

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67946; File No. SR-CBOE-2012-080)

September 28, 2012

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a 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 September 18, 2012, 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 website

(<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 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.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to revamp the appearance of its Fees Schedule in order to make it easier for investors to read and determine which fees are applicable to the variety of transactions available on CBOE. No substantive changes to the Fees Schedule, or any Exchange fees, are being made. All information that is proposed to appear in the new version of the Fees Schedule (the “New Fees Schedule”) already appears in one form or another on the Exchange’s previous version of the Fees Schedule (the “Old Fees Schedule”).

In conjunction with this proposed re-organization of the Fees Schedule, some items are being moved within the Fees Schedule and clarifications are being given. Currently, broker-dealer transaction fees apply to, among others, the orders of non-Trading Permit Holder market-makers.³ However, this is currently only explained in Footnote (16), and therefore in Section 1 of the Old Fees Schedule, which lists the actual transaction fees, there is no separate listing of fees for non-Trading Permit Holder market-makers (only broker dealers). The proposed new transaction fees chart lists out non-Trading Permit Holder market-maker transaction fees separate from broker-dealer transaction fees (the amounts of the fees will remain the same) in order to make it easier for non-Trading Permit Holder market-makers to know which transaction fees apply to them. Because non-Trading Permit Holder market-maker fees will now be listed separately from broker-dealer fees (even though the amounts of the fees are the same), Footnotes (13), (19), and (20), which all state that they apply to broker-dealers, are now being amended to clarify that they apply to non-Trading Permit Holder market-makers as well (just as they did prior to this proposed change). The statement in Footnote (16) that “Broker-Dealer transaction

³ See CBOE Fees Schedule, Footnote (16).

fees apply to...non-Trading Permit Holder market-maker orders” is not being changed, as while the fees for non-Trading Permit Holder market-maker orders are now listed separately, the amounts of such fees are not changing.

The Exchange also proposes adding origin codes into the New Fees Schedule. Origin codes are used on each order sent to the Exchange to denote the type of market participant sending the order.⁴ Because these origin codes are affixed to orders sent to the Exchange by market participants, the Exchange proposes adding them to the New Fees Schedule in order to more easily determine which fees correspond to orders originating from these different market participants.

In SR-CBOE-2012-075, the Exchange proposed to change references in its Fees Schedule to options on the PowerShares QQQ Trust, whose ticker symbol changed from QQQQ to QQQ.⁵ However, in that rule filing, the Exchange failed to change a reference to QQQQ in the Fees Schedule’s section entitled Trading Permit Holder Transaction Fee Policies and Rebate Programs – Trading Permit Holder Transaction Fees – Equity and Index Options. The Exchange hereby proposes to change that reference from QQQQ to QQQ.

In re-organizing the Fees Schedule, the Exchange added Footnotes (21) – (27) to the New Fees Schedule. The text of these Footnotes was transferred from various sections within the Old Fees Schedule. Footnote (21) of the New Fees Schedule is composed of text from Section 7 of the Old Fees Schedule. Footnote (22) of the New Fees Schedule is composed of text from the Clearing Trading Permit Holder Fee Cap in All Products Except SPX, VIX or Other Volatility Indexes, OEX or XEO portion of Section 1 of the Old Fees Schedule. Footnote (23) of the New

⁴ See CBOE Regulatory Circular RG12-057 (April 26, 2012) for a list of all CBOE origin codes.

⁵ See Securities Exchange Act Release No. 67557 (August 1, 2012), 77 FR 47148 (August 7, 2012) (SR-CBOE-2012-075).

Fees Schedule is composed of text from the CBOE Proprietary Products Sliding Scale portion of Section 1 of the Old Fees Schedule. Footnote (24) of the New Fees Schedule is composed of text from Section 10(A)(i) of the Old Fees Schedule. Footnote (25) of the New Fees Schedule is composed of text from Section 10(A)(iv) of the Old Fees Schedule. Footnote (26) of the New Fees Schedule is composed of text from the portion of Section 10(A) entitled “Assessment of Trading Permit and Tier Appointment Fees” of the Old Fees Schedule. Footnote (27) of the New Fees Schedule is composed of text from Section 18 of the Old Fees Schedule.

