

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-71539; File No. SR-CBOE-2014-012)

February 12, 2014

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 February 3, 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 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.

¹ 15 U.S.C. 78s(b)(1).

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

1. Purpose

The Exchange proposes to make a number of amendments to its Fees Schedule. First, the Exchange proposes to increase the Exchangefone relocation fee from \$100 to \$116. The Exchange contracts with a vendor to provide the Exchangefone relocations, and this vendor has increased its fees, so the Exchange proposes to increase the Exchangefone relocation fee to reflect the increased vendor cost.

On January 2, 2014, the Securities and Exchange Commission (the “Commission”) approved a proposed rule change to eliminate the Exchange’s e-DPM program.³ Pursuant to that approved rule change, the Exchange announced that the e-DPM program will be eliminated effective February 3, 2014.⁴ As such, with the elimination of the e-DPM program, the Exchange hereby proposes to delete all references to e-DPMs and the e-DPM program from its Fees Schedule.

The Exchange also proposes to make an amendment to its OHS (Order Handling System) Order Cancellation Fee (“Cancel Fee”). Currently, the Notes section of the Cancel Fee carves out certain circumstances in which the Cancel Fee does not apply. The Exchange would like to add exception to cover the cancellation of any orders that were entered during the pre-open or opening rotation states. Sometimes one or more other option exchanges open a class sooner than CBOE and a TPH may desire to cancel orders still pending at CBOE and route to exchanges that

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 71227 (January 2, 2014), 79 FR 1398 (January 8, 2014) (SR-CBOE-2013-110).

⁴ See CBOE Regulatory Circular RG-14-002 (January 9, 2014), available at <http://www.cboe.com/aboutCBOE/legal/crcIReg.aspx>.

are open. The Exchange does not believe that market participants should be assessed the Cancel Fee in these circumstances. Similarly, on occasion, a trading halt may occur on the Exchange, and market participants may want orders that they had entered onto CBOE to be cancelled during such halts and moved to another exchange for execution. The Exchange does not believe that market participants should be assessed the Cancel Fee in these circumstances, either. As such, the Exchange proposes to add exception (vii) of the Cancel Fee to state that the Cancel fee shall not apply to orders that are entered or canceled prior to the opening, during the opening rotation, or during a trading halt.

The Exchange always strives for clarity in its rules and Fees Schedule, so that market participants may best understand how rules and fees apply. As such, the Exchange proposes a number of changes to clarify its Fees Schedule. The first such proposed change regards the Hybrid 3.0 Execution Fee. The Exchange assesses a Hybrid 3.0 Execution Fee on electronic executions in Hybrid 3.0 classes (with a number of exceptions).⁵ However, as the Hybrid 3.0 Execution Fee is assessed on top of regular transaction fees for transactions in the Hybrid 3.0 classes, the Hybrid 3.0 Execution Fee would more accurately be described as a “surcharge” (as other fees listed on the Fees Schedule that are assessed on top of regular transaction fees are labeled as “surcharges”). As such, the Exchange proposes to rename the Hybrid 3.0 Execution Fee the “Hybrid 3.0 Execution Surcharge”.

The Exchange also proposes to clarify Footnote 21 of the Fees Schedule, which currently states that “All electronic executions in Hybrid 3.0 classes shall be assessed the Hybrid 3.0 Execution Fee, except that this fee shall not apply to...orders executed by a broker.” The Exchange wishes to clarify that this means that orders executed by a floor broker using a PAR

⁵ For more information on the Hybrid 3.0 Execution Fee, see Footnote 21 of the Exchange Fees Schedule.

terminal (as opposed to simply “orders executed by a broker”) shall be excepted from assessment of the Hybrid 3.0 Execution Fee (renamed herein the “Hybrid 3.0 Execution Surcharge” as described above). This was, and is, the original intent of this exception. This is not a substantive fee change because the only brokers that apply here are floor brokers, and the only way floor brokers can perform such executions is via a PAR terminal. This change to the language only makes more clear the types of executions that are excepted from the Hybrid 3.0 Execution Surcharge.

