

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-83476; File No. SR-CBOE-2018-044)

June 20, 2018

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Clarify the SPX Select Market-Maker Program

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 June 8, 2018, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 relating to the SPX Select Market-Maker Program.

The text of the proposed rule change is also 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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.

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

1. Purpose

The Exchange is proposing to clarify text in its Fees Schedule relating to the SPX Select Market-Maker ("SMM") Program. By way of background, the Exchange recently established a financial incentive program for SPX SMMs, which provides that any appointed SPX SMM will receive a monthly waiver of the cost of one Market-Maker Trading Permit and one SPX Tier Appointment provided that the SMM satisfies a heightened quoting standard for that month, which standard is set forth in Footnote 49 of the Fees Schedule. Footnote 49 currently provides that an SMM will receive the monthly Trading Permit and SPX Tier Appointment waiver if it (1) provides continuous electronic quotes in 95% of all SPX series 90% of the time in a given month, (2) submits opening quotes that are no wider than the Opening Exchange Prescribed Width ("OEPW") within one minute of the initiation of an opening rotation in any series that is not open due to the lack of a qualifying quote, on all trading days, to ensure electronic quotes on the open that allow the series to open, (3) submits opening quotes that are no wider than the OEPW quote by 8:00 am (CT) on volatility settlement days and (4) provides quotes for the end-of-month fair value closing rotation on a rotating basis.

The Exchange proposes to clarify the criteria currently set forth in the third prong of the heightened quoting standard, described above. Specifically, the Exchange proposes to add text that explicitly provides that to satisfy the third prong, an SMM must submit opening quotes that are no wider than the OEPW quote by 8:00 am CST on volatility “index derivative” settlement days “in the SPX series that expire in the month used to calculate the settlement value for expiring volatility index derivatives.” The Exchange notes that this prong was included as part of the heightened quoting standard to encourage SMM participation prior to the opening on volatility index derivative settlement days to increase liquidity in the SPX series used to calculate the settlement value, which is desirable to ensure these series open at competitive prices on expiration days for volatility index derivatives and thus ensure a fair and orderly opening and settlement process. While liquidity is important to open all series on the Exchange, given the potential impact on the exercise settlement value determined for expiring volatility index derivatives, the Exchange believes it is appropriate to ensure a fair and orderly opening of the series used to calculate the exercise settlement value. The Exchange calculates the settlement value for expiring volatility index derivatives using the opening pricings of SPX options that expire 30 days later. All other SPX series are not used by the Exchange to determine the exercise settlement value. As such, the Exchange doesn’t believe that it is appropriate to require SMMs to submit opening quotes that are no wider than the OEPW by 8:00 am (CT) on volatility index derivative settlement days in all SPX options series, if only a subset of SPX options series are used in the settlement value calculation. In order to alleviate any confusion, the Exchange wishes to make clear that the third prong, as originally written, does not encompass all SPX options series. Rather, the third

prong requires only the submission of opening quotes prior to 8:00 am CT on volatility index derivative settlement days that are no wider than the OEPW in the series that expire in the month used to calculate the volatility index derivative settlement value. With respect to the remaining SPX options series, the Exchange notes that SMMs already are required pursuant to prong 2 to submit opening quotes that are no wider than the OEPW within one minute of the initiation of an opening rotation in any series that is not open due to the lack of a qualifying quote, on all trading days, to ensure electronic quotes on the open that allow the series to open.

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 facilitating 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 Section 6(b)(4) of the Act,⁷ which requires that Exchange rules provide for the equitable

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78f(b)(4).

allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes clarifying the third prong in Footnote 49 helps avoid confusion by making clear which SPX series are subject to the quoting criteria in the third prong of the SMM heightened quoting standard. The alleviation of confusion removes impediments to, and perfects the mechanism of, a free and open market and a national market system and protects investors and the public interest. Additionally, the Exchange believes that the proposed clarification in Footnote 49 is reasonable because the third prong is meant to specifically address liquidity on volatility index derivative settlement days that ensure a fair and orderly opening and settlement process and not address liquidity in SPX options series generally.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed clarification is intended to make clear in the Fees Schedule which SPX options series are subject to the criteria contained in the third prong of the heightened quoting standard in order to maintain transparency in the rules and alleviate confusion. The proposed change also applies to SPX, which is only traded on Cboe Options. The Exchange believes the proposed change therefore does not raise any competitive issues.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6) thereunder.⁹

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁰ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹¹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the five-day prefiling requirement and the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, without the waivers, the Fees Schedule would reflect a quoting standard that may be confusing to SPX SMMs. The Commission hereby waives the prefiling requirement and finds that waiver of the operative delay is consistent with the protection of investors and the public interest. In particular, the proposal does not raise any new or novel issues, and waiver of the prefiling requirement and operative

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6). Rule 19b-4(f)(6)(iii) requires the Exchange to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has asked the Commission to waive this requirement.

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

delay will allow to the Exchange to immediately clarify the operation of its SPX Select Market-Maker Program. Therefore, the Commission hereby waives the prefiling requirement and the operative delay and designates the proposal operative upon filing.¹²

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 shall 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-2018-044 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.

¹² For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-CBOE-2018-044. 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, D.C. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to

File Number SR-CBOE-2018-044 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

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Assistant Secretary

¹³ 17 CFR 200.30-3(a)(12).