

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79906; File No. SR-CBOE-2017-008)

January 31, 2017

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 January 18, 2017, 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 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.

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 make a number of changes to its Fees Schedule.³

Electronic Transaction Fees for Clearing Trading Permit Holder Proprietary

The Exchange proposes to increase the transaction fees for electronic executions for Clearing Trading Permit Holder Proprietary (origin codes “F” and “L”) orders in Penny Pilot equity, ETF, ETN and index options (excluding Underlying Symbol List A⁴) classes from \$0.35 per contract to \$0.38 per contract and in Non-Penny Pilot equity, ETF, ETN and index options (excluding Underlying Symbol List A) classes from \$0.35 per contract to \$0.65 per contract. The Exchange notes that this increase is in line with the amounts assessed by others exchanges for similar transactions.⁵

Complex Taker Fee

Currently, the Complex Taker Fee is \$0.08 per contract per side for non-customer complex order executions that take liquidity from the COB and auction responses in the Complex Order Auction (“COA”) and the Automated Improvement Mechanism (“AIM”) in all classes except Underlying Symbol List A and Mini-Options. Additionally, the Complex Taker Fee is not assessed on orders originating from a Floor Broker PAR, electronic executions against

³ The Exchange initially filed the proposed fee changes on January 3, 2017 (SR-CBOE-2017-001). On January 18, 2017, the Exchange withdrew that filing and submitted this filing.

⁴ As of January 3, 2017, Underlying Symbol List A includes Underlying Symbol List A consists of OEX, XEO, RUT, RLG, RLV, RUI, AWDE, FTEM, FXTM, UKXM SPX/SPXW, SPXpm, SRO, VIX, Volatility Indexes and binary options.

⁵ See e.g., NASDAQ PHLX LLC (“PHLX”) Pricing Schedule, Section II, Multiply Listed Options Fees and NYSE Amex Options Fees Schedule, Section I.A, Options Transaction Fees and Credits, Rates for Standard Options Transactions.

single leg markets, or stock-option order executions. The Exchange proposes to increase the amount of the fee from \$0.08 per contract to \$0.10 per contract. The Exchange also proposes to provide that auction responses in COA and AIM for noncustomer complex orders in Penny classes will be subject to a cap of \$0.50 per contract, which includes the applicable transaction fee, Complex Surcharge and Marketing Fee (if applicable)⁶. The Exchange also wishes to rename the fee from “Complex Taker Fee” to “Complex Surcharge”.

SPX Index License Surcharge

The Exchange proposes to increase the Index License Surcharge Fee for SPX (including SPXW) and SPXpm (the “SPX Surcharge”) from \$0.13 per contract to \$0.14 per contract. The Exchange licenses from Standard & Poor’s the right to offer an index option product based on the S&P 500 index (that product being SPX and other SPX-based index option products). In order to recoup the costs of the SPX license, the Exchange assesses the SPX Surcharge. However, the cost of that license works out to more than the current SPX Surcharge amount of \$0.13 per SPX contract traded (or even the proposed SPX Surcharge amount of \$0.14 per contract), so the Exchange ends up subsidizing that SPX license cost. The Exchange therefore proposes to increase the SPX Surcharge from \$0.13 per contract to \$0.14 per contract in order to recoup more of the costs associated with the SPX license.

VIX License Index Surcharge

The Exchange proposes to extend the current waiver of the VIX Index License Surcharge of \$0.10 per contract for Clearing Trading Permit Holder Proprietary (“Firm”) (origin codes “F” or “L”) VIX orders that have a premium of \$0.10 or lower and have series with an expiration of

⁶ For example, a Market-Maker COA response in a Penny class that is subject to the Marketing Fee (\$0.25 per contract), the Liquidity Provider Sliding Scale Tier 1 rate (\$0.23 per contract) and Complex Surcharge (\$0.10 per contract), would only be charged \$0.50 per contract, instead of \$0.58 per contract.

