

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76567; File No. SR-CBOE-2015-109)

December 7, 2015

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 November 24, 2015, 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 the 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).

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

The Exchange proposes to amend its Fees Schedule³. Specifically, the Exchange proposes to increase the Customer Priority Surcharge fee assessed to contracts executed in VIX volatility index options (“VIX options”) and weekly S&P 500 options (“SPXW options”). Currently, the VIX Customer Priority Surcharge (“VIX Surcharge”) is assessed on all Customer (C) VIX contracts executed electronically that are Maker and not Market Turner. Additionally, the VIX Surcharge is only assessed on such contracts that have a premium of \$0.11 or greater. The Exchange proposes to increase the VIX Surcharge from \$0.10 per contract to \$0.20 per contract on such contracts that have a premium of \$0.11 or greater. The SPXW Customer Priority Surcharge (“SPXW Surcharge”) is currently assessed on all Customer (C) SPXW contracts executed electronically⁴. The Exchange also proposes to increase the SPXW Surcharge from \$0.05 per contract to \$0.10 per contract.

The Exchange also proposes to amend the Fees Schedule with respect to the Qualified Contingent Cross (“QCC”) Orders Rate Table. By way of background, the Fees Schedule currently provides for a “QCC Rate Table” which sets forth a transaction fee and credit for QCC transactions. In addition, the “Notes” section of the QCC Rate Table includes the definition of a QCC transaction. Specifically the “Notes” section currently provides that “A QCC transaction is comprised of an ‘initiating order’ to buy (sell) at least 1,000 contracts, coupled with a contra-side

³ The Exchange initially filed the proposed fee change on November 2, 2015 (SR-CBOE-2015-101). On November 24, 2015, the Exchange withdrew that filing and submitted this filing.

⁴ The SPXW Surcharge is not assessed to contracts executed by a floor broker using a PAR terminal or orders in SPXW options in SPXW electronic book that are executed during opening rotation on the final settlement day of VIX options and futures which have the expiration that contribute to the VIX settlement calculation.

order to sell (buy) an equal number of contracts...” The Exchange notes that it recently amended its QCC rules to expand the availability of QCC orders by permitting multiple contra-parties on a QCC order.⁵ As such, the definition of QCC Orders in CBOE Rule 6.53 has been amended. The Exchange proposes to similarly amend the Fees Schedule to incorporate this new definition to maintain consistency in the Rules and Fees Schedule and avoid potential confusion.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (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, 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. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁸ which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders.

⁵ See Securities Exchange Act Release No. 75756 (August 25, 2015), 80 FR 168 (August 31, 2015) (SR-CBOE-2015-073).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(4).

The Exchange believes that the SPXW and VIX Customer Priority Surcharge increases are reasonable because the amount of the new fees are within the range of surcharges assessed for customer transactions in other CBOE proprietary products (for example customers are currently assessed a \$0.20 Hybrid 3.0 Execution Surcharge (which essentially acts as a customer priority surcharge) in SPX options).

The Exchange believes that it is equitable and not unfairly discriminatory to assess the SPXW and VIX Priority Surcharges to Customers and not other market participants because Customers are not subject to additional costs for effecting transactions in SPXW and VIX which are applicable to other market participants, such as license surcharges. Additionally, Customers are not subject to fees applicable to other market participants such as connectivity fees and fees relating to Trading Permits, and are not subject to the same obligations as other market participants, including regulatory and compliance requirements and quoting obligations.

The Exchange notes that the VIX Surcharge was adopted to minimize the cost differentials between manual and electronic executions (as Floor Brokers assess a commission on customer executions). As such, the Exchange believes it's equitable and not unfairly discriminatory to assess the VIX Surcharge to Makers and not Takers because electronic Maker orders are analogous to customer orders represented by Floor Brokers in open outcry (as compared to Takers that immediately remove liquidity and do not rest in the book). The Exchange believes it's equitable and not unfairly discriminatory to assess only Makers in VIX and both Makers and Takers in SPXW because the SPX product group has reached a mature and established level since its introduction while VIX has not and the Exchange therefore wants to incentivize liquidity in VIX and not discourage trading. The Exchange also notes that another S&P 500 product (SPX) also charges a surcharge to both Makers and Takers (i.e., the Hybrid 3.0

Surcharge). The Exchange believes that it is equitable and not unfairly discriminatory to only assess the VIX Surcharge to Maker Non-Turners because the Exchange wants to encourage improving the market (“turning”).

The Exchange believes that it is equitable and not unfairly discriminatory to only assess the VIX Surcharge when the contract premium is at least \$0.11 because the Exchange wants to reduce costs on low priced VIX options to encourage Customers to close and roll over positions close to expiration at low premium levels. Currently, such Customers are less likely to do this because the transaction fee is closer to the premium level. The Exchange believes that maintaining lowered fees overall for VIX options trading with a premium of \$0.00-\$0.10 will encourage the trading of such options. As such, the Exchange does not wish to assess the VIX Surcharge on such options in order to keep the costs low.

Finally, the Exchange believes that codifying the amended definition of a QCC transaction in the Fees Schedule (in addition to the Exchange’s Rules, where it is currently provided for), will alleviate potential confusion and maintain clarity in the Fees Schedule, which serves 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.

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 because, while different electronic transaction fees are assessed to different market participants, different market participants have different obligations and circumstances as noted above. The Exchange believes that the proposal to increase the surcharge amount assessed to Customers for executions in SPXW and VIX contracts will not cause an unnecessary burden on intermarket

competition because SPXW and VIX are only traded on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

Additionally, the proposed change to codify in the Fees Schedule the revised definition of a QCC order is not intended for competitive reasons and only applies to CBOE. The Exchange notes that no rights or obligations of Trading Permit Holders are affected by this particular change.

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 Act⁹ and paragraph (f) of Rule 19b-4¹⁰ 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:

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f).

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-2015-109 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2015-109. 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 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-2015-109, 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.¹¹

Brent J. Fields
Secretary

¹¹ 17 CFR 200.30-3(a)(12).