

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-73100; File No. SR-CBOE-2014-070)

September 15, 2014

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 September 2, 2014, 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 the 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 proposes to amend its Fees Schedule. The Exchange always strives for clarity in its rules and Fees Schedule, so that market participants may best understand how rules and fees apply. As such, the Exchange proposes a number of changes to clarify its Fees Schedule. First, the Exchange proposes to delete all references to "SPXQ" in the Fees Schedule. On July 3, 2014, the options symbol for the SPX End-Of-Quarter option series changed from SPXQ to SPXW. The SPXW symbol now includes both End-of-Week and End-of-Quarter PM-settled options series. Accordingly, the symbol "SPXQ" is now obsolete and therefore unnecessary to maintain in the Fees Schedule. The Exchange proposes to remove all such references to maintain clarity in the Fees Schedule and avoid potential confusion.

Next, the Exchange proposes to make certain amendments to Footnote 5 of the Fees Schedule. First, the Exchange proposes to reorganize Footnote 5 and separate the contents of the footnote into two separate footnotes. Specifically, Footnote 5 currently addresses both floor brokerage fees and PAR Official fees. The Exchange proposes to address floor brokerage fees and PAR Official fees separately by removing the language in current Footnote 5 relating to PAR Official fees and relocating that language to new Footnote 33. The Exchange believes the proposed change would make the Fees Schedule easier to read and reduce potential confusion. The Exchange notes that the language relating to PAR Official fees that is being relocated to Footnote 33 is the same language currently in Footnote 5, with one exception. Particularly, Footnote 5 currently provides that "PAR Official Fees are waived for all classes for February

2011 and for all classes except VIX, VXST and Volatility Index Options for March 2011.” The Exchange proposes to eliminate this sentence and not carry it over to new Footnote 33 as it is no longer applicable. The Exchange believes deletion of outdated language further maintains clarity in the Fees Schedule.

The Exchange also proposes to make a clarifying amendment to Footnote 24 of the Fees Schedule. The first sentence of Footnote 24 provides that the Market-Maker Trading Permit Sliding Scale is available for all Market-Maker Trading Permits held by affiliated Trading Permit Holders (TPHs) and TPH Organizations that are used for appointments in any options classes other than “SPX, SPXpm, VIX, VXST, OEX and XEO.” The second sentence of Footnote 24 however, states “Any Market-Maker Trading Permits used for these four classes, whether in whole or in part, are excluded from this sliding scale and will be priced at \$5,000/month [sic].” The Exchange proposes to delete the word “four” from Footnote 24 as it does not correspond with the six classes mentioned in the previous sentence. The Exchange notes that the reference to the number of classes excluded from the sliding scale was inadvertently not updated when fees for both SPXpm and VXST were incorporated into the Fees Schedule. The Exchange believes the removal of the inaccurate reference to the excluded classes avoids potential confusion as to which classes are excluded for purposes of the Market-Maker Trading Permit Sliding Scale.

Next, the Exchange proposes to make certain clarifying changes related to the Floor Broker Trading Permit Sliding Scale (“Sliding Scale”) table. The Exchange recently amended its Fees Schedule to add Footnote 32, which provides “The Exchange will assess no transaction fees or surcharges for subcabinet trades (limit orders with a price of at least \$0 but less than \$1 per options contract, per Exchange Rule 6.54, Interpretation and Policy .03). Subcabinet trades will

