

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-85018; File No. SR-CBOE-2018-075)

January 31, 2019

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Fees Schedule with Respect to the SPX Select Market-Maker Program

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 19, 2018, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) 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 Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend its Fees Schedule with respect to the SPX Select Market-Maker Program. The text of the proposed rule change is provided in Exhibit 5.

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

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

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

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 Exchange is proposing to amend the SPX Select Market-Maker ("SMM") Program, effective December 31, 2018. By way of background, the Exchange recently established a financial incentive program for SPX SMMs, which provides that any appointed SPX SMM will receive a monthly waiver of the cost of one Market-Maker Trading Permit and one SPX Tier Appointment provided that the SMM satisfies a heightened quoting standard for that month, which standard is set forth in Footnote 49 of the Fees Schedule. Footnote 49 currently provides that an SMM will receive the monthly Trading Permit and SPX Tier Appointment waiver if it (1) provides continuous electronic quotes in 95% of all SPX series 90% of the time in a given month, (2) submits opening quotes that are no wider than the Opening Exchange Prescribed Width ("OEPW") within one minute of the initiation of an opening rotation in any series that is not open due to the lack of a qualifying quote, on all trading days, to ensure electronic quotes on the open that allow the series to open, (3) submit [sic] opening quotes that are no wider than the OEPW quote by 8:00 am (CT) on volatility index derivative settlement days in the SPX series that expire in the month used to calculate the settlement value for expiring volatility index derivatives and (4) provides quotes for the end-of-month fair value closing rotation on a rotating basis<sup>3</sup>.

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<sup>3</sup> The end-of-month fair value closing rotation is governed by Cboe Options Rule 6.2, Interpretation and Policy .06.

The Exchange proposes to amend the criteria currently set forth in the fourth prong of the heightened quoting standard described above. Specifically, the Exchange proposes to no longer require that a designated SMM provide quotes for the end-of-month fair value closing rotation (“closing rotation”) on a rotating basis and instead require that within 30 minutes from the initiation of the end-of-month fair value closing rotation, the Exchange must disseminate end-of-month closing quotations pursuant to Cboe Options Rule 6.2(.06)(a) in order for the 4<sup>th</sup> prong to be satisfied. By way of background, Interpretation and Policy .06(a) of Rule 6.2 provides that on the last business day of each month, the Exchange will conduct special end-of-month non-trading rotations for each series of SPX options in order to determine the theoretical “fair value” of such series as [sic] of SPX as of the time of close of trading in the underlying cash market.<sup>4</sup> The Exchange proposes to condition the SMM financial benefit on the closing rotation resulting in the dissemination of quotes pursuant to Cboe Options Rule 6.2(.06)(a) as the Exchange believes the proposed change will encourage all SMMs to provide end-of-month non-trading settlement pricing quotations in SPX and SPXW as it would be in the interest of the SMMs to each participate in order to ensure that the Exchange is ultimately able to disseminate the fair value quotes, thereby satisfying the fourth prong. The Exchange also believes the proposed amendment to the fourth prong is commensurate with the financial benefit the Exchange offers through the SMM program.

The Exchange lastly proposes to make non-substantive clean up changes to correct two typographical errors. First, the Exchange notes that the word “to” is missing from the second prong of Footnote 49 and as such, proposes to add “to” in the second prong. Second, the Exchange proposes to add an “s” to the end of “submit” in the third prong so that the language in

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<sup>4</sup> See Cboe Options Rule 6.2, Interpretation and Policy .06.(a).

each prong is grammatically consistent.

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.<sup>5</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>6</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 Section 6(b)(4) of the Act,<sup>7</sup> 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.

The Exchange believes amending the fourth prong in Footnote 49 is reasonable as it does not change the financial benefit offered. Additionally, the Exchange believes the proposed amendment is reasonable, equitable and not unfairly discriminatory because it applies to all SMMs uniformly and because if the fourth prong, as amended, is not met, the SMMs merely will not receive the offered financial benefit. The Exchange also believes the requirement under the amended fourth prong is commensurate with the financial benefit offered. Additionally, the

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

Exchange notes that its closing rotation is designed to foster consistency in the S&P 500 Index-related markets by aligning the price of SPX options and S&P 500 futures prices. The Exchange believes that its proposed rule change removes impediments to and perfects the mechanism of a free and open national market system as it continues to allow traders and investors to realize consistency across the different S&P 500 Index-related markets at the end of each month. Particularly, as noted above, the proposed amendment is designed to encourage all SMMs to provide end-of-month non-trading settlement pricing quotations in SPX and SPXW, which would increase the probability that the Exchange would be able to disseminate fair value quotes pursuant to Rule 6.2(.06)(a).

The Exchange believes the proposal to fix two typographical errors makes the fees schedule easier to read and reduces potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

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 it applies uniformly to all SPX SMMs. The Exchange 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 SPX options are proprietary products that will only be traded on Cboe Options. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options 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 Act<sup>8</sup> and paragraph (f) of Rule 19b-4<sup>9</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-2018-075 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.

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f).

All submissions should refer to File Number SR-CBOE-2018-075. 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 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2018-075, and should be submitted on or before [insert date 15 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Eduardo A. Aleman  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).