

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63422; File No. SR-CBOE-2010-105)

December 3, 2010

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated: Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Extension of Waiver of Transaction Fee for Public Customer Orders in SPDR Options Executed in Open Outcry or in the Automated Improvement Mechanism

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 30, 2010, Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by CBOE. 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

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend its Fees Schedule to extend through March 31, 2011, a waiver of the transaction fee for public customer orders in options on Standard & Poor's Depository Receipts that are executed in open outcry or in the Automated Improvement Mechanism. The text of the proposed rule change is available on the Exchange's website (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary and at the Commission.

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

In its filing with the Commission, CBOE 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. CBOE 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, Proposed Rule Change

1. Purpose

Effective September 7, 2010, the Exchange waived the \$.18 per contract transaction fee for public customer ("C" origin code) orders in options on Standard & Poor's Depository Receipts ("SPDR options") that are executed in open outcry or in the Automated Improvement Mechanism ("AIM").¹ This fee waiver is due to expire on November 30, 2010. The Exchange proposes to extend the fee waiver through March 31, 2011.² The proposed fee waiver is intended to attract more customer volume on the Exchange in this product.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act"),³ in general, and furthers the objectives of Section 6(b)(4)⁴ of the Act in particular, in that it is designed to provide for the equitable

¹ See Securities Exchange Act Release No. 34-62902 (September 14, 2010), 75 FR 57313 (September 20, 2010), and CBOE Fees Schedule, footnote 8. AIM is an electronic auction system that exposes certain orders electronically in an auction to provide such orders with the opportunity to receive an execution at an improved price. AIM is governed by CBOE Rule 6.74A.

² The Exchange notes that transaction fees are also currently waived for customer orders of 99 contracts or less in ETF (including SPDR options), ETN and HOLDRs options. See CBOE Fees Schedule, footnote 9.

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(4).

allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes the proposed extension of the fee waiver is reasonable because it would continue to provide cost savings during the extended waiver period for public customers trading SPDR options and is consistent with other fees assessed by the Exchange. The Exchange assesses manually executed broker-dealer orders a different rate (\$.25 per contract) as compared to electronically executed broker-dealer orders (\$.45 per contract), and a different rate (\$.20 per contract) for broker-dealer orders executed on AIM as compared to other electronic executions and manual executions of broker-dealer orders.⁵ Other exchange fee schedules also distinguish between electronically and non-electronically executed orders.⁶ The Exchange believes the proposed fee waiver is equitable because it would apply uniformly to all public customers trading SPDR options.

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 purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

⁵ See CBOE Fees Schedule, Section 1.

⁶ NASDAQ OMX PHLX, Inc. categorizes its equity options transaction fees for Specialists, ROTs, SQTs, RSQTs and Broker-Dealers as either electronic or non-electronic. See NASDAQ OMX PHLX Fees Schedule, Equity Options Fees. NYSE Amex, Inc. categorizes its options transaction fees for Non-NYSE Amex Options Market Makers, Broker-Dealers, Professional Customers, Non BD Customers and Firms as either electronic or manual. See NYSE Amex Options Fees Schedule, Trade Related Charges. NYSE Arca, Inc. categorizes its options transaction fees for Customers, Firms and Broker-Dealers as either electronic or manual. See NYSE Arca Options Fees Schedule, Trade Related Charges.

No written comments were solicited or received with respect to 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 Act⁷ and subparagraph (f)(2) of Rule 19b-4⁸ 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-2010-105 on the subject line.

Paper comments:

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

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 C.F.R. 240.19b-4(f)(2).

All submissions should refer to File Number SR-CBOE-2010-105. 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 CBOE. 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-2010-105 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.⁹

Florence E. Harmon
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).