seven (7) calendar days or less. The Exchange adopted the current waiver to reduce transaction costs on expiring, low-priced VIX options, which the Exchange believed would encourage Firms to seek to close and/or roll over such positions close to expiration at low premium levels, including facilitating customers to do so, in order to free up capital and encourage additional trading. The Exchange had proposed to waive the surcharge through December 31, 2016, at which time the Exchange had stated that it would evaluate whether the waiver has in fact prompted Firms to close and roll over these positions close to expiration as intended. The Exchange believes the proposed change has in fact encouraged Firms to do so and as such, proposes to extend the waiver of the surcharge through June 30, 2017, at which time the Exchange will again reevaluate whether the waiver has continued to prompt Firms to close and roll over positions close to expiration at low premium levels. Accordingly, the Exchange proposes to delete the reference to the current waiver period of December 31, 2016 from the Fees Schedule and replace it with June 30, 2017.

Liquidity Provider Sliding Scale for SPX, SPXW and SPXpm

The Exchange proposes to adopt a sliding scale for Liquidity Provider (origin code “M”) (“LP”) transaction fees in SPX, SPXW and SPXpm (“SPX LP Sliding Scale”). Currently, LPs are assessed \$0.20 per contract for SPX, SPXW and SPXpm (collectively, “SPX options”) executions. The new SPX LP Sliding Scale will assess LPs increased transaction fees in SPX. Of the increased rates however, the SPX LP Sliding Scale will provide progressively lower rates if certain volume thresholds in SPX options are attained during a month. The SPX LP Sliding Scale will be as follows:

Tier	Volume Thresholds	Rate
1	0.00% - 1.50%	\$0.25
2	Greater than 1.50% - 10.0%	\$0.23

3	Above 10.0%	\$0.21
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The volume thresholds will be based on total Liquidity Provider Volume in SPX, SPXW and SPXpm. The purpose of the SPX LP Sliding Scale is to provide an incremental incentive for LPs to reach the highest tier level and encourage trading of SPX options.

Volume Incentive Program

The Exchange proposes to amend its Volume Incentive Program (“VIP”). By way of background, under VIP, the Exchange credits each Trading Permit Holder (“TPH”) the per contract amount set forth in the VIP table resulting from each public customer (“C” origin code) order transmitted by that TPH (with certain exceptions) which is executed electronically on the Exchange, provided the TPH meets certain volume thresholds in a month.⁷ The Exchange proposes to adopt separate pricing for orders executed electronically via AIM. The proposed pricing is as follows:

		Per Contract Credit			
		Simple		Complex	
Tier	Percentage Thresholds of National Customer Multiply-Listed Monthly Volume	Non-AIM	AIM	Non-AIM	AIM
1	0.00% - 0.75%	\$0.00	\$0.00	\$0.00	\$0.00
2	Above 0.75% to 1.80%	\$0.10	\$0.09	\$0.21	\$0.20
3	Above 1.80% to 3.00%	\$0.12	\$0.11	\$0.24	\$0.23
4	Above 3.00%	\$0.15	\$0.14	\$0.25	\$0.24

The Exchange notes that AIM transactions are assessed lower transaction fees than non-AIM transactions. As such, the Exchange no longer wishes to provide the same amount in credits for these transactions.⁸

⁷ See CBOE Fees Schedule, Volume Incentive Program.

⁸ See CBOE Fees Schedule, Equity, ETF, ETN and Index Options (excluding Underlying Symbol List A) rate tables.

The Exchange also proposes to amend the aggregation timer under VIP. The Exchange notes that currently, credits on orders executed electronically in AIM are capped at 1,000 contracts per order for simple executions and 1,000 contracts per leg for complex executions. Additionally, credits on orders executed electronically in HAL are capped at 1,000 contracts per auction quantity. Additionally, multiple simple orders from the same affiliated TPH(s) in the same series on the same side of the market that are executed in AIM or HAL within a 300 second period will be aggregated for purposes of determining the order quantity subject to the cap. The AIM aggregation timer begins with an order entered into AIM and continues for 300 seconds, aggregating any other orders entered into AIM in the same series on the same side of the market by the same affiliated TPH. The HAL aggregation timer also begins at the start of a HAL auction and continues for 300 seconds, aggregating any other orders executed in HAL in the same series on the same side of the market for the same affiliated TPH. The Exchange had adopted the aggregation timer to prevent TPHs from breaking up their orders in order to avoid the fee cap. The Exchange believes however, that it can accomplish its objective with a shorter timer period. As such, the Exchange proposes to reduce the aggregation timer for AIM and HAL to 3 seconds.

