

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64414; File No. SR-CBOE-2011-045)

May 5, 2011

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the CBOE Stock Exchange Fees Schedule

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 April 29, 2011, the Chicago Board Options Exchange, Incorporated (“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

The Exchange proposes to amend the CBOE Stock Exchange (“CBSX”) Fees Schedule.

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 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

This filing proposes to make changes to the CBSX Fees Schedule. The first change is to eliminate the symbol "Q" from the stocks listed in footnote 3 which are subject to certain transaction fees. The symbol "Q" is being deleted because the stock is no longer available for trading on CBSX.

The Exchange also proposes to eliminate transaction fees and rebates for NBBO Step-Up Trades. Such trades were only available through CBSX's "flash" process. The Commission approved the deletion of CBSX's "flash" rule on April 6, 2011.³ As such, the Exchange proposes to delete these now-obsolete fees from the Fees Schedule.

CBSX further proposes to modify the transaction fees for a cross trade that is the stock component of a qualified contingent trade. Currently, the fee is \$.0010 per share, with a maximum rate of \$20 per trade. The Exchange proposes increasing the fee to \$.0012 per share and increasing the maximum rate to \$25 per trade. CBSX proposes these increases in order to better recoup costs associated with such trades.

These changes will take effect on May 2, 2011.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act"),⁴ in general, and furthers the objectives of Section 6(b)(4)⁵ of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees,

³ See Securities Exchange Act Release No. 64200 (April 6, 2011), 76 FR 20406 (April 12, 2011) (SR-CBOE-2011-036).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

and other charges among persons using Exchange facilities. CBSX proposes eliminating obsolete references to the symbol “Q” and the fees that were only applicable to the now-nonexistent “flash” process from its Fees Schedule in order to avoid investor confusion. The evasion of confusion is consistent with the objectives of Section 6(b)(5)⁶ of the Act of ensuring that the rules of the Exchange are designed to perfect the mechanism of a free and open market and to protect investors and the public interest. CBSX proposes increasing transaction fees for a cross trade that is the stock component of a qualified contingent trade to provide for the equitable allocation of such fees in accordance of Section 6(b)(4)⁷ of the Act. The fee will be same regardless of user, therefore ensuring that such fees are allocated equitably and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.⁸

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)

⁶ 15 U.S.C. 78f(b)(5).

⁷ See supra note 5.

⁸ This sentence was revised at the request of the Exchange. See e-mail from Jeff Dritz, Attorney, CBOE, to Steve Kuan, Special Counsel, Division of Trading and Markets, Commission, on May 5, 2011.

of the Act⁹ and subparagraph (f)(2) of Rule 19b-4¹⁰ 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

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-2011-045 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 Number SR-CBOE-2011-045. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 C.F.R. 240.19b-4(f)(2).

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 such 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-2011-045 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.¹¹

Elizabeth M. Murphy
Secretary

¹¹ 17 CFR 200.30-3(a)(12).