

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81118; File No. SR-CBOE-2017-052)

July 11, 2017

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Updating the CBOE Fees Schedule Concerning LVCX Fees

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 June 29, 2017, 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 relating to Livevol Core X (“LVCX”) fees.

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 relating to Livevol Core X ("LVCX") fees. By way of background, LVCX is a front-end order entry and management tool for listed stocks and options that supports both simple and complex orders. Particularly, LVCX is a web-based application integrated into the application programming interface of the user's proprietary system. The application provides users with the capability to send option orders to U.S. options exchanges and stock orders to U.S. stock exchanges (and other trading centers). Additionally, LVCX allows users to input parameters to control the size, timing and other variables of their trades. Use of the application is completely optional and LVCX users may sublicense LVCX to their customers.

The Exchange proposes a new tiered fee schedule for LVCX. Specifically, the Exchange proposes to eliminate the current flat fees of \$100/month (per log-in ID) and implement a new tiered fee schedule for the LVCX application fees. The Exchange believes the proposed change will encourage greater application of the LVCX platform by reducing the prices as users purchase more Log-In Ids. The proposed LVXC tiered pricing is below.

Livevol Core X (LVCX)		Fee Per Login ID Per Month
Application Fees by Number of Login IDs	0 - 10	\$100
	11 - 30	\$75
	31 - 100	\$50
	101 - 200	\$40
	201 - 500	\$30
	501 - 1,000	\$20
	> 1,000	\$15

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.³

Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁴ 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 Section 6(b)(4) of the Act,⁵ which requires that Exchange rules provide for the equitable

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

⁵ 15 U.S.C. 78f(b)(4).

allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

In particular, the Exchange believes the tiered fee schedule is reasonable because broker-dealer clients will see an overall reduction of prices as they increase their Log-In IDs. Additionally, the proposed change continues to provide for the recoupment of the costs of developing, maintaining, supporting and enhancing the application.

The Exchange believes the proposed rule change is equitably [sic] and not unfairly discriminatory because it applies to all users of LVCX uniformly. Additionally, the use of LVCX is completely voluntary. The LVCX application is available as a convenience to market participants, who will continue to have the option to use any order entry and management system available in the marketplace to send orders to the Exchange and other exchanges. The Exchange also believes these fees are reasonable and appropriate as they are competitive with similar applications available throughout the market.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. Particularly, any market participant will be able to access LVCX and its tiered platform fees, which will apply uniformly to all users. Additionally, the proposed tiered fee schedule will offer heightened incentives for all broker-dealer clients to promote use of LVCX. The Exchange notes that the LVCX application is available to all market participants on the same terms and conditions, and use of the application is completely voluntary. LVCX is merely an alternative application to other similar

products already available in the market and market participants can develop their own proprietary products with the same functionality.

The Exchange notes that when Congress charged the Commission with supervising the development of a “national market system” for securities, a premise of its action was that prices, products and services ordinarily would be determined by market forces.⁶ Consistent with this purpose, Congress and the Commission have repeatedly stated their preference for competition, rather than regulatory intervention, to determine prices, products and services in the securities markets.⁷ Many exchanges and other market participants make technology products, including products similar to the LVCX, available to the industry. Other market participants that offer these products can adjust pricing or add functionality to attract users to their products to compete with the Exchange-offered products based on all competitive forces in the marketplace, as the Exchange expects these other market participants currently do. The Exchange believes that other market participants that offer these products will continue to remain

⁶ See, e.g., H.R. Rep. No. 94-229, at 92 (1975) (Conf. Rep.) (stating Congress’s intent that the “national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed”).

⁷ See S. Rep. No. 94-75, 94th Cong., 1st Sess. 8 (1975) (“The objective [in enacting the 1975 amendments to the Exchange Act] would be to enhance competition and to allow economic forces, interacting within a fair regulatory field, to arrive at appropriate variations in practices and services.”); Order Approving Proposed Rule Change Relating to NYSE Arca Data, Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (Dec. 9, 2008) at 74781 (“The Exchange Act and its legislative history strongly support the Commission’s reliance on competition, whenever possible, in meeting its regulatory responsibilities for overseeing the SROs and the national market system. Indeed, competition among multiple markets and market participants trading the same products is the hallmark of the national market system.”) (SR-NYSEArca-2006-21); Regulation NMS, 70 FR at 37499 (observing that NMS regulation “has been remarkably successful in promoting market competition in [the] forms that are most important to investors and listed companies”).

competitive in the market for order-entry, management and routing products, as they currently are in this market in which at least two exchanges (including CBOE) offer similar technology products. For example, CBOE currently offers PULSe, and ISE currently offers PrecISE. The Exchange believes that many investors will continue to elect to use competing products available from non-exchange technology providers.

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 Act⁸ and paragraph (f) of Rule 19b-4⁹ 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:

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 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-2017-052 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-2017-052. 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-2017-052 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.¹⁰

Jill M. Peterson
Assistant Secretary

¹⁰ 17 CFR 200.30-3(a)(12).