Permit Fees

The Exchange proposes to reduce Market-Maker Trading Permit monthly costs from \$5,500 per permit to \$5,000 per permit. Furthermore, for those who commit to the Market-Maker Trading Permit Holder Sliding Scale, which is available for all Market-Maker Trading Permits held by affiliated TPHs and TPH organizations that are used for appointments in any options classes other than RUT, SPX, SPXpm, VIX, OEX and XEO, the Exchange proposes to reduce the monthly cost from \$5,500 per permit to \$5,000 per permit for the first 10 permits,

from \$4,000 to \$3,700 per permit for permits 11-20, and from \$2,500 to \$1,800 per permit for permits 21 and greater. The purpose of this change is to reduce access costs and thereby encourage greater Market-Maker access, which thereby brings greater trading activity, volume and liquidity, benefitting all market participants.

The Exchange next notes that the “Notes” section of the Market-Maker Trading Permit Sliding Scale table provides that the sliding scale is available for Market-Maker Trading Permits used for appointments “in any options classes other than SPX, SPXpm, VIX, OEX, and XEO.” The Exchange notes that last year, the Exchange also excepted from the scale RUT appointments.⁹ While the Exchange acknowledged this change in Footnote 24, it inadvertently did not add “RUT” to the exclusion list in the Notes section described above. The Exchange therefore proposes to correct that error and add the reference to “RUT” being excluded.

The Exchange also proposes to reduce the Floor Broker Trading Permit monthly fee for Tier 1 of the Floor Broker Trading Permit Holder Sliding Scale. Specifically, Tier 1 of the Floor Broker Trading Permit Holder Sliding Scale is available for TPHs and TPH Organizations that commit in advance to that tier each calendar year. The Exchange proposes to reduce the monthly cost from \$6,000 per Floor Broker Trading Permit to \$5,000 per Floor Broker Trading Permit for permits 2-7.

Extended Trading Hour Fees

In order to promote and encourage trading during the Extended Trading Hours (“ETH”) session, the Exchange currently waives ETH Trading Permit and Bandwidth Packet fees for one (1) of each initial Trading Permits and one (1) of each initial Bandwidth Packet, per affiliated TPH. The Exchange notes that waiver is set to expire December 31, 2016. The Exchange also

⁹ See Securities Exchange Act Release No. 76923 (January 15, 2016), 81 FR 3841 (January 22, 2016) (SR-CBOE-2016-002).

waives fees through December 31, 2016 for a CMI and FIX login ID if the CMI and/or FIX login ID is related to a waived ETH Trading Permit and/or waived Bandwidth packet. In order to continue to promote trading during ETH, the Exchange wishes to extend these waivers through June 30, 2017.

CBOE Command Connectivity Charges

Next, the Exchange proposes to increase CBOE Command Connectivity Fees. First, the Exchange proposes to increase the monthly fee for 10 gigabit per second (“Gbps”) Network Access Ports from \$3,500 per port to \$4,000 per port. The Exchange has expended significant resources setting up, providing and maintaining this connectivity, and the costs related to such provision and maintenance has increased. The Exchange desires to recoup such increased costs. This fee amount is still within the range of, and in some cases less than, similar fees assessed by other exchanges.¹⁰

The Exchange also proposes to increase the fees charged for a CMI Login ID and FIX Login ID from \$500 per month to \$750 per month. TPHs may access CBOE Command via either a CMI Client Application Server or a FIX Port, depending on how their systems are configured. As with Network Access Ports, the Exchange has expended significant resources setting up, providing and maintaining this connectivity, and the costs related to such provision and maintenance has increased. The Exchange desires to recoup such increased costs. This fee amount is still within the range of, and in some cases less than, similar fees assessed by other exchanges.¹¹

Linkage

¹⁰ See e.g., Miami International Securities Exchange LLC (“MIAX”) Options Fees Schedule, Section 5(a), which lists connectivity fees of \$5,500 per month for 10 Gbps.