also not count towards any volume thresholds or volume threshold calculations.”³ Footnote 32 was appended to all fee-related programs that provide for reduced or limited fees based on achieving certain volume thresholds. The Exchange notes that Footnote 25 (which is appended to the Sliding Scale table), describes a program that provides rebates to Floor Broker Trading Permit Holders for executing certain amounts of customer open outcry contracts in multiply-listed options in a month. As such, Footnote 32 was also appended to the Sliding Scale table to make clear that subcabinet trades would not count towards those volume thresholds. The Exchange notes that although Footnote 25, which is applicable to the Sliding Scale, references a volume based rebate program, the Floor Broker Sliding Scale itself is not based upon volume thresholds but rather number of actual Trading Permits held by a Trading Permit Holder. The Exchange believes that as such, it may be confusing to append a footnote that relates to volume thresholds (as well as unrelated transaction fees for subcabinet trades) to a table referencing a sliding scale that itself is not based upon volume thresholds. The Exchange therefore proposes to eliminate the reference to Footnote 32 from the Sliding Scale table and in its place amend Footnote 25 to explicitly state that subcabinet trades do not count towards the volume thresholds for the rebate program described in Footnote 25. The Exchange notes that no substantive changes are being made by the proposed rule change. The Exchange is proposing this change to merely alleviate potential confusion and make the Fees Schedule easier to read.

Finally, the Exchange proposes to increase the Linkage fee for non-customers orders from \$0.55 per contract to \$0.65 per contract. The purpose of this proposed change is to cover increased costs associated with routing orders through Linkage and paying the transaction fees

³ See Securities Exchange Act Release No. 71423 (January 28, 2014) 79 FR 6251 (February 3, 2014) (SR-CBOE-2014-008).

for such executions at other exchanges. The Exchange notes that the amount of this fee is lower than corresponding non-customer Linkage fees assessed by other exchanges.⁴

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation [sic] transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁸ 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.

⁴ See, e.g., NASDAQ OMX PHLX LLC (“PHLX”) Pricing, Non-Customer Routing Fee of \$0.97 per contract.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ Id.

⁸ 15 U.S.C. 78f(b)(4).

In particular, the Exchange believes that the proposed clarifications to the Fees Schedule will make the Fees Schedule easier to read and alleviate potential confusion. The alleviation of potential confusion will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The Exchange's proposal to increase the non-customer Linkage fee from \$0.55 to \$0.65 is reasonable because such increase will help offset the costs associated with routing orders through Linkage and paying the transaction fees for such executions at other exchanges. Additionally, the amount of the proposed increase is lower than corresponding non-customer Linkage fees assessed by other exchanges.⁹ This fee amount will be assessed to all non-customer orders routed via Linkage. The Exchange believes that this proposed change is equitable and not unfairly discriminatory because Non-Customer (e.g., broker-dealer proprietary) orders originate from broker-dealers who are by and large more sophisticated than public customers and can readily control the exchange to which their orders are routed. While there may be some sophisticated customers who are capable of directing the exchange to which their orders are routed, generally, retail customers submit orders to their brokerages but do not or cannot specify the exchange to which a customer order is sent. Therefore, non-customer order flow can, in most cases, more easily route directly to other markets if desired and thus avoid Linkage Fees. Therefore, it is equitable to assess a reasonable fee to cover the costs incurred for processing non-customer Linkage orders while continuing to exempt such customer orders.

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. In

⁹ See supra note 2 [sic].

particular, the increase to the non-customer Linkage Fee will apply equally to all non-customers. Additionally, although different linkage fees are assessed to different market participants (i.e., non-customers vs customers), as described above, non-customer order flow can, in most cases, more easily route directly to other markets if desired and thus avoid Linkage Fees. Therefore, it is equitable to assess a reasonable fee to cover the costs incurred for processing non-customer Linkage orders while continuing to exempt such customer orders. The Exchange believes that the proposal to increase the linkage fee amount assessed to non-customers will not cause an unnecessary burden on intermarket competition because the fee amount is lower than assessed at other exchanges.¹⁰ To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants. Finally, the proposed changes to alleviate confusion are not intended for competitive reasons and only apply to 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 Act¹¹ and paragraph (f) of Rule 19b-4¹² 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

¹⁰ Id.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f).

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. Please include File Number SR-CBOE-2014-070 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2014-070. 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 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-2014-070, 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.¹³

Kevin M. O'Neill
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).