

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81170; File No. SR-CBOE-2017-055)

July 19, 2017

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Updates for the CBOE 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 July 11, 2017, Chicago Board Options Exchange, Incorporated (“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 a number of changes to its Fees Schedule, effective immediately.

The text of the proposed rule change is also 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 make a number of changes to its Fees Schedule.³

VIX License Index Surcharge Waiver

The Exchange proposes to extend the current waiver of the VIX Index License Surcharge of \$0.10 per contract for Clearing Trading Permit Holder Proprietary ("Firm") (origin codes "F" or "L") VIX orders that have a premium of \$0.10 or lower and have series with an expiration of seven (7) calendar days or less. The Exchange adopted the current waiver to reduce transaction costs on expiring, low-priced VIX options, which the Exchange believed would encourage Firms to seek to close and/or roll over such positions close to expiration at low premium levels, including facilitating customers to do so, in order to free up capital and encourage additional trading. The Exchange had proposed to waive the surcharge through June 30, 2017. The Exchange proposes to extend the waiver of the surcharge through December 31, 2017, at which time the Exchange will reevaluate whether the waiver has continued to prompt Firms to close and roll over positions close to expiration at low premium levels.

Extended Trading Hour Fees Waiver

In order to promote and encourage trading during the Extended Trading Hours ("ETH") session, the Exchange currently waives ETH Trading Permit and Bandwidth Packet fees for one (1) of each initial Trading Permits and one (1) of each initial Bandwidth Packet, per affiliated

³ The Exchange initially filed the proposed fee change on June 29, 2017 (SR-CBOE-2017-053). On July 11, 2017, the Exchange withdrew that filing and submitted this filing.

TPH. The Exchange notes that waiver is set to expire June 30, 2017. The Exchange also waives fees through June 30, 2017 for a CMI and FIX login ID if the CMI and/or FIX login ID is related to a waived ETH Trading Permit and/or waived Bandwidth packet. In order to continue to promote trading during ETH, the Exchange wishes to extend these waivers through December 31, 2017.

RLG, RLV, RUI, AWDE, FTEM, FXTM and UKXM Transaction Fees Waiver

The Exchange was recently authorized to list options on seven FTSE Russell Indexes (i.e., Russell 1000 Growth Index (“RLG”), Russell 1000 Value Index (“RLV”), Russell 1000 Index (“RUI”), FTSE Developed Europe Index (“AWDE”), FTSE Emerging Markets Index (“FTEM”), China 50 Index (“FXTM”) and FTSE 100 Index (“UKXM”). In order to promote and encourage trading of these products, the Exchange currently waives all transaction fees (including the Floor Brokerage Fee, Index License Surcharge and CFLEX Surcharge Fee) for each of these products. This waiver however is set to expire June 30, 2017. In order to continue to promote trading of these options classes, the Exchange proposes to extend the fee waiver of through December 31, 2017.

AWDE, FTEM, FXTM and UKXM DPM Payment Extension

The Exchange currently offers a compensation plan to the Designated Primary Market-Maker(s) (“DPM(s)”) appointed in AWDE, FTEM, FXTM or UKXM to offset the initial DPM costs. Specifically, the Fees Schedule provides that DPM(s) appointed for an entire month in these classes will receive a payment of \$7,500 per class per month through June 30, 2017. The Exchange notes that DPMs appointed in these products still have ongoing costs, which the Exchange desires to continue to help offset. As such, the Exchange proposes to extend the DPM payment plan through December 31, 2017.

FLEX Asian and Cliquet Flex Trader Incentive Program Extension

By way of background, a FLEX Trader is entitled to a pro-rata share of the monthly compensation pool based on the customer order fees collected from customer orders traded against that FLEX Trader's orders with origin codes other than "C" in FLEX Broad-Based Index Options with Asian or Cliquet style settlement ("Exotics") each month ("Incentive Program"). The Fees Schedule provides that the Incentive Program is set to expire either by June 30, 2017 or until total average daily volume in Exotics exceeds 15,000 contracts for three consecutive months, whichever comes first. The Exchange notes that total average daily volume in Exotics has not yet exceeded 15,000 contracts for three consecutive months. In order to continue to incentivize FLEX Traders to provide liquidity in FLEX Asian and Cliquet options, the Exchange proposes to extend the program to December 31, 2017 or until total average daily volume in Exotics exceeds 15,000 contracts for three consecutive months, whichever comes first.

RVX DPM Payment

The Exchange proposes to offer a compensation plan for the DPM appointed in CBOE Russell 2000 Volatility Index ("RVX") to offset associated DPM costs, similar to the compensation plan offered to DPM(s) appointed in AWDE, FTEM, FXTM or UKXM. Specifically, the Exchange proposes to provide that the DPM appointed for an entire month in RVX will receive a payment of \$8,500 through December 31, 2017. The Exchange notes that a DPM appointed in this product has ongoing costs, which the Exchange desires to continue to help offset so that the DPM may continue to meet its obligations.

