platform that incorporates both open outcry and electronic trading functionality. On November 20, 2007, the Exchange filed an amendment to the Exchange Fees Schedule to establish a \$.10 per contract surcharge fee on all orders (i.e., applicable to all origin codes) executed electronically on the CFLEX system ("CFLEX Surcharge Fee").⁴ Pursuant to that filing, the CFLEX Surcharge Fee is currently charged up to the first 2,500 contracts per trade for public customers.⁵

The proposed amendment to the Fees Schedule would extend the cap on the CFLEX Surcharge Fee to all orders. The CFLEX Surcharge Fee would be charged up to the first 2,500 contracts per trade, regardless of the order type. The purpose of the proposed fee change is to encourage more use of the CFLEX system.

The proposed change is scheduled to take effect on February 1, 2011.

2. Statutory Basis

³ See Securities Exchange Act Release No. 56792 (November 15, 2007), 72 FR 65776 (SR-CBOE-2006-99).

⁴ See Securities Exchange Act Release No. 56852 (November 28, 2007), 72 FR 68226 (December 4, 2007) (SR-CBOE-2007-139).

⁵ See CBOE Fees Schedule, Footnote 5 [sic].

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (“Act”)⁶, in general, and furthers the objectives of Section 6(b)(4)⁷ 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 Trading Permit Holders and other persons using its facilities. The proposed rule change, by extending the cap on the CFLEX Surcharge Fee to all order types, would provide for lower fees for all market participants trading on the CFLEX system.

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 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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and subparagraph (f)(2) of Rule 19b-4⁹ thereunder. At any time within 60 days of the filing of the 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

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 C.F.R. 240.19b-4(f)(2).

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-2011-015 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-2011-015. 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-2011-015 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.¹⁰

Cathy H. Ahn
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).