¹¹ See e.g., International Securities Exchange (“ISE”) Schedule of Fees, Section V(C), FIX Session/API Session Fees. See also PHLX Pricing Schedule, Section VII(B), Port Fees.

The Exchange proposes to increase the Linkage fee (in addition to the applicable away fees) for Customer orders from \$0.05 to \$0.10. The Fees Schedule currently provides that, in addition to the customary CBOE execution charges, for each customer order that is routed, in whole or in part, to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Rule 6.80, CBOE shall pass through the actual transaction fee assessed by the exchange(s) to which the order was routed. The Exchange proposes to assess an additional \$0.10 per contract for customer orders routed away in addition to the applicable pass through fees. The purpose of these proposed increase is to help recoup costs incurred by the Exchange associated with routing customer orders through linkage. The Exchange notes that other exchanges also assess an additional fee on top of passing through transaction fees for customer orders and that the proposed amount of the fee is in line with the amount assessed at other exchanges.¹²

Frequent Trader

The Exchange next proposes to amend its Frequent Trader Program. By way of background, the Frequent Trader Program offers transaction fee rebates to registered Customers, Professional Customers and Voluntary Professionals (origin codes “C” and “W”) that meet certain volume thresholds in CBOE VIX Volatility Index options (“VIX options”), Russell 2000 Index (“RUT”) options, and S&P 500 Index options (“SPX”), weekly S&P 500 options (“SPXW”) and p.m.-settled SPX Index options (“SPXpm”) (collectively referred to as “SPX options”) provided the Customer registers for the program. The Exchange proposes to amend

¹² See e.g., PHLX Pricing Schedule, Section V., Customer Routing Fees. See also, MIAX Options Fees Schedule, Section 1(c), Fees and Rebates for Customer Orders Routed to Another Options Exchange.

the Frequent Trader Program to (i) increase the volume thresholds and (ii) reduce the rebates.

Specifically, the proposed changes will be as follows:

Tier	VIX		SPX, SPXW and SPXpm		RUT	
	Monthly Contracts Traded	Fee Rebate	Monthly Contracts Traded	Fee Rebate	Monthly Contracts Trade	Fee Rebate
1	10,000 – 49,999	3%	10,000 – 49,999	3%	5,000 – 9,999	3%
2	50,000 – 99,999	6%	50,000 – 99,999	6%	10,000 – 12,999	6%
3	100,000 and above	9%	100,000 and above	9%	13,000 and above	9%

Floor Broker Trading Permit Rebates

Footnote 25, which governs rebates on Floor Broker Trading Permits, currently provides that any Floor Broker that executes a certain average of customer open-outcry contracts per day over the course of a calendar month in all underlying symbols excluding Underlying Symbol List A (except RLG, RLV, RUI, AWDE, FTEM, FXTM and UKXM), DJX, XSP, XSPAM, mini-options and subcabinet trades (“Qualifying Symbols”), will receive a rebate on that TPH’s Floor Broker Trading Permit Fees. Specifically, any Floor Broker Trading Permit Holder that executes an average of 15,000 customer open-outcry contracts per day over the course of a calendar month in Qualifying Symbols will receive a rebate of \$7,500 on that Floor Broker Trading Permit Holder’s Floor Broker Trading Permit fees. Additionally, any Floor Broker Trading Permit Holder that executes an average of 25,000 customer open-outcry contracts per day over the course of a calendar month in Qualifying Symbols will receive a rebate of \$15,000 on that TPH’s Floor Broker Trading Permit fees. The Exchange proposes to increase the rebate received for executing an average of 15,000 customer open-outcry contracts to \$9,000 and reduce the rebate received for executing an average of 25,000 customer open-outcry contracts to \$14,000.

