

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-76895; File No. SR-CBOE-2015-121)

January 13, 2016

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 8.3 Relating to Appointment Costs

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 December 31, 2015, 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 and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 Rule 8.3 relating to the appointment costs for options on the Russell 2000 Index (“RUT options”) and P.M.-Settled options on the Standard & Poor’s 500 (“SPXPM options”). The text of the proposed rule change is provided below.

(additions are underlined; deletions are [bracketed])

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

Chicago Board Options Exchange, Incorporated

Rules

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Rule 8.3. Appointment of Market-Makers

(a) – (b) No change.

(c) Market-Maker Appointments. Absent an exemption by the Exchange, an appointment of a Market-Maker confers the right to quote electronically and in open outcry in the Market-Maker’s appointed classes during Regular Trading Hours as described below. Subject to paragraph (e) below, a Market-Maker may change its appointed classes upon advance notification to the Exchange in a form and manner prescribed by the Exchange.

(i) Hybrid Classes. Subject to paragraphs (c)(iv) and (e) below, a Market-Maker can create a Virtual Trading Crowd (“VTC”) appointment, which confers the right to quote electronically during Regular Trading Hours in an appropriate number of Hybrid classes (as defined in Rule 1.1(aaa)) selected from “tiers” that have been structured according to trading volume statistics, except for the AA tier. All classes within a specific tier will be assigned an “appointment cost” depending upon its tier location. The following table sets forth the tiers and related appointment costs.

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Tier	Hybrid Option Classes	Appointment Cost
AA	• Options on the CBOE Volatility Index (VIX)	.499
	• Options on the iShares Russell 2000 Index Fund (IWM)	.25
	• Options on the NASDAQ 100 Index (NDX)	.50

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- Options on the S&P 100 (OEX) .40
- Options on Standard & Poor’s Depository Receipts (SPY) .25
- Options on the Russell 2000 Index (RUT) [.25].50
- Options on the S&P 100 (XEO) .10
- Morgan Stanley Retail Index Options (MVR) .25
- Options on the iPath S&P 500 VIX Short-Term Futures .10
- Index ETN (VXX)
- P.M.-Settled options on the Standard & Poor’s 500 (SPXPM) [1.0].50

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A\* Hybrid Classes 1 – 60 .10

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B\* Hybrid Classes 61 – 120 .05

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C\* Hybrid Classes 121 – 345 .04

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D\* Hybrid Classes 346 – 570 .02

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E\* Hybrid Classes 571 – 999 .01

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F\* All Remaining Hybrid Classes .001

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\* Excludes Tier AA.

(ii) – (vi) No change.

(d) – (e) No change.

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The text of the proposed rule change is also 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.

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

1. Purpose

The purpose of this rule change is to amend CBOE Rule 8.3 relating to the appointment costs for options on RUT options and SPXPM options. CBOE proposes to assign an appointment cost of .50 to each of RUT options and SPXPM options, effective February 1, 2016.

While the appointment costs of Tier AA classes are not subject to quarterly rebalancing under Rule 8.3(c)(iv), the Exchange regularly reviews the appointment costs of Tier AA classes to ensure that they continue to be appropriate.<sup>5</sup> The Exchange determines appointment costs of Tier AA classes based on several factors, including, but not limited to, competitive forces and trading volume. After evaluating these factors, the Exchange has determined to assign an appointment cost of .50 to each of RUT options and SPXPM options.

The Exchange believes increasing the appointment cost for RUT options is reasonable given its increase in trading volume on the Exchange and other competitive forces. For example, when classes have higher volume, demand by Market-Makers for appointments to electronically

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<sup>5</sup> The Exchange reviews the appointment costs of classes in Tiers A through F every calendar quarter pursuant to an evaluation of trading volume statistics. The Exchange announces the quarterly rebalance via Regulatory Circular at least 10 business days before the rebalancing takes effect. See Rule 8.3(c)(iv).

quote in those classes may increase, and thus it is appropriate to charge a higher appointment cost for that class.<sup>6</sup> The Exchange notes that even if a Market-Maker is unwilling to pay the higher appointment cost to maintain an appointment in RUT options to quote electronically during regular trading hours pursuant to Rule 8.3(c)(i) (for example, because it would need an additional trading permit to cover the cost or because it would need to eliminate appointments in other classes), the Market-Maker can continue to have an appointment in the class to trade open outcry.<sup>7</sup>

The Exchange believes that decreasing the appointment cost for SPXPM options is reasonable given its trading volume and other competitive forces. The Exchange believes the proposed rule change will foster competition by incentivizing more Market-Makers to obtain an appointment in SPXPM due to the lower appointment cost, which may increase liquidity in the class, as well as quote electronically in other Hybrid option classes using the excess capacity resulting from the decreased appointment cost in SPXPM options. The Exchange believes that the appointment cost decrease for SPXPM options will promote competition and efficiency.

The Exchange will announce the new appointment costs for RUT and SPXPM options via Regulatory Circular at least 10 business days before February 1, 2016, which the Exchange believes provides Market-Makers with sufficient notice to update their appointments (if necessary) via the appointments website or obtain an additional trading permit (if necessary).<sup>8</sup>

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<sup>6</sup> This is demonstrated by the appointment costs of classes in Tiers A through F, which are based solely on trading volume – classes with higher volume have higher appointment costs.

<sup>7</sup> See Rule 8.3(c)(ii) (which provides all Market-Makers with an appointment to trade open outcry in all Hybrid classes traded on the Exchange).

<sup>8</sup> The Exchange notes that this timeframe is consistent with the deadline to announce quarterly rebalancing under Rule 8.3(c)(iv), which may result in an increase in appointment costs of some classes and a decrease in appointment costs of other classes.

## 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>9</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>11</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Rebalancing of appointment costs does not raise any new or unique issues. The Exchange reviews and rebalances appointment costs for Tier AA classes regularly and Tier A through F classes quarterly, both of which may result an increase in appointment costs of some classes and a decrease in appointment costs of other classes. The Exchange believes rebalancing appointment costs of Tier AA classes based on trading volume and other competitive forces promotes just and equitable principles of trade. The Exchange believes increasing the appointment cost for RUT options promotes competition and efficiency by aligning the appointment cost with the higher demand for appointments in that class and competitive forces

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> Id.

related to that class. The Exchange believes decreasing the appointment cost for SPXPM options promotes competition and efficiency by incentivizing more Market-Makers to obtain an appointment in SPXPM due to the lower appointment cost, which may increase liquidity in the class, as well as quote electronically in other Hybrid option classes using the excess capacity resulting from the decreased appointment cost in SPXPM options. The Exchange believes this may result in more liquidity and competitive pricing, which ultimately benefits investors. The proposed rule change does not result in unfair discrimination, as the revised appointment costs for RUT and SPXPM options will apply to all Market-Makers.

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. CBOE does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it will apply to all Market-Makers (and only Market-Makers can have appointments to quote electronically). CBOE does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change only applies to CBOE's Market-Maker appointment process. The Exchange believes the proposed rule change will promote competition, as discussed above.

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

Because the foregoing proposed rule change does not:

- A. significantly affect the protection of investors or the public interest;
- B. impose any significant burden on competition; and
- C. become operative for 30 days from the date on which it was filed, or such shorter

time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6)<sup>13</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. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

### 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-2015-121 on the subject line.

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).



Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2015-121. 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, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the 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-2015-121 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>14</sup>

Robert W. Errett  
Deputy Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).