

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70382; File No. SR-CBOE-2013-086)

September 12, 2013

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the CBOE Stock Exchange 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 August 30, 2013, 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 Substance of the Proposed Rule Change

The Exchange proposes to amend the Fees Schedule of its CBOE Stock Exchange. 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

CBSX proposes to amend its Fees Schedule. First, the Exchange proposes to amend Footnote 6 of the CBSX Fees Schedule to remove AMD and MU from its list of Select Symbols for whom transactions priced \$1 or greater (all fees addressed in this filing relate to transactions priced \$1 or greater) are assessed a fee of \$0.0050 per share (for Maker executions) and provided a rebate of \$0.0045 per share (for Taker executions). This means that AMD and MU will now fall into the “all other securities” category and fees and rebates applicable to “all other securities” will apply to AMD and MU, which are as follows (and are not being changed in this proposed rule change):

Execution Type	Rate
Maker (adds less than 0.08% of TCV of liquidity in one day) (1)(5)	\$0.0018 per share
Maker (adds at least 0.08% but less than 0.16% of TCV of liquidity in one day) (1)(5)	\$0.0017 per share
Maker (adds at least 0.16% but less than 0.24% of TCV of liquidity in one day) (1)(5)	\$0.0016 per share
Maker (adds at least 0.24% but less than 0.42% of TCV of liquidity in one day) (1)(5)	\$0.0015 per share
Maker (adds 0.42% or more of TCV of liquidity in one day) (1)(5)	\$0.0014 per share
Taker (removes 9,999,999 shares or less of liquidity in one day (1) or less than 85% Execution Rate)	\$0.0015 rebate per share
Taker (removes 10,000,000 shares or more of liquidity in one day (1) and equal to or greater than 85% Execution Rate)	\$0.0017 rebate per share
Maker (adds liquidity using a silent order)	\$0.0018 per share
Taker (removes silent order liquidity)	\$0.0015 rebate per share
Maker (adds liquidity using a silent-mid or silent-post-mid order)	\$0.0018 per share
Taker (removes silent-mid or silent-post-mid liquidity)	\$0.0015 rebate per share

AMD and MU had been included in the Select Symbols in an attempt to attract greater liquidity in both symbols, but such increased liquidity has not been achieved. CBSX hopes that moving AMD and MU into the “all other securities” category will increase liquidity provision in both products.

CBSX also proposes to add AAPL and GOOG to the list of Select Symbols. This proposed change is an aspirational attempt to increase liquidity provision in these products. AAPL and GOOG are higher-priced stocks that typically have larger spreads than other products, and CBSX believes that the Select Symbols fee structure will attract more liquidity in stocks fitting this profile.

CBSX also proposes to amend Footnote 5 of the CBSX Fees Schedule to state that volume from Maker executions in the Select Symbols (priced \$1 or greater) will count towards a market participant’s % of TCV. Currently, Maker fees for transactions in all other securities are determined based on the percentage of TCV³ of liquidity that the Maker adds to CBSX. Because these fees only apply to transactions in all other securities, only volume in all other securities (and not volume in the Select Symbols) counted towards a Maker’s percentage (however, TCV includes volume in the Select Symbols, per the definition of TCV). Therefore, CBSX hereby proposes to include volume from Maker executions in the Select Symbols to count towards a market participant’s percentage of TCV. Since volume from the Select Symbols is already included in TCV (the denominator of the calculation), this proposed change can only be a benefit to market

³ “TCV” means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan.

participants, as any volume they do in the Select Symbols (the numerator) will push their percentages higher, therefore making them more likely to qualify for the lower-fee tiers.

The proposed changes are to take effect on September 3, 2013.

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.⁴ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁵ 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 that it is reasonable, equitable and not unfairly discriminatory to move AMD and MU to be assessed the fees of “all other securities” because transactions in these products will merely be assessed the fee and rebate amounts of all securities other than the Select Symbols. Further, this move is designed to attract more trading in these products, as more volume was traded when they were assessed the “all other securities” fees than when they were assessed the Select Symbols fees. CBSX believes that the liquidity profile and characteristics of AMD and MU will allow for more liquidity when traded under the fees of “all other securities”. Finally, these fees for AMD and MU will be assessed equally to all market participants.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to designate AAPL and GOOG as Select Symbols because transactions in these stocks will be assessed the same fees as the other Select Symbols. Further, the

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

amount of the proposed Maker fee for the Select Symbols is merely \$0.0005 greater than the amount of the proposed Taker rebate. CBSX believes that the Select Symbols fee structure will attract more liquidity in stocks fitting this profile. Finally, these Select Symbols fees will be assessed equally to all market participants.

The Exchange believes that it is reasonable to state that volume from Maker executions in the Select Symbols (priced \$1 or greater) will count towards a market participant's % of TCV because this proposed change can only be a benefit to market participants, as any volume they do in the Select Symbols (the numerator) will push their percentages higher, therefore making them more likely to qualify for the lower-fee tiers. The Exchange believes that this change is equitable and not unfairly discriminatory because it will be applied to all market participants equally.

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 the purposes of the Act. CBSX does not believe that the proposed rule changes will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes will be applied to all market participants. CBSX 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 only affect trading on CBSX. Further, the proposed changes are designed to incentivize more trading on CBSX, which could encourage other exchanges to enact their own competitive changes. To the extent that the proposed changes make CBSX a more attractive trading venue for market

participants on other exchanges, such market participants may elect to become CBSX 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 Act⁶ and paragraph (f) of Rule 19b-4⁷ 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

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2013-086 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-2013-086. 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; 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-2013-086 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.⁸

Kevin M. O'Neill
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).