

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-78741; File No. SR-CBOE-2016-063)

August 31, 2016

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 August 19, 2016, 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 make changes to the Non-Standard Booth Rental Fee in the Facility Fees section of the 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 the Fees Schedule. Specifically, the Exchange proposes changes to the Non-Standard Booth Rental Fee in the Facility Fees section of the Fees Schedule. In general, a “standard booth” on the Exchange refers to a portion of designated space on the trading floor of the Exchange adjacent to particular trading crowds, which may be occupied by a Trading Permit Holder (“TPH”), clerks, runners, or other support staff for operational and other business-related activities. The term “non-standard booth” generally refers to space on the trading floor of the Exchange that is set off from a trading crowd, which may be rented by a TPH for whatever support, office, back-office, or any other business-related activities for which the TPH may choose to use the space.

Currently, TPHs that rent non-standard booth space on the floor of the Exchange pay a monthly fee on a per square foot basis for use of the space. The per square foot fee that a TPH pays for non-standard booth space is determined based on the size of the booth and length of the non-standard booth lease term that the TPH entered into with the Exchange. In general, the greater the size of the booth and the longer the term of the lease, the less the TPH pays per square foot of non-standard booth space. Specifically, non-standard booth rental fees are assessed according to the following table:³

³ See Non-Standard Booth Rental Fee in the Facility Fees section of the Fees Schedule available at <http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf>.

Non-Standard Booth Rental Fee	Booth Size	Per Sq. Ft.	Per Sq. Ft.	Per Sq. Ft.
	Extra Large (1,000 sq. ft. or greater)	\$2.83	\$2.75	\$2.69
	Large (800-999 sq. ft.)	\$4.12	\$4.00	\$3.91
	Medium (401 -799 sq. ft.)	\$4.89	\$4.74	\$4.65
	Small (400 sq. ft. or less)	\$7.72	\$7.49	\$7.33
	Length of Lease	1 Year	2 Years (97%)	3 Years (95%)

The Exchange notes that under the current Non-Standard Booth Rental Fee table, a TPH that rents more space for less time than another TPH may pay a lower total monthly non-standard booth rental fee than the TPH that rents less space for more time. For example, under the current Non-Standard Booth Rental Fee table, a TPH that rents a 700 square foot non-standard booth for three years will pay \$4.65 per square foot or a total non-standard booth rental fee of \$3,255 per month, whereas a TPH that rents an 1,000 square foot non-standard booth for one year will pay \$2.83 per square foot or a total non-standard booth rental fee of \$2,830 per month. Thus, as demonstrated by the above example, in many cases, a TPH may rent a bigger non-standard booth for less than a smaller non-standard booth regardless of the lease term. The Exchange believes that this regime creates an incentive for TPHs to rent more non-standard booth space than they may need.

The Exchange proposes to amend the Fees Schedule so that TPHs that rent more non-standard booth space would pay a higher non-standard booth rental fee than those that rent less space. In particular, the Exchange proposes to amend the Fees Schedule to include the following non-standard booth rental fee table:

Non-Standard Booth Rental Fee	Base Booth Rental Fee	Square Footage Fee (up to 1,000 sq. ft.)
	\$1,250	\$1.70 (per sq. ft.)

Under the Exchange's proposal, a TPH that rents non-standard booth space on the floor of the Exchange would pay a base non-standard booth rental fee of \$1,250 per month in addition to a square footage fee of \$1.70 per square foot per month based on the size of the TPH's non-standard booth. Thus, under the proposed non-standard booth rental fee change, a TPH that rents more non-standard booth space than another TPH would pay more than the TPH with less space (i.e. \$1.70 more per each additional square foot that the TPH rents). For example, under the proposed non-standard booth rental fee, a TPH that rents a 400 square foot non-standard booth would pay a total non-standard booth rental fee of \$1,930 per month (i.e. \$1,250 (base fee) + $(\$1.70 \times 400 = \680 (square footage fee)) = \$1930) while a TPH that rents an 1,000 square foot non-standard booth would pay \$2,950 per month ($\$1,250 + (\$1.70 \times 1,000) = \$2,950$).⁴ Under the proposed fee change, a TPH or TPH organization would be able to rent up to 1,000 square feet of non-standard booth space on the floor of the Exchange. The 1,000 square foot cap would help ensure the availability of sufficient space on the floor of the Exchange to accommodate TPHs and TPH organizations that wish to rent non-standard booths.⁵

Notably, under the proposed fee change, effective September 1, 2016, the Exchange would no longer offer discounts for longer lease terms – all lease terms would be for a period of one year.⁶ Thus, the separate one year, two year, and three year columns in the Non-Standard

⁴ There are currently four TPH organizations that rent non-standard booths on the floor of the Exchange. Notably, under the proposed rule change, non-standard booth rental fees would be similar to what they are now under the current Fees Schedule. In no case would a TPH's non-standard booth rental fee increase by more than \$120 per month and in some cases, non-standard booth rental fees would decrease under the proposed rule change.

