

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-78276; File No. SR-CBOE-2016-041)

July 11, 2016

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 June 28, 2016, 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 amend its Fees Schedule, effective July 1, 2016. Specifically, the Exchange proposes to adopt a program that offers a monthly subsidy to Trading Permit Holders ("TPHs") with executing agent operations³ during the Extended Trading Hours ("ETH") trading session.

To participate in the ETH Executing Agent Subsidy Program, a TPH must be a designated ETH executing agent. To become a designated ETH executing agent, a TPH must submit a form to the Exchange.⁴ The TPH must include on or with the form information demonstrating it maintains an ETH executing agent operation: (1) physically staffed throughout each entire ETH trading session⁵ and (2) willing to accept and execute orders on behalf of customers, including customers for which the agent does not hold accounts. The designation will be effective the first business day of the following calendar month, subject to the Exchange's confirmation the TPH's ETH executing agent operations satisfies [sic] these two conditions, and will remain in effect until the Exchange receives an email from the TPH terminating its

³ An executing agent operation is one that accepts orders from customers (who may be public or broker-dealer customers, and including customers for which the agent does not hold accounts) and submits the orders for execution (either directly to the Exchange or through another TPH).

⁴ The ETH Executing Agent Subsidy Registration Form may be submitted to Registration@cboe.com. A TPH must submit the form to the Exchange no later than 3:00 p.m. on the second to last business day of a calendar month to be designated an ETH executing agent under the program, and thus eligible for the subsidy, beginning the following calendar month.

⁵ This generally means the TPH has persons available during all hours of the ETH trading session to take orders (such as by telephone) from customers.

designation or the Exchange determines the TPH's ETH executing agent operation no longer satisfies these two conditions.

A designated ETH executing agent will be eligible to receive a \$5,000 monthly subsidy if it executes at least 1,000 contracts on behalf of customers (including public and broker-dealer customers) during ETH in a calendar month (which is an average of 50 contracts per ETH trading session, assuming a 20-trading day month). Within two business days following the end of a calendar month, in order to receive the subsidy for that month, the designated ETH executing agent must submit to the Exchange (in a form and manner determined by the Exchange) documentation and other evidence it executed at least 1,000 contracts on behalf of customers during ETH that month.

The Exchange believes this program will incentivize TPHs to conduct executing agent operations during ETH to increase customer accessibility to the ETH trading session. The purpose of the subsidy is to help TPHs offset the costs that accompany this type of operation during ETH, including costs related to staffing and clearing.

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 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

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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)⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁹ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

In particular, the ETH Executing Agent Subsidy Program is reasonable because it incentivizes TPHs to conduct executing agent operations willing to accept orders from all customers during ETH to increase customer accessibility to the ETH trading session, which removes impediments to and perfects the mechanism of a free and open market and a national market system. By encouraging TPHs to conduct this type of operation during ETH, this program may result in additional order flow and liquidity during ETH, which creates greater trading opportunities and benefits all market participants trading during ETH.

The Exchange believes limiting the program to TPHs conducting executing agent operations willing to accept orders from all customers is equitable and not unfairly discriminatory due to the additional risks and potential costs (including those related to staffing and clearing) associated with this type of business, as well as the benefits this type of operation may provide during ETH (including increased customer accessibility to the ETH trading session). All TPHs that conduct this type of operation during ETH have an opportunity to become a designated ETH executing agent and thus eligible for the monthly subsidy.

⁸ Id.

⁹ 15 U.S.C. 78f(b)(4).

The Exchange believes the amount of the subsidy is reasonable based on its understanding of the additional costs and risks associated with the executing agent operation during ETH. Additionally, the Exchange believes the 1,000 contract volume threshold is reasonable based on current ETH volumes.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. All TPHs that conduct executing agent operations willing to accept orders from all customers have an opportunity to be eligible for the program, and thus the monthly subsidy. The Exchange believes limiting the program to TPHs conducting this type of operation is equitable and not unfairly discriminatory due to the additional risks and potential costs (including those related to staffing and clearing) associated with this type of business, as well as the benefits this type of operation may provide during ETH (including increased customer accessibility to the ETH trading session). All designated ETH executing agents must meet the same volume threshold to qualify for the same monthly subsidy. The subsidy is designed to provide opportunities for more customers to submit orders during ETH, which generates more order flow and liquidity during that trading session and benefits all market participants.

As CBOE is the only Exchange currently offering an ETH session, the Exchange does not believe the proposed rule change will impose any burden on intermarket competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes, should this program make CBOE more attractive for trading, market participants can always elect to become TPHs and take part in this program, and take advantage of potential increased trading volume and opportunities during ETH that may result from the program.

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) of the Act¹⁰ and paragraph (f) of Rule 19b-4¹¹ 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. Please include File Number SR-CBOE-2016-041 on the subject line.

Paper comments:

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

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f).

All submissions should refer to File Number SR-CBOE-2016-041. 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 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-2016-041, 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.¹²

Robert W. Errett
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).