

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-71423; File No. SR-CBOE-2014-008)

January 28, 2014

**Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated;
Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend
its 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 17, 2014, 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 its Fees Schedule. 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

The Exchange proposes to amend its Fees Schedule regarding subcabinet trades. Subcabinet trades are limit orders with a price of at least \$0 but less than \$1 per options contract (per Exchange Rule 6.54, Interpretation and Policy .03). These trades are often executed in order to close out positions prior to expiration and therefore remove the risks or capital costs associated with open positions.

The Exchange hereby proposes to explicitly state that the Exchange will assess no transaction fees or surcharges for subcabinet trades. This is because the Exchange believes that enabling market participants to close out positions at no cost allows those market participants to reduce risk associated with near-worthless positions and free up capital for other trading purposes. This serves to increase volume and profit opportunity in CBOE's non-subcabinet options series and across all CBOE products, which benefits both the Exchange and all of the Exchange's market participants. The Exchange desires to make clear that it will assess the Sales Value Fee for subcabinet trades, as the Sales Value Fee is assessed on transactions when the Exchange must pay some outside party (pursuant to Section 31 of the Exchange Act, or to another exchange) in relation to such transactions.

The Exchange has a number of fee-related programs that provide for reduced or limited fees based on achieving certain volume thresholds.³ As the Exchange proposes to

³ For these purposes, these programs are the Liquidity Provider Sliding Scale, the

state that it will not assess fees for subcabinet trades, the Exchange also proposes to state that subcabinet trades will also not count towards any volume thresholds or volume threshold calculations.⁴ The Exchange has determined that it is not economically viable to count transactions for which fees are not assessed towards the volume thresholds of programs that offer lowered fees based on reaching those volume thresholds.

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.⁵ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁶ 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 to not assess fees for subcabinet trades because market participants executing such trades will not have to pay a fee for such transactions. The Exchange believes that it is equitable and not unfairly discriminatory to not assess fees or surcharges for subcabinet trades because subcabinets are of such minimal economic value that assessing almost any fee would render such transactions not

CBOE Proprietary Products Sliding Scale, and the Customer Large Trade Discount, (see the tables bearing those names on the Exchange Fees Schedule for more details on those programs) as well as the program, described in Footnote 25 of the Fees Schedule, that provides rebates to Floor Broker Trading Permit Holders for executing certain amounts of customer open outcry contracts in multiply-listed options in a month (together, the “Exchange Fee Programs”).

⁴ The Exchange will append the footnote number 32, which includes this statement, to the tables on the Fees Schedule that apply to the Exchange Fee Programs.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

economically viable for the market participants holding the positions, thereby causing the inefficiency of positions being left open merely because it is more expensive to close them. The Exchange believes that enabling market participants to close out positions at no cost allows those market participants to reduce risk associated with near-worthless positions and free up capital for other trading purposes. This serves to increase volume and profit opportunity in CBOE's non-subcabinet options series and across all CBOE products, which benefits both the Exchange and all of the Exchange's market participants. Also, all market participants will be able to avoid being assessed fees for subcabinet trades.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to exclude volume from subcabinet trades towards the Exchange Fee Programs because such trades are not assessed fees. It does not make economic sense (nor is it economically viable) to count transactions towards programs that provide lower fees when such transactions are not assessed fees, and it seems fair to exclude subcabinet trades from such programs when subcabinet trades are not being assessed fees. Similarly, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess the Sales Value Fee for subcabinet trades, as the Sales Value Fee is assessed on transactions when the Exchange must pay some outside party (pursuant to Section 31 of the Exchange Act, or to another exchange) in relation to such transactions. In this circumstance, the Exchange believes that it would not be economically viable to pay fees to those outside parties when no fee is being assessed by the Exchange for such transactions.

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. CBOE 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 all market participants are able to avoid being assessed fees for subcabinet trades, and because the exclusion of subcabinet trades from counting towards the Exchange Fee Programs applies to all market participants to whom such programs apply. CBOE 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 the proposed change only affects trading on CBOE. Indeed, explicitly stating that subcabinet trades will not be assessed fees may encourage other exchanges to do the same, causing greater competition. To the extent that the proposed rule change makes CBOE a more attractive trading venue for market participants on other exchanges, such market participants may elect 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 Act⁷ and paragraph (f) 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. 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-2014-008 on the subject line.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f).

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-2014-008. 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 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, D.C. 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-2014-008 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.⁹

Kevin M. O'Neill
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).