

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65492; File No. SR-CBOE-2011-095)

October 6, 2011

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fees Schedule to Delete Erroneous Language With Respect to the SPX Tier Appointment

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 October 3, 2011, the 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, 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 its Fees Schedule to delete erroneous language from the section discussing SPX Tier Appointment fees. The text of the proposed rule change is available on the Exchange’s Web site (<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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A, B, and C below, of the most significant parts 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 amend its Fees Schedule to delete erroneous language from the section discussing SPX Tier Appointment fees. The Fees Schedule currently states that the “SPX Tier Appointment fee will be assessed to any Market-Maker Trading Permit Holder that...conducts any open outcry transactions in SPX or any open outcry or electronic transaction in SPX Weeklys at any time during a calendar month.” This means that a Market-Maker Trading Permit Holder that does not have an SPX tier appointment could still be charged the SPX Tier Appointment fee for conducting any electronic transaction in SPX Weeklys. However, because Market-Makers cannot trade electronically in SPX without a tier appointment, it would be impossible to assess this fee to a Market-Maker Trading Permit Holder that does not have an SPX tier appointment but conducts any electronic transaction in SPX Weeklys. Indeed, the Exchange has never charged the SPX Tier Appointment fee in this circumstance (it would be impossible to do so), and the inclusion of such possibility on the Fees Schedule was an error. The Exchange therefore would like to delete such statement from the Fees Schedule and alleviate any confusion.

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)(5)⁴ of the Act in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

system, and, in general, to protect investors and the public interest, by alleviating confusion regarding the impossible imposition of the SPX Tier Appointment fee on a Market-Maker Trading Permit Holder who does not hold an SPX tier appointment but conducts electronic transactions in SPX Weeklys.

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 Act⁵ and subparagraph (f)(2) of Rule 19b-4⁶ 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:

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 C.F.R. 240.19b-4(f)(2).

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-2011-095 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-2011-095. 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-2011-095 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.⁷

Elizabeth M. Murphy
Secretary

⁷ 17 CFR 200.30-3(a)(12).