

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70314; File No. SR-CBOE-2013-084)

September 4, 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 August 22, 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 its 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 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.

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

<sup>2</sup> 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 Footnote 10 of the Fees Schedule to state that contract volume resulting from any of the strategies defined in Footnote 13 will apply towards reaching the Liquidity Provider Sliding Scale (the "LP Sliding Scale") volume thresholds.<sup>3</sup> This will put the strategy executions on the same footing as other transactions that count towards the LP Sliding Scale. Further, the Exchange believes this change will encourage the transaction of strategy executions. This would result in increased volume and provide greater liquidity, which would benefit all market participants (who could trade on the other side of these orders). While CBOE's previous practice had been to not apply contract volume resulting from any of the strategies defined in Footnote 13 towards the LP Sliding Scale (as such transactions apply towards fee caps on strategy executions as described in Footnote 13), the Exchange now believes that the incentive that such application would provide to Market-Makers to transact strategy executions outweighs any countervailing reasoning, as the Exchange recognizes that such transactions would provide greater liquidity for all market participants.

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>4</sup> Specifically, the Exchange believes the proposed rule change is

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<sup>3</sup> The strategies defined in Footnote 13 of the Fees Schedule are merger strategies, short stock interest strategies, reversals, conversions and jelly roll strategies. See Footnote 13 for definitions of each strategy.

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

consistent with Section 6(b)(4) of the Act<sup>5</sup>, which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities. The Exchange believes that the proposed change to include contract volume resulting from strategy executions in the calculation of the LP Sliding Scale is reasonable because it will allow qualifying market participants who execute strategy transactions to benefit from the LP Sliding Scale for doing so. The Exchange believes that this is equitable and not unfairly discriminatory because it will apply to all market participants who qualify for the LP Sliding Scale. While the LP Sliding Scale only applies to Market-Makers, those market participants take on obligations, such as quoting obligations, that some other market participants do not take on. Further, the Exchange believes that this will incentivize qualifying market participants to engage in such strategy executions, and the resulting increase in volume will benefit all market participants. Finally, this will put the strategy executions on the same footing as other transactions that count towards the LP Sliding Scale.

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. The Exchange does not believe that the proposed changes to include contract volume resulting from strategy executions in the calculation of the LP Sliding Scale will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because they will apply to all market participants who qualify for the LP Sliding Scale. While the LP Sliding Scale only applies to Market-Makers, those market participants take on obligations, such as quoting obligations, that some other market participants do not take on.

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<sup>5</sup> 15 U.S.C. 78f(b)(4).

Further, the Exchange believes that this will incentivize qualifying market participants to engage in such strategy executions, and the resulting increase in volume will benefit all market participants. The Exchange does not believe that this will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it only affects trading on CBOE. Further, to the extent that these changes may make CBOE a more attractive trading venue for market participants on other exchanges, such market participants may elect to become CBOE market participants.

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>6</sup> and paragraph (f) of Rule 19b-4<sup>7</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 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:

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f).

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-2013-084 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-2013-084. 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 such filing also will be available for inspection and copying at the principal offices 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-2013-084, 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>8</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).