RLG, RLV, RUI, AWDE, FTEM, FXTM and UKXM Transaction Fees

The Exchange recently began trading options on seven FTSE Russell Indexes (i.e., Russell 1000 Growth Index (“RLG”), Russell 1000 Value Index (“RLV”), Russell 1000 Index (“RUI”), FTSE Developed Europe Index (“AWDE”), FTSE Emerging Markets Index (“FTEM”), China 50 Index (“FXTM”) and FTSE 100 Index (“UKXM”). In order to promote and encourage trading of these new products, the Exchange currently waives all transaction fees (including the Floor Brokerage Fee, Index License Surcharge and CFLEX Surcharge Fee) for each of these products. This waiver however is set to expire December 31, 2016. In order to continue to promote trading of these new options classes, the Exchange proposes to extend the fee waiver of through June 30, 2017.

FLEX Asian and Cliquet Flex Trader Incentive Program

By way of background, a FLEX Trader is entitled to a pro-rata share of the monthly compensation pool based on the customer order fees collected from customer orders traded against that FLEX Trader’s orders with origin codes other than “C” in FLEX Broad-Based Index Options with Asian or Cliquet style settlement (“Exotics”) each month (“Incentive Program”). The Fees Schedule provides that the Incentive Program is set to expire either by December 31, 2016 or until total average daily volume in Exotics exceeds 15,000 contracts for three consecutive months, whichever comes first. The Exchange notes that total average daily volume in Exotics has not yet exceeded 15,000 contracts for three consecutive months. In order to continue to incentivize FLEX Traders to provide liquidity in FLEX Asian and Cliquet options, the Exchange proposes to extend the program to June 30, 2017 or until total average daily volume in Exotics exceeds 15,000 contracts for three consecutive months, whichever comes first.

AWDE, FTEM, FXTM and UKXM DPM Payment

The Exchange currently offers a compensation plan to the Designated Primary Market-Maker(s) (“DPM(s)”) appointed in AWDE, FTEM, FXTM or UKXM to offset the initial DPM costs. Specifically, the Fees Schedule provides that DPM(s) appointed for an entire month in these classes will receive a payment of \$7,500 per class per month through December 31, 2016. The Exchange notes that DPMs appointed in these products still have ongoing costs, which the Exchange desires to continue to help offset. As such, the Exchange proposes to extend the DPM payment plan through June 30, 2017.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ 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 Section 6(b)(4) of the Act,¹⁵ 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.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78f(b)(4).

Increasing the fee for electronic executions for Clearing Trading Permit Holder Proprietary orders in Penny and Non-Penny Pilot equity, ETF, ETN and index options (excluding Underlying Symbol List A) classes is reasonable because the proposed fee amount is in line with the amounts assessed by another exchange for similar transactions.¹⁶ The Exchange believes that this proposed change is also equitable and not unfairly discriminatory because the proposed changes will apply equally to all Clearing Trading Permit Holders. The Exchange notes that it does not assess Customers the electronic options transaction fees in Penny and Non-Penny Pilot options because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market-Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The Exchange notes that Market-Makers are assessed lower electronic options transaction fees in Penny and Non-Penny Pilot options as compared to Clearing Trading Permit Holders, as well as Professionals, JBOs, Broker Dealers and non-Trading Permit Holder Market-Makers because they have obligations to the market and regulatory requirements, which normally do not apply to other market participants (e.g., obligations to make continuous markets). Professionals, JBOs, Broker Dealers and non-Trading Permit Holder Market-Makers are assessed higher fees as compared to the proposed fees for Clearing Trading Permit Holder Proprietary orders because Clearing Trading Permit Holders also have obligations, which normally do not apply to other market participants (e.g., must have higher capital requirements, clear trades for other market