⁵ No TPH currently rents more than 1,000 feet of non-standard booth space on the floor of the Exchange.

⁶ The Exchange's proposed rule change, however, would not apply retroactively. Unexpired leases signed under the terms provided in the current Fees Schedule that are currently in force would be effective and enforceable until expiration unless termination

Booth Rental Fee section of the current Fees Schedule would be deleted and the Notes in the proposed Non-Standard Booth Rental Fee table of the Fees Schedule would provide that non-standard booths must be leased for a term of one year. In addition, the Exchange proposes to make other corresponding changes to the Notes section of the Non-Standard Booth Rental Fee table in the Fees Schedule reflecting that non-standard booth rental fees would continue to be assessed on a monthly basis and would include both the base booth rental fee plus the appropriate square footage fee as determined based on the size of the booth.⁷ The current early termination penalty provisions in the Notes section of the Non-Standard Booth Rental Fee table would remain unchanged, but would include an additional provision providing that early termination penalties will not be assessed for early termination of leases entered into prior to August 1, 2016 that are terminated by mutual agreement of the TPH organization and the Exchange.⁸ The Booth Pass-Through Fee would remain unchanged.⁹

were mutually agreed to between the TPH and the Exchange. As stated above, there are currently four TPH organizations that rent non-standard booths on the floor of the Exchange pursuant to preexisting leases (each of which expires in 2016). The Exchange believes that several of these TPH organizations may wish to terminate their leases by mutual agreement with the Exchange because renewal under the proposed rule change would result in a beneficial cost savings. The Exchange would agree to terminate all such preexisting leases with the appropriate consent of each respective TPH.

⁷ Compare proposed Notes language with the current Notes section of the Non-Standard Booth Rental Fees Table in the Fees Schedule, which provides that a Trading Permit Holder (“TPH”) organization will pay the fees per square foot on a monthly basis for use of a non-standard booth. Currently, the fee per square foot a TPH organization will pay is determined based on the size of the booth and length of the lease the TPH organization enters into with the Exchange. The greater the size of the booth and the longer the term of the lease will result in a reduced fee per square foot.

⁸ Under the early termination provisions in Notes to the Non-Standard Booth Rental Fee in the current Fees Schedule, a TPH organization that terminates its lease prior to its expiration date will, on the effective date of such termination, pay to the Exchange an amount equal to twenty five percent (25%) of the balance of the monthly charges remaining in the lease term.

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.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ 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 facilitating 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)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change is proposed rule change is consistent with Section 6(b)(4) of the Act,¹³ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities. The Exchange believes that non-standard booth rental fees should be designed such that TPHs that rent more non-standard booth space on the floor of the

⁹ Pursuant to the Booth Pass-Through Fee, TPHs bear responsibility for all costs associated with any modifications and alterations to any trading floor booths leased by the TPH (or TPH organization) and must reimburse the Exchange for all costs incurred in connection therewith.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² Id.

¹³ 15 U.S.C. 78f(b)(4).

Exchange pay more than those that rent less non-standard booth space. The Exchange believes that the proposed rule change is consistent with the Act in that it provides for equitable allocation of reasonable fees among TPHs by requiring those that use more resources to pay more than those that use less. The Exchange also believes that the proposed rule change would simplify the way that non-standard booth rental fees are assessed on the Exchange and add clarity to the Fees Schedule. The Exchange believes that adding clarity to the Rules is in the best interests of investors and the general public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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. Rather, the Exchange believes that the proposed rule change will relieve any burden on, or otherwise promote, competition by adopting a simpler fee structure for non-standard booth rental on the floor of the Exchange. Under the proposed non-standard booth rental fee all TPHs would pay the same base rate with those that rent more space paying a higher square footage fee than those that rent less space on proportional basis.

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 written 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 Act¹⁴ and paragraph (f) of Rule 19b-4¹⁵ thereunder. At any time within 60 days of the filing of

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f).

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-2016-063 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-2016-063. 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 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-2016-063, 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.¹⁶

Robert W. Errett
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).