

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-64057; File No. SR-CBOE-2011-019)

March 8, 2011

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the CBOE 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 February 25, 2011 [sic], 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 and II 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 modify the Fees Schedule to amend its linkage fees. 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, the self-regulatory organization 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 those 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 parts 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

Currently, when the Exchange receives a customer order that has an original size of 500 or more contracts that is routed for execution, in whole or in part, to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan (a "Customer Linkage Transaction"), the Exchange charges \$0.35 per contract in addition to the customary CBOE execution charges.<sup>3</sup> The Exchange proposes to reduce the qualifying customer order size from 500 or more contracts to 100 or more contracts. This change will allow the Exchange to pass through some of the transaction costs incurred by the Exchange associated with the execution and handling of larger orders.

The Exchange further proposes to eliminate the flat \$0.35 per contract fee for Customer Linkage Transactions, and instead pass through the actual transaction fee(s) assessed on the transaction(s) by the exchange(s) to which the order was routed, minus a \$0.05 per contract discount. These changes allow the Exchange to more accurately pass through some of the transaction costs incurred by the Exchange associated with Customer Linkage Transactions while still offering an added incentive to route orders to CBOE.

The Exchange does not propose to collect these fees for orders initially routed for manual handling by CBOE Floor Brokers. More specifically, the Exchange will exempt from these pass-through fees customer orders that originate from the trading floor via an Exchange sponsored

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<sup>3</sup> See CBOE Fees Schedule, Section 20. See, also, Securities Exchange Act Release No. 63701 (January 11, 2011), 76 FR 2934 (January 18, 2011) (SR-CBOE-2010-116) and Securities Exchange Act Release No. 62793 (August 30, 2010), 75 FR 54408 (September 7, 2010) (SR-CBOE-2010-076).

terminal like a Floor Broker Workstation.<sup>4</sup> The primary objective of the fee change is to recoup some of the costs associated with large electronic orders that are initially transmitted to CBOE by parties who, in many instances, could be seeking to avoid being assessed another market's transaction fees. Orders that are initially routed to CBOE Floor Brokers are not attempting to avoid fees since they incur brokerage commission charges in connection with manual handling. Rather, orders that are handled by CBOE Floor Brokers are large, complex orders that are primarily executed on the CBOE, which only are transmitted to away markets if, during their execution on CBOE, it is necessary to sweep some away markets.

The proposed fee change will take effect on March 1, 2011.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act"),<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>6</sup> of the Act in particular, in that the passing through of the actual transaction fees assessed on away exchanges for Customer Linkage Transactions is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE Trading Permit Holders and other persons using Exchange facilities. Exempting customer orders that originate from an Exchange-sponsored terminal from the pass-through fees is equitable because Floor Brokers and their customers are already assessed a number of fees in connection with trading on the Exchange Floor.

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

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<sup>4</sup> The Floor Broker Workstation is a system for electronically entering and managing orders on the Exchange floor. Floor Broker Workstations are operated by Floor Brokers.

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. 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 proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A)(ii)<sup>7</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>8</sup> 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.

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

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 C.F.R. 240.19b-4(f)(2).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2011-019 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-2011-019. 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 will also 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 No. SR-CBOE-2011-019 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Cathy H. Ahn  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).