

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66274; File No. SR-CBOE-2012-010)

January 30, 2012

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 19, 2012, the Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (“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

The Exchange proposes to amend the Fees Schedule. 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, the self-regulatory organization 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 those 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 parts 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

On January 17, 2012, the Exchange made a number of amendments to its Fees Schedule, including to cease excluding AIM Execution Fees from counting towards the Clearing Trading Permit Holder (“CTPH”) Fee Cap in All Products Except SPX, VIX or other Volatility Indexes, OEX or XEO (the “Cap”).³ The purpose of that change was to align and improve the Exchange’s competitive position in relation to other exchanges. NASDAQ OMX PHLX LLC (“PHLX”) has a similar \$75,000 cap (the “PHLX Monthly Firm Fee Cap”), but it does not apply to transactions in select high-volume securities executed through their PIXL mechanism, which, like AIM, is an electronic price improvement mechanism.⁴ By including AIM Contra Execution Fees towards the Cap, the Exchange is providing a demonstrably advantageous pricing schedule for this business. As such, the Exchange determined to include all AIM transaction fees, including the AIM Execution Fees, towards reaching the Cap (when they apply) to improve our competitive position. The Exchange also desired to encourage the use of AIM, which is a price improvement mechanism.

In making the above-referenced amendment, the Exchange also intended to eliminate the requirement that CTPHs continue to pay AIM Execution Fees after reaching the Cap in a month. This change would naturally follow from the inclusion of AIM Execution Fees in counting towards the Cap; because these fees would be counted in helping a CTPH reach the monthly Cap, they would then cease to be assessed once a CTPH had reached the Cap for the month (like any other fees that are counted towards the Cap). The purpose of the Cap is to incentivize

³ See SR-CBOE-2012-008, which replaced SR-CBOE-2011-121, which was filed on December 30, 2011 and withdrawn on January 17, 2012.

⁴ See PHLX Fee Schedule, Section I, Part C (page 5).

CTPHs to transact enough activity to reach the Cap, after which the CTPHs would no longer have to pay for such transactions. Requiring a CTPH to continue to pay such fees above and beyond the Cap would run counter to that purpose.

However, the Exchange in SR-CBOE-2012-008 unintentionally neglected to eliminate the requirement that CTPHs continue to pay AIM Execution Fees after reaching the Cap in a month. As such, the Exchange proposes to do so for the reasons stated above, as well as for competitive reasons. As PHLX's Monthly Firm Fee Cap does not apply to transactions in their select high-volume securities executed through their PIXL mechanism, fees for such transactions continue to be assessed to PHLX firms, regardless of whether such firms reach the PHLX Monthly Firm Fee Cap.⁵ By not requiring CTPHs to pay AIM Execution Fees after reaching the Cap, the Exchange is providing a demonstrably advantageous pricing schedule for this business.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(4)⁷ of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE Trading Permit Holders and other persons using Exchange facilities. Eliminating the requirement that CTPHs continue to pay AIM Execution Fees after reaching the Cap in a month is reasonable because it will allow CTPHs to pay no fees where they might currently have to pay fees. This change is equitable and not unfairly discriminatory because eliminating such fees will encourage CTPHs to transact more business on the Exchange, which will provide greater trading volume and

⁵ See PHLX Fee Schedule, Section I, Part C (page 5).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

liquidity, which benefits all market participants. Further, AIM Execution Fees will be treated in the same manner as all other fees that count towards the Cap.

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 not necessary or appropriate in furtherance of the purposes of the Act.

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

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 proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A) of the Act⁸ and subparagraph (f)(2) of Rule 19b-4⁹ 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:

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(2).

- 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-2012-010 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 20549-1090.

All submissions should refer to File Number SR-CBOE-2012-010. 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 will also 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 No. SR-CBOE-2012-010 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

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

Kevin M. O'Neill
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).