

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64070; File No. SR-CBOE-2011-022)

March 11, 2011

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated: Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to PAR Official Fees

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 March 1, 2011, 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 and II below, which Items have been prepared by CBOE. On March 9, 2011, CBOE filed Amendment No. 1 to the proposed rule change.³ 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 Fees Schedule to (i) establish separate PAR Official Fees for Volatility Index Options that are consistent with the Floor Brokerage Fees assessed in Volatility Index Options, and (ii) waive PAR Official Fees for all classes except Volatility Index Options for March 2011. 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The purpose of Amendment No. 1 was to (i) remove the proposal to waive PAR Official Fees for February 2011 from the filing; and (ii) provide additional details for the statutory basis for waiving the fees in all classes except Volatility Index Options for March 2011.

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

1. Purpose

CBOE is proposing to amend its Fees Schedule effective March 1, 2011 to establish separate PAR Official Fees for Volatility Index Options that are consistent with the Floor Brokerage Fees assessed in Volatility Index Options. CBOE amended its Fees Schedule to establish PAR Official⁴ Fees in January 2011.⁵ These fees apply to all orders executed by a PAR Official in all options classes traded at CBOE, except for customer orders ("C" origin code) that are not directly routed to the trading floor (an order that is directly routed to the trading floor is directed to a PAR Official for manual handling by use of a field on the order ticket). Such orders are charged \$.02 per contract and, like floor brokerage fees, a discounted rate of \$.01 per contract

⁴ A PAR Official is an Exchange employee or independent contractor whom the Exchange may designate as being responsible for (i) operating the PAR workstation in a Designated Primary Market-Maker trading crowd with respect to the classes of options assigned to him/her; (ii) when applicable, maintaining the book with respect to the classes of options assigned to him/her; and (iii) effecting proper executions of orders placed with him/her. The PAR Official may not be affiliated with any Trading Permit Holder that is approved to act as a Market-Maker. See CBOE Rule 7.12.

⁵ See Securities Exchange Act Release No. 67301 (January 11, 2011), 76 FR 2934 (January 18, 2011) (SR-CBOE-2010-116).

applies for crossed orders.⁶ These fees help to offset the Exchange's costs of providing PAR Official services (e.g., salaries, etc).

CBOE is proposing to add language that would assess distinct PAR Official Fees for orders in Volatility Index Options. Specifically, CBOE is proposing to assess PAR Official Fees in Volatility Index Options in the amount of \$.03 per contract for standard (non-cross) orders and \$.015 per contract for all cross orders (per side). CBOE only assesses Floor Brokerage Fees⁷ for brokerage activity in its proprietary products, including SPX, OEX and Volatility Index Options. Floor Brokerage Fees in Volatility Index Options are assessed in the amount of \$.03 per contract for standard (non-cross) orders and \$.015 per contract for all cross orders (per side). A PAR Official is available to execute orders in Volatility Index Options. Because both Floor Brokerage Fees and PAR Official Fees are assessed in Volatility Index Options, there is an incentive to Floor Brokers to route orders in Volatility Index Options to a PAR Official due to the disparity that exists between the amounts assessed for Floor Brokerage Fees and PAR Official Fees. As the PAR Official Fees are currently less than the Floor Brokerage Fees that are assessed in Volatility Index Options, CBOE is proposing to make this change to eliminate the incentive for Floor Brokers to rely on PAR Officials to execute their business at a lower cost through a PAR Official in Volatility Index Options.

⁶ PAR Official Fees and Floor Brokerage Fees for cross orders are assessed at a discounted rate because these Fees are assessed "per side" and thus, these fees are equal to the amount assessed for one standard (non-cross) order.

⁷ In accordance with Footnote 5 of the CBOE Fees Schedule, Floor Brokerage Fees are charged to the executing broker. If a Market-Maker executes an order for an account in which the Market-Maker is not a registered participant as reflected in the TPH Department records, the Market-Maker will be assessed a floor brokerage fee. To be eligible for the discounted "crossed" rate, the executing broker acronym and executing firm number must be the same on both the buy and sell side of an order. Floor Brokerage Fees are not assessed to orders effected by a PAR Official.

The issue described above with respect to Volatility Index Options does not apply to OEX and SPX because there are no PAR Officials available to execute orders in the OEX and SPX trading crowds. Furthermore, this disparity does not exist in other classes traded at the Exchange because there are no Floor Brokerage Fees assessed in classes other than OEX, SPX and Volatility Index Options.

CBOE is continuing to evaluate the existing structure of PAR Official Fees and is considering additional changes in the manner in which it assesses PAR Official Fees. For this reason, CBOE proposes to waive the PAR Official Fees in all classes except for Volatility Index Options for March 2011. CBOE is proposing to assess the PAR Official Fees in Volatility Index Options in March 2011 to eliminate the disparity between the PAR Official Fees and Floor Brokerage Fees as described above.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (“Act”),⁸ in general, and furthers the objectives of Section 6(b)(4)⁹ 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 trading permit holders and other persons using its facilities. The Exchange believes the proposed change is equitable, reasonable and not unfairly discriminatory, in that the PAR Official Fees and the Floor Brokerage Fees will be assessed in the same manner to all order originating firms for orders executed in Volatility Index Options. Further, CBOE believes the proposed waiver of PAR Official Fees for March 2011 is equitable, reasonable and not unfairly discriminatory, in that it will apply to all order originating

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

firms in all classes except Volatility Index Options as CBOE continues to evaluate the existing structure of PAR Official Fees and is considering additional changes in the manner in which it assesses PAR Official Fees. CBOE believes it would be appropriate to exclude PAR Official Fees in Volatility Index Options from the fee waiver as a waiver of these fees would perpetuate the disparity between PAR Official Fees and Floor Brokerage Fees in Volatility Index Options that this proposal is otherwise seeking to eliminate.

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 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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and subparagraph (f)(2) of Rule 19b-4¹¹ 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.¹²

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(2).

¹² For purposes of calculating the 60-day period within which the Commission summarily may temporarily suspend such rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on March 9, 2011, the date on which the Exchange submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

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-2011-022 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-2011-022. 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-2011-022 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

Cathy H. Ahn
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).