

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65518; File No. SR-CBOE-2011-096)

October 7, 2011

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Fees Schedule

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 the Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. 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 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

The Exchange currently waives the \$.18 per contract transaction fee for public customer ("C" origin code) orders in options on Standard & Poor's Depository Receipts ("SPY options") that are executed in open outcry or in the Automated Improvement Mechanism ("AIM")³. This fee waiver is due to expire on September 30, 2011. The Exchange proposes to extend the fee waiver through December 31, 2011.⁴ The Exchange also proposes to extend the fee waiver to options on the Financial Select Sector SPDR Fund ("XLF options"),⁵ which is currently traded on the Exchange. The proposed fee waiver is intended to attract more customer volume on the Exchange in these products. For competitive reasons, the customer base for open outcry and AIM trading in SPY and XLF options appears more sensitive to fees than the customer base for such trading in other exchange-traded funds ("ETFs"). The Exchange believes that waiving the transaction fee for such customer trades in SPY and XLF options will encourage greater customer trading in these products.

³ See Securities Exchange Act Release No. 34-62902 (September 14, 2010), 75 FR 57313 (September 20, 2010), Securities Exchange Act Release No. 34-63422 (December 3, 2010), 75 FR 76770 (December 9, 2010), Securities Exchange Act Release No. 34-64197 (April 6, 2011), 76 FR 20390 (April 12, 2011), Securities Exchange Act Release No. 34-64817 (July 6, 2011), 76 FR 40948 (July 12, 2011) and CBOE Fees Schedule, footnote 8. AIM is an electronic auction system that exposes certain orders electronically in an auction to provide such orders with the opportunity to receive an execution at an improved price. AIM is governed by CBOE Rule 6.74A.

⁴ The Exchange notes that transaction fees are also currently waived for customer orders of 99 contracts or less in ETF (including SPY and XLF options), ETN and HOLDRs options. See CBOE Fees Schedule, footnote 9.

⁵ XLF seeks to provide investment results that correspond to the price and yield performance of the Financial Select Sector of the S&P 500 Index (the "Index"). The Index includes companies from industries, such as diversified financial services, insurance, commercial banks, capital markets, real estate investment trusts, consumer finance, thrifts and mortgage finance, and real estate management and development. XLF utilizes a passive or indexing investment approach to attempt to approximate the investment performance of the Index.

The increased volume and liquidity resulting from greater customer trading in SPY and XLF options will benefit all market participants trading in these products. The Exchange would also like to encourage use of open outcry and AIM, which is a price improvement mechanism.

In drafting this filing, it became clear that having a separate section on the Fees Schedule for transaction fees for QQQQ and SPY options is unnecessary. Aside from the \$0.00 fee for customer transactions in QQQQ, all other fees on QQQQ and SPY options are the same amounts as the fees for other ETFs (QQQQ and SPY are both ETFs). As such, the Exchange proposes to eliminate the separate section for transaction fees for QQQQ and SPY options, and simply add a line regarding the \$0.00 fee for customer transactions in QQQQ to the section of the Fees Schedule that lists transaction fees for all other ETFs. This change will make the Fees Schedule easier for investors and market participants to read, thereby eliminating any potential confusion.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act⁶, 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 CBOE Trading Permit Holders and other persons using its facilities. The Exchange believes the proposed extension of the fee waiver for open outcry and AIM trades in SPY options through December 31, 2011 and to XLF options is equitable and not unfairly discriminatory because the fee waiver would apply uniformly to all public customers trading SPY and XLF options in open outcry and AIM, and because the fee waiver is designed to attract new order flow to the Exchange. The Exchange believes that waiving the transaction fee for such customer trades in SPY and XLF

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

options will encourage greater customer trading in these products. The increased volume and liquidity resulting from greater customer trading in SPY and XLF options will benefit all market participants trading in these products. The Exchange believes the proposed extension of the fee waiver is reasonable because it would continue to provide cost savings during the extended waiver period for public customers trading SPY options and begin to provide such savings to public customers trading XLF options. Further, the Exchange believes the proposed fee waiver is consistent with other fees assessed by the Exchange. Specifically, the Exchange assesses manually executed broker-dealer orders a different rate (\$.25 per contract) as compared to electronically executed broker-dealer orders (\$.45 per contract).⁸ Other exchange fee schedules also distinguish between electronically and non-electronically executed orders.⁹

The Exchange believes that the elimination of the separate section of the Fees Schedule listing transaction fees in QQQQ and SPY options and the subsequent addition of a single line listing the fee for customer transactions in QQQQ options as \$0.00 furthers the objectives of Section 6(b)(5)¹⁰ 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 system, and, in general, to protect investors and the public interest, by making the Fees Schedule easier to read, thereby eliminating any potential investor confusion.

⁸ See CBOE Fees Schedule, Section 1.

⁹ NASDAQ OMX PHLX, Inc. categorizes its equity options transaction fees for Specialists, ROTs, SQTs, RSQTs and Broker-Dealers as either electronic or non-electronic. See NASDAQ OMX PHLX Fees Schedule, Equity Options Fees. NYSE Amex, Inc. categorizes its options transaction fees for Non-NYSE Amex Options Market Makers, Broker-Dealers, Professional Customers, Non BD Customers and Firms as either electronic or manual. See NYSE Amex Options Fees Schedule, Trade Related Charges. NYSE Arca, Inc. categorizes its options transaction fees for Customers, Firms and Broker-Dealers as either electronic or manual. See NYSE Arca Options Fees Schedule, Trade Related Charges.

¹⁰ 15 U.S.C. 78f(b)(5).

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 Act¹¹ and subparagraph (f)(2) of Rule 19b-4¹² 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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2011-096 on the subject line.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 C.F.R. 240.19b-4(f)(2).

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-2011-096. 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 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 offices 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-2011-096, 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

Elizabeth M. Murphy
Secretary

¹³ 17 CFR 200.30-3(a)(12).