

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-67668; File No. SR-CBOE-2012-078)

August 15, 2012

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the CBOE Stock Exchange 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 August 3, 2012, 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 comment 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 the Fees Schedule of its CBOE Stock Exchange (“CBSX”). The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

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 Exchange 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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Item IV below. The Exchange 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

CBSX recently moved its trading systems over to the Equinix NY4 facility (“NY4”). In addition to 1 Gigabit Ethernet network access, NY4 has capacity to accommodate 10 Gigabit Ethernet network access. The Exchange made such a connection available to CBSX market participants, and wants to encourage market participants to connect to CBSX via a 10 Gigabit Network Access Port in order to receive higher-speed executions (which is important in today’s marketplace). Due to the newness of this NY4 system to CBSX, the Exchange wishes to ensure that market participants feel comfortable connecting to CBSX via the 10 Gigabit Network Access Ports and assuage any kind of concerns CBSX market participants may have regarding any kind of possible disruption in access to CBSX via the 10 Gigabit Network Access Ports. Therefore, CBSX now proposes to add a sentence to its Fees Schedule stating that participants requesting a 10 Gigabit Network Access Port to access CBSX are eligible to receive (upon request) one redundant 10 Gigabit Network Access Port at no extra charge.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>3</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act<sup>4</sup>, which provides that Exchange rules may provide for

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<sup>3</sup> 15 U.S.C. 78f(b).

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

the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. Providing CBSX market participants who access the CBSX System via a 10 Gigabit Network Access Port on NY4 the opportunity to request a redundant 10 Gigabit Network Access Port to act as a backup is reasonable because such market participants will receive a backup redundant 10 Gigabit Network Access Port free of charge.

Providing CBSX market participants who access the CBSX System via a 10 Gigabit Network Access Port on NY4 the opportunity to request a redundant 10 Gigabit Network Access Port to act as a backup while not providing the same opportunity to CBSX market participants who access the CBSX System via a 1 Gigabit Network Access Port is equitable and not unfairly discriminatory because providing such opportunity would cause an increase in the price of accessing the CBSX System via a 1 Gigabit Network Access Port. Moreover, as faster access continues to grow in importance to trading and CBSX continues to develop technologies that provide faster access to CBSX, CBSX wants to encourage the election to connect to CBSX via a higher-speed Network Access Port in order to provide better trading opportunities on CBSX. Further, while a 10 Gigabit Network Access Port connection is more costly than a 1 Gigabit Network Access Port connection, considering the fact that a 10 Gigabit Network Access Port provides a connection that is ten times faster than a 1 Gigabit Network Access Port, a 10 Gigabit Network Access Port actually provides a less expensive connection on a per-Gigabit basis.<sup>5</sup> Finally, any CBSX market participant may elect to connect to CBSX via a 10 Gigabit Network Access Port (and therefore be eligible to request a redundant 10 Gigabit Network Access Port).

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<sup>5</sup> See CBSX Fees Schedule, Section 8.

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 the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on 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)<sup>6</sup> of the Act and paragraph (f) of Rule 19b-4<sup>7</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
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2012-078 on the subject line.

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f).

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-2012-078. 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-2012-078 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.<sup>8</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).