Similarly, the Exchange proposes to clarify Footnote 31 of the Fees Schedule’s description of the Customer Priority Surcharge as it applies to SPXW. Currently, Footnote 31 states that such surcharge applies to all customer contracts executed electronically, except those contracts traded on a PAR terminal. The Exchange wishes to use the same clarifying language as applies to the Hybrid 3.0 Execution Surcharge (as described above), and state that the SPXW Customer Priority Surcharge applies to all customer contracts executed electronically, except those executed by a floor broker on a PAR terminal. This is a clarification and not a substantive fee change because only floor brokers can execute orders using a PAR terminal.

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.⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ 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,

⁶ 15 U.S.C. 78f(b).

settling, processing information with respect to, and facilitation 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 the Section 6(b)(5)⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁹ 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 the increased Exchangefone relocation fee is reasonable because the increase is being enacted to reflect an increase in the amount that a vendor charges the Exchange to provide the Exchangefone relocations, and also because the amount of the increase is a mere \$16. The Exchange believes that this change is equitable and not unfairly discriminatory because the increased Exchangefone relocation fee will apply to all market participants who request an Exchangefone relocation.

The Exchange believes that the removal of references to e-DPMs and the e-DPM program from the Fees Schedule will eliminate any potential confusion regarding whether or not the e-DPM program is still active on the Exchange, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system. Similarly, the Exchange believes that renaming the Hybrid 3.0 Execution Fee as the “Hybrid 3.0 Execution Surcharge” will clarify that the Hybrid 3.0 Execution Fee applies on top of regular transaction

⁷ 15 U.S.C. 78f(b)(5).

⁸ Id.

⁹ 15 U.S.C. 78f(b)(4).

fees (like other surcharges listed on the Fees Schedule), thereby eliminating potential confusion and removing impediments to and perfecting the mechanism of a free and open market and a national market system. The Exchange also believes that the clarification in Footnote 21 of the Fees Schedule that the Hybrid 3.0 Execution Surcharge shall not apply to orders executed by a floor broker using a PAR terminal will eliminate potential confusion regarding to whom the Hybrid 3.0 Execution Surcharge applies (and does not apply), thereby eliminating potential confusion and removing impediments to and perfecting the mechanism of a free and open market and a national market system. Along the same lines, the Exchange believes that the clarification in Footnote 31 that the SPXW Customer Priority Surcharge applies to all customer contracts executed electronically, except those executed by a floor broker on a PAR terminal will eliminate potential confusion regarding to whom the SPXW Customer Priority Surcharge applies (and does not apply), thereby eliminating potential confusion and removing impediments to and perfecting the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed change to the Cancel Fee is reasonable because it would allow some market participants who currently would get assessed the Cancel Fee to avoid having to pay the fee. The Exchange believes that the proposed change is reasonable, equitable and not unfairly discriminatory because it makes logical sense to not apply the Cancel Fee to orders that are entered or canceled prior to the opening, during the opening rotation, or during a trading halt. The Exchange does not believe that a TPH should be assessed a Cancel Fee for cancelling orders in order to move such orders to another exchange because that other exchange opens a class sooner than CBOE or because there is a trading halt on CBOE and the TPH wishes to get those orders filled. Moreover, this proposed change will apply to all market participants equally; the Cancel Fee will not be assessed to any cancelled orders, regardless of

the type of market participant, that are entered or canceled prior to the opening, during the opening rotation, or during a trading halt.

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 of the proposed changes will apply to all market participants. 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 changes only apply to trading on CBOE. To the extent that any of the proposed changes makes CBOE a more attractive market for market participants on other exchanges, such market participants may elect to become market participants on CBOE. Finally, the majority of the proposed changes are non-substantive clarifications.

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 Act¹⁰ and paragraph (f) of Rule 19b-4¹¹ 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,

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f).

for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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-2014-012 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-2014-012. 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-2014-012 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.¹²

Kevin M. O'Neill
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).