Other changes were made to references within the Footnotes. Footnote (2) previously said “Please see item 18 for details of Customer Large Trade Discounts.” However, there is no longer an “item 18” but instead just a separate table regarding Customer Large Trade Discounts, and a new Footnote (27) with details of Customer Large Trade Discounts, so Footnote (2) now says “Please see Customer Large Trade Discounts table and footnote 27 for details of Customer Large Trade Discounts” instead. Footnote (3) previously stated that “Trading Permit Holder transaction fee policies and rebate programs are described in the last section.” However, this is no longer true, as the sections have been moved around, and there is now a table regarding Trading Permit Holder transaction fee policies and rebate programs. Instead, Footnote (3) now says “Trading Permit Holder transaction fee policies and rebate programs are described in the Trading Permit Holder Transaction Fee Policies and Rebate Programs Table.”

In both of the Index Options Rate Tables in the New Fees Schedule, the “QCC” field is blacked out. This is because a QCC (qualified contingent cross) trade cannot be made on a cash-settled index (for QCCs, options must be tied to a physically-deliverable Regulation NMS security). The Old Fees Schedule listed possible fees for QCCs because the section on index options fees also included fees for exchange-traded funds (“ETFs”), on which QCCs can be

executed. Because the New Fees Schedule has separate tables for index options and ETFs, the Index Options Rate Tables in the New Fees Schedule has the “QCC” field blacked out.

The Old Fees Schedule lists the AIM Agency/Primary fee and the AIM Contra Execution fee in the section that lists index options because that section includes fees for proprietary and non-proprietary index options (as well as other products, including ETFs). The only proprietary index option class on which AIM (the Exchange’s Automated Improvement Mechanism) is available is VIX options. Therefore, since the New Fees Schedule has a separate table for proprietary index options (the Proprietary Index Options Rate Table), the listing in that table for the AIM Agency/Primary fee and the AIM Contra Execution fee clarifies that it only applies to VIX options.

Professionals and Voluntary Professionals are billed in SPX as Customers because SPX is the only class that trades on the Exchange’s Hybrid 3.0 platform, and the classifications as a Professional and Voluntary Professional do not have applicability in Hybrid 3.0 classes. As such, in the Old Fees Schedule, there were no fees listed for Professional and Voluntary Professional SPX trades. The New Fees Schedule, however, lists the SPX fees for Professional and Voluntary Professional (with such fees being the same as Customer SPX fees, both for trades above and below \$1) in order to clarify the fees for Professional and Voluntary Professional SPX trades. There is no change occurring in the amounts of the fees for Professional and Voluntary Professional SPX trades (or anywhere else in this proposed rule change).

In the Old Fees Schedule, there are no separate listings for VIX options transactions; as a Volatility Index, VIX is simply included by implication in the listings of fees for Volatility Indexes. The Proprietary Index Options Rate Table in the New Fees Schedule lists VIX options

fees separately to make VIX options fees more clearly apparent; the amounts of the fees for VIX options transactions are not changing and will still be the same as those for Volatility Indexes.

In the Old Fees Schedule, Customer fees for transactions in SPX Weeklys (“SPXW”) are not separately spelled out, as SPXW falls within the universe of SPX transactions. However, because SPXW is a product that has experienced a growth in trading volume, the Exchange proposes to separately list the fees for SPXW Customer transactions as well as the Surcharge Fee. The amount of the fees for SPXW Customer transactions and the Surcharge Fee is not changing.

The Exchange has made a universal change to the New Fees Schedule to remove any references in the Old Fees Schedule to fees being listed in a “table below” or similar language when such language no longer applies (i.e. the table is no longer below).

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.⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. In organizing the Fees Schedule in charts that are easy for investors to read and grouping together fees that apply to certain market participants into the same subsections and charts, the Exchange eliminates

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

confusion regarding fees, thereby removing impediments to and to perfecting the mechanism for a free and open market, and, in general, protecting investors and the public interest.

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)⁸ of the Act and paragraph (f) of Rule 19b-4⁹ 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-2012-080 on the subject line.

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 C.F.R. 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-2012-080. 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-2012-080, 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.¹⁰

Kevin M. O'Neill
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).