SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68178; File No. SR-CBOE-2012-104)

November 7, 2012

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the 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 October 26, 2012, 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 Fees Schedule. The text of the proposed rule change is available on the Exchange's website (www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx), 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 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.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to remove dividend spreads from the list of strategy executions for which fee caps apply. Under the Exchange's current Fees Schedule, Market-maker, Clearing Trading Permit Holder, broker-dealer and non-Trading Permit Holder market-maker transaction fees are capped at $1,000 for a number of strategy executions.[3] The cap applies to each strategy execution executed on the same trading day in the same option class. Transaction fees for these strategies are further capped at $25,000 per month per initiating Trading Permit Holder or Clearing Trading Permit Holder (both caps described herein collectively as the "Strategy Caps").[4] The Strategy Caps may provide an incentive to engage in the strategy executions.

One strategy execution listed is a "dividend strategy", which is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed prior to the date on which the underlying stock goes ex-dividend.[5] Dividend strategy transactions are only executed by Market-Makers. The Exchange proposes to remove dividend strategies from the list of strategy executions that are subject to the Strategy Caps. The Exchange has determined that it does not wish to continue to provide an incentive via its Fees Schedule to engage in dividend strategy trading because this strategy may encourage high volumes of trading of certain securities near the ex-dividend date and present operational risks to market participants with respect to clearing, exercise, and assignment or

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3 See CBOE Fees Schedule, Footnote 13.

4 Id.

5 Id.

other issues that may prevent the market participant from the timely exercise of call options and collecting the dividend owed. As such, the Exchange proposes to remove references to dividend strategies from the Strategy Caps described in Footnote 13 of the Fees Schedule. The definition of "dividend strategy" will be removed from Footnote 13 as will all references to dividend strategies, including references regarding the Strategy Caps and Index License surcharge fees.

Footnote 11 of the CBOE Fees Schedule states that transaction fees and contract volume resulting from any of the strategies defined in Footnote 13 will not apply towards reaching the Exchange's Clearing Trading Permit Holder Fee Cap in all Products Except SPX, SRO, VIX or other Volatility Indexes, OEX or XEO (the "CTPH Fee Cap") and CBOE Proprietary Products Sliding Scale for Clearing Trading Permit Holder Proprietary Orders (the "CTPH Sliding Scale") volume thresholds.[6] By removing dividend strategies from the list of strategy executions described in Footnote 13, it would appear as though dividend strategy executions would begin to apply towards reaching the CTPH Fee Cap and CTPH Sliding Scale volume thresholds. However, because only Market-Makers execute dividend strategy trades and the CTPH Fee Cap and CTPH Sliding Scale both only apply to Clearing Trading Permit Holders, it would be impossible for dividend strategy executions to apply towards reaching the CTPH Fee Cap and CTPH Sliding Scale volume thresholds. Therefore, no changes need to be made to the Fees Schedule regarding dividend strategy executions and the CTPH Fee Cap and CTPH Sliding Scale.

The proposed change is not otherwise intended to address any other matter, and the Exchange is not aware of any significant problem that the affected market participants would

6 See CBOE Fees Schedule, Footnote 11.

have in complying with the proposed change. The proposed change is to take effect on November 1, 2012.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act[8], which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. The Exchange believes that the proposed change is reasonable because the Strategy Caps may provide an incentive to engage in dividend spreads and the Exchange has determined that it no longer wishes to offer any potential incentive via its Fees Schedule in light of the operational risks that dividend spreads may present. The Exchange also believes that the proposed change is equitable and not unfairly discriminatory because it would apply equally to all market participants and because the remaining strategy executions that would continue to be subject to the fee caps do not present the same type of potential operational risks.

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.

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.

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7 15 U.S.C. 78f(b).

8 15 U.S.C. 78f(b)(4).

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)[9] of the Act and paragraph (f) of Rule 19b-4[10] 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-2012-104 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-2012-104. 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

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9 15 U.S.C. 78s(b)(3)(A).

10 17 C.F.R. 240.19b-4(f).

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-2012-104 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]

Kevin M. O'Neill
Deputy Secretary

[11] 17 CFR 200.30-3(a)(12).