

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-74143; File No. SR-CBOE-2015-006)

January 27, 2015

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 January 14, 2015, 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 its Fees Schedule.<sup>3</sup> The Exchange currently assesses a Customer Priority Surcharge for VIX and VXST options that are executed electronically.<sup>4</sup> More specifically, the Customer Priority Surcharge for VIX and VXST is assessed on all Customer (C) VIX and VXST contracts executed electronically that are Maker and not Market Turner. Additionally, the Surcharge is only assessed on such contracts that have a premium of \$0.11 or greater. The Exchange has learned of a technical and billing issue that prevents the effective assessment of the Surcharge to complex orders. As such, the Exchange proposes to waive the Surcharge for VIX and VXST complex orders pending resolution<sup>5</sup> of the abovementioned billing issue.<sup>6</sup>

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") [sic] and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>7</sup> Specifically, the

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<sup>3</sup> The Exchange initially filed the proposed fee change on January 2, 2015 (SR-CBOE-2015-003). On January 14, 2015, the Exchange withdrew that filing and submitted this filing.

<sup>4</sup> The current Surcharge is \$0.10 per contract for VIX and \$0.05 per contract for VXST for contracts that have a premium of \$0.11 or greater (see CBOE Fees Schedule, Customer Priority Surcharge).

<sup>5</sup> Upon resolution of the technical and billing issue, the Exchange will submit a rule filing to reinstate the Surcharge for complex orders in VIX and VXST.

<sup>6</sup> The Exchange notes that the technical and billing issue does not affect SPXW and as such, the proposed waiver does not apply to SPXW (i.e., the Priority Surcharge will continue to be assessed for complex orders in SPXW).

<sup>7</sup> 15 U.S.C. 78f(b).

Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act<sup>8</sup>, 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> 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 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. The Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that waiving the Surcharge for VIX and VXST complex orders is reasonable, equitable and not unfairly discriminatory because it is waiving a fee that is currently subject to a billing issue and the waiver applies to all Trading Permit Holders. The Exchange believes it is equitable and not unfairly discriminatory to temporarily waive the Surcharge for complex orders and not simple orders because the electronic complex order book has a different order flow demographic and market model than that for simple orders. Further, the Exchange notes that other exchanges currently offer different pricing for complex

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<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> Id.

orders than for simple orders.<sup>11</sup> Additionally, waiving the Surcharge for complex orders pending resolution of the technical and billing issue eliminates potential misassessment of a fee and eliminates confusion, thereby removing impediments to and perfecting the mechanism for a free and open market system, and in general, protecting investors and the public interest.

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 impose any burden on intramarket competition as the waiver of the Surcharge applies to all Trading Permit Holders. As such, the proposed changes are equitable among all market participants and are not unfairly discriminatory. Additionally, the proposed change merely addresses a technical and billing issue on CBOE. To the extent that the proposed change makes CBOE a more attractive marketplace for market participants at other exchanges, such participants are welcome 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>12</sup> and paragraph (f) of Rule 19b-4<sup>13</sup> thereunder. At any time within 60 days of the filing of

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<sup>11</sup> See e.g., International Securities Exchange, LLC ("ISE") Schedule of Fees, Section IV and also C2 Fees Schedule, Section 1C and 1D.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f).

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:

##### 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-2015-006 on the subject line.

##### Paper Comments:

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

All submissions should refer to File Number SR-CBOE-2015-006. 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-2015-006 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>14</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).