¹⁶ See e.g., PHLX Pricing Schedule, Section II, Multiply Listed Options Fees and NYSE Amex Options Fees Schedule, Section I.A, Options Transaction Fees and Credits, Rates for Standard Options Transactions.

participants, must be members of OCC). Accordingly, the differentiation between electronic transaction fees for Customers, Market-Makers, Clearing Trading Permit Holders and other market participants recognizes the differing obligations and contributions made to the liquidity and trading environment on the Exchange by these market participants. The Exchange also believes it's equitable and not unfairly discriminatory to assess higher fees for Non-Penny option classes than Penny option classes because Penny classes and Non-Penny classes offer different pricing, liquidity, spread and trading incentives. The spreads in Penny classes are tighter than those in Non-Penny classes (which trade in \$0.05 increments). The wider spreads in non-Penny option classes allow for greater profit potential.

The Exchange believes that the proposed increase of the Complex Taker Fee from \$0.08 per contract per side to \$0.10 per contract per side is reasonable because it helps offset the increased credits given to complex orders under VIP. Indeed, the Exchange notes that VIP credits for complex orders have increased since the Complex Taker Fee was increased to \$0.08 per contract.¹⁷ The Exchange believes capping noncustomer COA and AIM auction responses in Penny classes is reasonable because those market participants would be paying lower fees. Applying the Complex Surcharge to all market participants except customers is equitable and not unfairly discriminatory because customer order flow enhances liquidity on the Exchange for the benefit of all market participants. As noted above, customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market-Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. By exempting customer orders, the fee will not discourage the sending of customer orders, and

¹⁷ See Securities Exchange Act Release No. 75188 (June 17, 2015), 80 FR 36021 (June 23, 2015) (SR-CBOE-2015-058) and See CBOE Fees Schedule, Volume Incentive Program.

therefore there should still be plenty of customer orders for other market participants to trade with. The Exchange also believes capping auction responses in COA and AIM at \$0.50 per contract is reasonable, equitable and not unfairly discriminatory because the Exchange does not want to discourage the use of these price improvement mechanisms. The Exchange lastly believes renaming the fee to Complex Surcharge may alleviate confusion, which removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

The Exchange believes increasing the SPX Surcharge is reasonable because the Exchange still pays more for the SPX license than the amount of the proposed SPX Surcharge (meaning that the Exchange is, and will still be, subsidizing the costs of the SPX license). This increase is equitable and not unfairly discriminatory because all non-Customer market participants will be assessed the same increased SPX Surcharge. Not applying the SPX Surcharge Fee to customer orders is equitable and not unfairly discriminatory because this is designed to attract customer SPX orders, which increases liquidity and provides greater trading opportunities to all market participants.

The Exchange believes it's reasonable to continue to waive the VIX Index License Surcharge for Clearing Trading Permit Holder Proprietary VIX orders that have a premium of \$0.10 or lower and have series with an expiration of 7 calendar days or less because the Exchange wants to continue encouraging Firms to roll and close over positions close to expiration at low premium levels. The Exchange notes that without the waiver, firms are less likely to engage in these transactions, as opposed to other VIX transactions, due to the associated transaction costs. The Exchange believes it's equitable and not unfairly discriminatory to limit the waiver to Clearing Trading Permit Holder Proprietary orders because they contribute capital

to facilitate the execution of VIX customer orders with a premium of \$0.10 or lower and series with an expiration of 7 calendar days or less. Finally, the Exchange believes it's reasonable, equitable and not unfairly discriminatory to provide that the surcharge will be waived through June 2017, as it gives the Exchange additional time to evaluate if the waiver is continuing to have the desired effect of encouraging these transactions.

