

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85167; File No. SR-CBOE-2019-011)

February 20, 2019

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend a Fee for the S&P Select Sector Index options (“Sector Index options”)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 7, 2019, Cboe Exchange, Inc. (“Exchange” or “Cboe Options”) 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

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) [sic] proposes to amend a fee for the S&P Select Sector Index options (“Sector Index options”). The text of the proposed rule change is provided in Exhibit 5.

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.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 proposes to waive the transaction fee for Clearing Trading Permit Holder Proprietary (origin code "F" and "L") facilitation orders in Sector Index options, executed in open outcry or electronically via AIM or as a Qualified Contingent Cross ("QCC") or CFLEX transaction, through June 30, 2019. By way of background "facilitation orders" are defined as any order in which a Clearing Trading Permit Holder ("F" origin code) or Non-Trading Permit Holder Affiliate ("L" origin code) is contra to any other origin code order, provided the same executing broker and clearing firm are on both sides of the transaction (for open outcry) or both sides of a paired order (for orders executed electronically).³ Currently, the Fees Schedule provides that Clearing Trading Permit Holder Proprietary orders in Sector Index options will be assessed \$0.25 per contract. The Exchange recognizes however, that Clearing Trading Permit Holders can be an important source of liquidity when they facilitate their own customers' trading activity and, as such, the Exchange proposes to apply a waiver of Clearing Trading Permit Holder Proprietary transaction fees for facilitation orders through June 30, 2019. Accordingly the Exchange proposes to update the Fees Schedule, including the Specified Proprietary Index Options Rate Table – Underlying Symbol List A and Sector Indexes, along with Footnotes 11 and 22 of the Fees Schedule, to reflect the proposed fee waiver.

³ See Cboe Options Fees Schedule, Footnote 11.

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.⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁵ 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. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁶ 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.

Particularly, the Exchange believes the proposed waiver of Clearing Trading Permit Holder Proprietary transaction fees for facilitation orders in Sector Index options is reasonable because it will exempt such orders from being assessed a fee. The Exchange believes that this is equitable and not unfairly discriminatory because a similar waiver also applies to other products, including other proprietary index products (e.g., MXEA, MXEF, DJX and XSP).⁷ Further, the

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78f(b)(4).

⁷ See Cboe Fees Schedule, “Equity Options Rate Table, “ETF and ETN Options Rate Table” and “Index Options Rate Table - All Index Products Excluding Underlying

Exchange recognizes that Clearing Trading Permit Holders can be an important source of liquidity when they facilitate their own customers' trading activity. Such trades add transparency and promote price discovery to the benefit of all market participants. Moreover, the exemption from any fee for Sector Index facilitation orders executed in AIM, open outcry, or as a CFLEX transaction will apply to all such orders. Lastly, the Exchange notes that the proposal to waive facilitation fees for Clearing Trading Permit Holder Proprietary orders through June 30, 2019 is reasonable, equitable and not unfairly discriminatory as the Exchange has previously exempted certain transaction fees for newly listed options products for a period of time in order to promote and encourage trading in such products.⁸

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 competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change will apply to all Clearing Trading Permit Holder Proprietary facilitation orders uniformly. Additionally, while the proposed transaction waiver applies only to Clearing Trading Permit Holders Proprietary facilitation orders, Clearing Trading Permit Holders can be an important source of liquidity when they facilitate their own customers' trading activity, as further discussed above. Additionally, such trades add transparency and promote price discovery to the benefit of all market participants.

Symbol List A and Sector Indexes", all of which provide a \$0.00 facilitation fee for origin code "F" and "L" orders.

⁸ See Securities and Exchange Release 34-77547 (April 6, 2016) 81 FR 21611 (April 12, 2016) (SR-CBOE-2016-021) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish Fees for Options That Overlie a Reduced Value of the FTSE 100 Index and the FTSE China 50 Index).

The Exchange 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 Sector Index options will be exclusively listed on Cboe Options. To the extent that the proposed change makes Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options 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 Act⁹ and paragraph (f) of Rule 19b-4¹⁰ 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:

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 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. Please include File Number SR-CBOE-2019-011 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-2019-011. 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.

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-2019-011 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.¹¹

Eduardo A. Aleman
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).