

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65480; File No. SR-CBOE-2011-091)

October 4, 2011

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend CBOE Stock Exchange Transaction Fees

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 September 30 2011, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) 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 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 amend CBOE Stock Exchange (“CBSX”) transaction 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

1. Purpose

CBSX proposes to modify its fees for transactions in securities priced \$1 or greater. The Exchange proposes to adopt a Maker fee of \$0.0017 per share and a Taker rebate of \$0.0015 per share. For a Maker that adds more than two million shares of liquidity to CBSX in a single day, the Exchange proposes a fee of \$0.0015 per share. This lower rate will be calculated on a daily basis. Market participants who share a trading acronym or MPID may aggregate their trading activity for purposes of this rate. Qualification for this rate will require that a market participant appropriately indicate his trading acronym and/or MPID in the appropriate field on the order. CBSX will promulgate an information circular to direct market participants on how to accurately qualify and aggregate their trading activity in order to receive this reduced rate. CBSX also proposes to change the language on the Fees Schedule describing the execution type for transactions in securities priced below \$1 from "Single-sided execution" to "Maker or Taker" in order to achieve consistency on the Fee Schedule and make clear that such fee applies to either the Maker or the Taker in transactions in securities priced below \$1.

The proposed fee change for transactions in securities priced at \$1 or greater is intended to encourage increased trading activity and liquidity on CBSX, which would benefit all market participants. By encouraging market participants to hit a threshold of executing at least two million shares a day (at which point such market participants would receive the lower Maker fee for all shares executed by the market participant that day), the Exchange incentivizes market participants who may be able to meet that threshold to add more volume and liquidity to the CBSX marketplace. This increased volume and liquidity would benefit all CBSX market participants, including those who do not trade at that level, by providing them with more

opportunities for execution. If the lower rate did not exist for market participants who execute at least two million shares a day, even those market participants who do not hit that threshold will not receive the benefit of this added volume and liquidity. The threshold is applied on a daily basis in order to encourage market participants to add volume and liquidity on a consistent basis. The Exchange seeks market participants who will be active on CBSX on a regular basis, as the liquidity that such larger-volume participants provide will be attractive to all investors and benefit all market participants.

The proposed rule change is to take effect October 1, 2011.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act³ in general, and furthers the objectives of Section 6(b)(4)⁴ of the Act in particular, in that it 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. The proposed Maker fees of \$0.0017 per share or \$0.0015 per share for a Maker that adds more than two million shares of liquidity in a single day and Taker Rebate of \$0.0015 are reasonable because they are within the range of fees assessed for similar transactions in securities priced \$1 or greater on other exchanges.⁵ The fees are equitable and not unfairly discriminatory because they will apply to all market

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(4).

⁵ See NASDAQ OMX BX, Inc. (“BX”) Fee Schedule regarding trading of shares executed at or above \$1.00. The BX rebate for removing liquidity is \$0.0005 per share, or \$0.0014 per share for MPIDs removing greater than 3.5 million shares per day or adding greater than 25,000 shares per day. The proposed CBSX rebate is \$0.0015 per share. The BX fee for adding liquidity is \$0.0018 per share, or \$0.0015 for MPIDs meeting BX’s Qualified Liquidity Provider Program criteria. The proposed CBSX fee is \$0.0017 per share, or \$0.0015 per share for a Maker that adds more than two million shares of liquidity in a single day.

participants, and all market participants will have the opportunity to qualify for the reduced rate for a Maker that adds more than two million shares of liquidity in a single day.

Further, the reduced fee for market participants that execute at least two million shares a day is equitable and not unfairly discriminatory because it will encourage market participants to trade on CBSX and bring greater liquidity to CBSX, which will benefit all market participants. By encouraging market participants to hit a threshold of executing at least two million shares a day (at which point such market participants would receive the lower Maker fee for all shares executed by the market participant that day), the Exchange incentivizes market participants who may be able to meet that threshold to add more volume and liquidity to the CBSX marketplace. This increased volume and liquidity would benefit all CBSX market participants, including those who do not trade at that level, by providing them with more opportunities for execution. Orders that provide liquidity increase the likelihood that members seeking to access liquidity will have their orders filled. If the lower rate did not exist for market participants who execute at least two million shares a day, even those market participants who do not hit that threshold will not receive the benefit of this added volume and liquidity. Applying the two million share threshold on a daily basis will encourage these larger-volume market participants to add volume and liquidity on a consistent basis, and the resulting consistently-available executions will benefit all market participants. As such, the Exchange believes that it is reasonable and equitable to use pricing incentives, such as a lower fee for creating large amounts of liquidity, to encourage market participants to increase their participation in the market.

Finally, changing the language on the Fees Schedule describing the execution type for transactions in securities priced below \$1 from “Single-sided execution” to “Maker or Taker”

further the objectives of Section 6(b)(5)⁶ of the Act in particular in that the change is designed to impede 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 by achieving consistency in the language of the Fees Schedule, thereby eliminating any potential confusion.

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 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) of the Act⁷ and subparagraph (f)(2) of Rule 19b-4⁸ 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.

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 C.F.R. 240.19b-4(f)(2).

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-2011-091 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-2011-091. 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 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-2011-091 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.⁹

Elizabeth M. Murphy
Secretary

⁹ 17 CFR 200.30-3(a)(12).