

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69681; File No. SR-CBOE-2013-056)

June 3, 2013

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”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on May 20, 2013, 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 the Fees Schedule. 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’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, 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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 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 aspects of such statements.

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

1. Purpose

The Exchange recently amended its Fees Schedule to add to Footnote 25 the statement that any Floor Broker Trading Permit Holder that executes an average of 15,000 customer open-outcry contracts per day (“CPD”) over the course of a calendar month in multiply-listed options classes will receive a rebate of \$7,500 on that Floor Broker Trading Permit Holder’s Floor Broker Trading Permit fees (the “Rebate”).<sup>3</sup> Footnote 25 describes Floor Broker Trading Permit Fees and the Floor Broker Trading Permit Sliding Scale, and states that the Floor Broker Trading Permit Sliding Scale will be available for all Floor Broker Trading Permits held by affiliated Trading Permit Holders and TPH organizations.<sup>4</sup> As such, the Exchange believed that it was implied that the trading volume of all Floor Broker Trading Permit Holders affiliated with a single TPH organization would be aggregated for the purposes of reaching the 15,000-contract threshold, and that each TPH organization would receive one \$7,500 rebate (as opposed to a rebate for each affiliated Floor Broker Trading Permit Holder that reached the 15,000-contract threshold).

However, in an effort to make the Rebate program’s details clear, the Exchange now proposes to add the following clarifying language to the end of Footnote 25: For purposes of determining the rebate, the qualifying volume of all Floor Broker Trading

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<sup>3</sup> See Securities Exchange Act Release No. 69569 (May 14, 2013) (SR-CBOE-2013-049).

<sup>4</sup> See CBOE Fees Schedule, Footnote 25.

Permit Holders affiliated with a single TPH organization will be aggregated, and, if such total meets or exceeds the 15,000 customer open-outcry contracts per day threshold in multiply-listed options classes, that TPH organization will receive a single \$7,500 rebate, regardless of the number of Floor Broker Trading Permits affiliated with that TPH organization. The purpose of aggregating the qualifying volume of all Floor Broker Trading Permit Holders affiliated with a single TPH organization is to make it easier for such TPH organizations that have a number of Floor Broker Trading Permit Holders affiliated with them to be able to reach the threshold. The purpose of stipulating that each TPH organization will receive a single rebate is to ensure that the Rebate program is economically viable for the Exchange.

## 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.<sup>5</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>6</sup> which requires that Exchange rules 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 aggregating the qualifying volume of all Floor Broker Trading Permit Holders affiliated with a single TPH organization is reasonable because it will allow more TPH organizations to reach the threshold and therefore receive the Rebate. The Exchange believes that this is equitable and not unfairly discriminatory because it will incentivize TPH organizations with affiliated Floor Broker Trading Permit Holders

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<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(4).

to encourage such Floor Broker Trading Permit Holders to transact more qualifying volume, which should increase volume, which would benefit all market participants (including Floor Broker Trading Permit Holders and TPH organizations with affiliated Floor Broker Trading Permit Holders who do not hit the 15,000 contracts-per-day threshold (indeed, this increased volume could make it possible for some such Floor Brokers and/or TPH organizations to hit the 15,000 contracts-per-day threshold)). The Exchange believes that it is reasonable to limit TPH organizations to receiving one \$7,500 rebate per month because this is necessary to ensure that the Rebate program is economically viable for the Exchange. The Exchange believes that this limitation is equitable and not unfairly discriminatory because it applies to all qualifying TPH organizations.

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. CBOE does not believe that aggregating the qualifying volume of all Floor Broker Trading Permit Holders affiliated with a single TPH organization will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it will incentivize TPH organizations with affiliated Floor Broker Trading Permit Holders to encourage such Floor Broker Trading Permit Holders to transact more qualifying volume, which should increase volume, which would benefit all market participants (including Floor Broker Trading Permit Holders and TPH organizations with affiliated Floor Broker Trading Permit Holders who do not hit the 15,000 contracts-per-day threshold (indeed, this increased volume could make it possible

for some such Floor Brokers and/or TPH organizations to hit the 15,000 contracts-per-day threshold)). CBOE does not believe that limiting TPH organizations to receiving one \$7,500 rebate per month will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because this limitation applies to all qualifying TPH organizations.

CBOE does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes only apply to Floor Brokers at CBOE. To the extent that aggregating the qualifying volume of all Floor Broker Trading Permit Holders affiliated with a single TPH organization proves attractive to market participants on other exchanges, such Floor Brokers or market participants may elect to become Floor Brokers or market participants at CBOE.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and paragraph (f) of Rule 19b-4<sup>8</sup> 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

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f).

furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2013-056 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-2013-056. 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-2013-056 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.<sup>9</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).