The Exchange believes increasing SPX transaction fees for Liquidity Providers is reasonable because the Exchange has expended considerable resources developing and maintaining SPX. The Exchange believes that this proposed change is equitable and not unfairly discriminatory because although Liquidity Providers still pay lower SPX transaction fees than certain other market participants, Liquidity Providers are valuable market participants that provide liquidity in the marketplace and incur costs that other market participants do not incur. For example, Liquidity Providers have a number of obligations, including quoting obligations that other market participants do not have. The Exchange also believes establishing a Sliding Scale for LPs in SPX options is reasonable because it will allow LPs who engage in SPX options trading the opportunity to pay progressively lower fees for such transactions as increased volume thresholds are met. Specifically, the SPX LP Sliding Scale allows the Exchange to provide an incremental incentive for Liquidity Providers to strive for the highest tier level, which provides increasingly lower fees.

The Exchange believes the proposed reduced credits for AIM executions under VIP is reasonable because it still provides TPHs an opportunity to receive notable credits for reaching certain qualifying volume thresholds that they would not otherwise receive (now just a smaller credit). The Exchange also believes it's reasonable, equitable and not unfairly discriminatory to establish lower credits for AIM executions than non-AIM executions under VIP because AIM

transactions are already assessed lower transaction fees than non-AIM transactions and the Exchange no longer wishes to provide the same amount of credits for these transactions.¹⁸

Additionally, the Exchange believes the proposed change is equitable and not unfairly discriminatory because it applies to all TPHs that meet the qualifying volume thresholds.

The Exchange also believes it's reasonable, equitable and not unfairly discriminatory to provide that multiple simple orders from the same TPH in the same series on the same side of the market that are received within three (3) seconds (instead of three hundred (300) seconds) will be aggregated for purposes of determining the order quantity subject to the AIM and HAL cap because the Exchange believes this amount of time is still sufficient to prevent TPHs from breaking up their orders in order to avoid the fee cap and it would apply to all TPHs.

The lowered costs for Market-Maker Trading Permits is reasonable because the fees will be lower than previously, and the reduced access costs may encourage greater Market-Maker access, which thereby brings greater trading activity, volume and liquidity, benefitting all market participants. The Exchange believes the proposed change is equitable and not unfairly discriminatory because it applies to all Market-Makers.

The Exchange believes adding "RUT" to the Notes section of the Market-Maker Trading Permits Sliding Scale will alleviate confusion as to what Trading Permits the sliding scale does and does not apply to. The alleviation of confusion removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

The lowered costs for Floor Broker Trading Permits in Tier 1 of the Floor Broker Trading Permits Sliding Scale is reasonable because the fee for that tier will be lower than previously,

¹⁸ See CBOE Fees Schedule, Equity, ETF, ETN and Index Options (excluding Underlying Symbol List A) rate tables.

and the reduced access costs may encourage greater Floor Broker access, which thereby brings greater trading activity, volume and liquidity, benefitting all market participants. The Exchange believes the proposed change is equitable and not unfairly discriminatory because it applies to all Floor Brokers.

The Exchange believes extending the waiver of ETH Trading Permit and Bandwidth Packet fees for one of each type of Trading Permit and Bandwidth Packet, per affiliated TPH through June 30, 2017 is reasonable, equitable and not unfairly discriminatory, because it promotes and encourages trading during the ETH session and applies to all ETH TPHs. The Exchange believes it's also reasonable, equitable and not unfairly discriminatory to waive fees for Login IDs related to waived Trading Permits and/or Bandwidth Packets in order to promote and encourage ongoing participation in ETH and also applies to all ETH TPHs.

The proposed change to increase the 10 Gbps Network Access Port fee is reasonable because the fees are within the same range as those assessed on other exchanges,¹⁹ and because such increase will assist in recouping ongoing expenditures made by the Exchange. This proposed change is equitable and not unfairly discriminatory because the proposed change will apply to all TPHs. The proposed change to increase the fees assessed for CMI Login IDs and FIX Login IDs is also reasonable because the Exchange desires to recoup increasing costs associated with maintaining connectivity to the Exchange. The Exchange believes it's equitable and not unfairly discriminatory because all TPHs will be assessed the same amount for Login ID fees.

