SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61915; File No. SR-CBOE-2010-033)

April 15, 2010

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated: Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Strategy Fee Cap Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 26, 2010, Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by CBOE. 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

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend its strategy fee cap program. The text of the proposed rule change is available on the Exchange's website (http://www.cboe.org/legal), at the Exchange's Office of the Secretary and at the Commission.

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

In its filing with the Commission, CBOE 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. CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(a) Purpose

The Exchange caps market-maker, firm, and broker-dealer transaction fees associated with dividend, merger and short stock interest strategies, as described in Footnote 13 of the CBOE Fees Schedule ("Strategy Fee Cap"). Specifically, market-maker, firm and broker-dealer transaction fees are capped at $1,000 for all (i) dividend strategies[1], (ii) merger strategies[2] and (iii) short stock interest strategies[3] executed on the same trading day in the same options class. In addition, such transaction fees for these strategies are further capped at $25,000 per month per initiating member or firm.

The Exchange proposes a limited expansion of the Strategy Fee Cap program. Specifically, the Exchange proposes to cap market-maker and broker-dealer transaction fees at $1,000 for all reversals, conversions and jelly roll strategies (as defined below) executed on the same trading day in the same Flexible Exchange (FLEX) option class, excluding any option class on which the Exchange charges the surcharge fee under Footnote 14 of the CBOE Fees Schedule. As under the current program, such transaction fees would be further capped at $25,000 per month per initiating member or firm, and to qualify transactions for the cap a rebate request with supporting documentation must be submitted to the Exchange within 3 business days of the transactions.[4]

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[1] A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed prior to the date on which the underlying stock goes ex-dividend.

[2] A merger strategy is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, each executed prior to the date on which shareholders of record are required to elect their respective form of consideration, i.e., cash or stock.

[3] A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class.

[4] In addition, the Exchange proposes to amend Footnote 13 of the Fees Schedule to clarify that “license fees” has the same meaning as “Surcharge Fees” and that the pass-through of Surcharge Fees is only applicable to the cap on dividend, merger and short stock interest strategies since the cap on reversals, conversions and jelly roll strategies excludes any option class on which the Exchange assesses the Surcharge Fee.

Reversals, conversions and jelly roll strategies are included in the strategy fee cap programs of other exchanges.[5] Reversals and conversions are transactions that employ calls, puts and the underlying security to lock in a nearly risk free profit. Reversals are established by combining a short security position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying security that accompany long puts and short calls sharing the same strike and expiration.

A Jelly Roll is a long calendar call spread combined with the same short calendar put spread, or vice versa. This option strategy aims to profit from a time value spread through the purchase and sale of two call and two put options, each with different expiration dates. A Jelly Roll is created by entering into two separate positions simultaneously. One position involves buying a put and selling a call with the same strike price and expiration. The second position involves selling a put and buying a call, with the same strike price, but a different expiration from the first position. Below is an example of a Jelly Roll strategy execution.

XYZ Jun / Oct 25 Jelly Roll:

- Buy XYZ Jun 25 put and sell XYZ Jun 25 call
- Sell XYZ Oct 25 Put and buy XYZ Oct 25 call

Market BBO:
Jun 25 call .51 at .53 2
Jun 25 put .72 at .74
Oct 25 call 1.52 at 1.55
Oct 25 put 2.35 at 2.39

.74(long Jun put) + 1.52(long Oct call) - .51(short Jun call) - 2.35(short Oct put) = .60 credit received for the Jelly roll.

The proposed fee change would become operative on March 29, 2010.

[5] See the options fee schedules of NYSE Amex, LLC and NYSE Arca, LLC.

The Exchange proposes to amend Footnote 6 of the Fees Schedule in conjunction with the proposed expansion of the strategy fee cap to include reversals, conversions and jelly roll strategies. Specifically, the Exchange proposes to amend Footnote 6 to clarify that the marketing fee will not apply to any of the strategies identified and/or defined in Footnote 13.

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act")[6], in general, and furthers the objectives of Section 6(b)(4)[7] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes excluding member firm transaction fees from the proposed fee cap is consistent with the Act because member firm transaction fees are reduced under the Member Firm Proprietary Sliding Scale program. Market-maker transaction fees are reduced under the Liquidity Provider Sliding Scale, however market-makers are required to prepay annual fees for the first two tiers of the sliding scale in order to be eligible for the fee rates in the lowest tiers while there is no similar requirement for firms under the Member Firm Proprietary Sliding Scale. Also, member firm transaction fees are lower than broker-dealer transaction fees. In addition, the Exchange believes expansion of the Strategy Fee Cap program would benefit market participants who trade these strategies by lowering their fees and allow the Exchange to remain competitive with other exchanges that offer similar fee cap programs.

A. 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 purposes of the Act.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to 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[8] and subparagraph (f)(2) of Rule 19b-4[9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

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-2010-033 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-2010-033. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 C.F.R. 240.19b-4(f)(2).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (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 Web site 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 publicly available. All submissions should refer to File Number SR-CBOE-2010-033 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.[10]

Florence E. Harmon
Deputy Secretary

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[10] 17 CFR 200.30-3(a)(12).