The Exchange's proposal to increase the Linkage fee from \$0.05 per contract to \$0.10 per contract (in addition to applicable transaction fees) for customer orders is reasonable because the

¹⁹ See supra Note 10.

increase will help offset the costs associated with routing orders through Linkage. Additionally, the proposed amount is reasonable as it is in line with amounts charged by other Exchanges for similar transactions.²⁰ The Exchange believes it's equitable and not unfairly discriminatory because the proposed change will apply to all customer orders that are linked away.

The Exchange believes it is reasonable to increase the volume thresholds in Frequent Trader because it adjusts for current volume trends. The Exchange notes that the rebalance of tiers still allows the Exchange to maintain an incremental incentive for Customers to strive for the highest tier level. The Exchange believes the proposed change is also equitable and not unfairly discriminatory because it applies to all Customers. The Exchange believes it's reasonable to reduce the Frequent Trader rebates because it still provides Customers an opportunity to receive notable discounted rates for reaching certain qualifying volume thresholds that they would not otherwise receive (now just a smaller discount). The Exchange believes that the proposed change is not unfairly discriminatory because it will apply to all Customers that meet the qualifying volume thresholds.

The Exchange believes that increasing the first tier of the Floor Broker Access Rebate (i.e., the rebate received when executing 15,000 contracts or more per day) is reasonable because it allows the qualifying Floor Brokers to pay even lower Floor Broker Trading Permit fees than before. The Exchange believes that it is reasonable to reduce the second tier rebate of the Floor Broker Access (i.e., the rebate received when executing 25,000 contracts or more per day), because qualifying Floor Brokers are still paying lower Floor Broker Trading Permit fees than they otherwise would have. The Exchange notes that the purpose of both rebates incentives is to encourage the execution of orders via open outcry, which should increase volume, which would

²⁰ See supra Note 12.

benefit all market participants (including Floor Brokers who do not hit the either contracts-per-day thresholds) trading via open outcry (and indeed, this increased volume could make it possible for some Floor Brokers to hit the contracts-per-day thresholds). The Exchange believes the proposed changes are equitable and not unfairly discriminatory because they apply to qualifying Floor Brokers equally.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to extend the waiver of all transaction fees for RLG, RLV, RUI, AWDE, FTEM, FXTM and UKXM transactions, including the Floor Brokerage fee, the License Index Surcharge and CFLEX Surcharge Fee, because it promotes and encourages trading of these products which are still new and applies to all TPHs.

The Exchange believes extending the FLEX Asian and Cliquet Flex Trading Incentive Program is reasonable, equitable and not unfairly discriminatory because providing FLEX Traders with incentives to trade FLEX Asian and Cliquet options should result in a more robust price discovery process that will result in better execution prices for customers. In addition, the proposed change applies equally to all FLEX Traders.

Finally, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to extend the compensation plan to the DPM(s) appointed in AWDE, FTEM, FXTM or UKXM to continue to offset their ongoing DPM costs.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange 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, while different fees and rebates are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances (as described in the “Statutory Basis” section above). For example, Clearing TPHs have clearing obligations that other market participants do not have. Market-Makers have quoting obligations that other market participants do not have. There is a history in the options markets of providing preferential treatment to customers, as they often do not have as sophisticated trading operations and systems as other market participants, which often makes other market participants prefer to trade with customers. Further, the Exchange fees and rebates, both current and those proposed to be changed, are intended to encourage market participants to bring increased volume to the Exchange (which benefits all market participants), while still covering Exchange costs (including those associated with the upgrading and maintenance of Exchange systems).

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes are intended to promote competition and better improve the Exchange’s competitive position and make CBOE a more attractive marketplace in order to encourage market participants to bring increased volume to the Exchange (while still covering costs as necessary). Further, the proposed changes only affect trading on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

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 Act²¹ and paragraph (f) of Rule 19b-4²² 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-2017-008 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.

All submissions should refer to File Number SR-CBOE-2017-008. 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

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f).

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 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-2017-008, 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.²³

Eduardo A. Aleman
Assistant Secretary

²³ 17 CFR 200.30-3(a)(12).