Volume Incentive Program

The Exchange also proposes to amend its Volume Incentive Program ("VIP"). By way of background, under VIP, the Exchange credits each Trading Permit Holder ("TPH") the per

contract amount set forth in the VIP table resulting from each public customer (“C” origin code) order transmitted by that TPH (with certain exceptions) which is executed electronically on the Exchange, provided the TPH meets certain volume thresholds in a month.⁴ The Exchange proposes to provide that Professional Customers and Voluntary Professionals (“Professional Customers”) (origin code “W”), Broker-Dealers (origin code “B”) and Joint Back-Offices (“JBO”) (origin code “J”) orders would also count towards the qualifying volume thresholds. The Exchange believes the inclusion of Professional Customer, Broker-Dealer and JBO orders in the qualifying thresholds will encourage TPHs to execute more Professional Customer, Broker-Dealer and JBO orders. The Exchange notes however, that while these orders would now count towards the qualifying volume thresholds, the Exchange would not pay credits to the executing TPH for these orders (i.e., only Customer orders (origin code “C”) would continue to receive the credits under the program).

Footnote 25 Clarification

The Exchange proposes to clarify an inadvertent omission in Footnote 25 of the Fees Schedule. By way of background, Footnote 25, which governs rebates on Floor Broker Trading Permits, currently provides that any Floor Broker that executes a certain average of customer open-outcry contracts per day over the course of a calendar month in all underlying symbols excluding Underlying Symbol List A (except RLG, RLV, RUI, AWDE, FTEM, FXTM and UKXM), DJX, XSP, XSPAM and subcabinet trades (“Qualifying Symbols”), will receive a rebate on that TPH’s Floor Broker Trading Permit fees. The Exchange notes that it inadvertently failed to include a reference to “subcabinet trades” in the last sentence of the footnote (i.e., when

⁴ See CBOE Fees Schedule, Volume Incentive Program.

referencing which options are excluded from the qualifying thresholds).⁵ The Exchange notes that subcabinet trades should have been included in this section and proposes to add it to avoid potential confusion.

Removal of SPXPM

The Exchange lastly proposes to eliminate references to “SPXPM” from the Fees Schedule. Particularly, the Exchange recently moved P.M.-settled S&P 500 Index options expiring on the third-Friday of the month (“third-Friday”), previously listed in a separate class and trading under the symbol “SPXPM”, to the SPX class which includes the weekly SPXW. In connection with the move, the Exchange has changed the trading symbol for these options from “SPXPM” to “SPXW.” As such, the Exchange proposes to delete from the Fees Schedule references to SPXPM, as such references are obsolete.

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

⁵ Specifically, the last sentence currently reads: “For purposes of determining the rebate, the qualifying volume of all Floor Broker Trading Permit Holders affiliated with a single TPH organization will be aggregated, and, if such total meets or exceeds the customer and/or professional customer and voluntary professional open-outcry contracts per day thresholds in all underlying symbols excluding Underlying Symbol List A (except RLG, RLV, RUI, AWDE, FTEM, FXTM and UKXM)(34), DJX, XSP and XSPAM that TPH organization will receive a single rebate, regardless of the number of Floor Broker Trading Permits affiliated with that TPH organization.”

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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,⁸ 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 it's appropriate to continue to waive the VIX Index License Surcharge for Clearing Trading Permit Holder Proprietary VIX orders that have a premium of \$0.10 or lower and have series with an expiration of 7 calendar days or less because the Exchange wants to continue encouraging Firms to roll and close over positions close to expiration at low premium levels. Particularly, the Exchange believes it's reasonable to waive the entire \$0.10 per contract surcharge because without the waiver of the surcharge, firms are less likely to engage in these transactions, as opposed to other VIX transactions, due to the associated transaction costs. The Exchange believes it's equitable and not unfairly discriminatory to limit the waiver to Clearing Trading Permit Holder Proprietary orders because they contribute capital to facilitate the execution of VIX customer orders with a premium of \$0.10 or lower and series with an expiration of 7 calendar days or less. Finally, the Exchange believes it's reasonable, equitable and not unfairly discriminatory to provide that the surcharge will be waived through December 2017, as it gives the Exchange additional time to evaluate if the waiver is continuing to have the desired effect of encouraging these transactions.

⁸ 15 U.S.C. 78f(b)(4).

The Exchange believes extending the waiver of ETH Trading Permit and Bandwidth Packet fees for one of each type of Trading Permit and Bandwidth Packet, per affiliated TPH through December 2017 is reasonable, equitable and not unfairly discriminatory, because the respective fees are being waived in their entirety, which promotes and encourages trading during the ETH session and applies to all ETH TPHs. The Exchange believes it's also reasonable, equitable and not unfairly discriminatory to waive fees for Login IDs related to waived Trading Permits and/or Bandwidth Packets because the respective fees are being waived in their entirety, which promotes and encourages ongoing participation in ETH and applies to all ETH TPHs.

The Exchange believes it is appropriate to extend the waiver of all transaction fees for RLG, RLV, RUI, AWDE, FTEM, FXTM and UKXM transactions, including the Floor Brokerage fee, the License Index Surcharge and CFLEX Surcharge Fee. Particularly, it is reasonable because TPHs will not be assessed fees for these transactions which promotes and encourages trading of these products which are still relatively new. The Exchange believes the proposed change is equitable and not unfairly discriminatory because it applies to all TPHs.

The Exchange believes that the compensation plan for DPM(s) appointed in AWDE, FTEM, FXTM and UKXM is reasonable because it offsets the DPM(s)' ongoing costs. The Exchange believes it's equitable and not unfairly discriminatory to extend the compensation plan to the DPM(s) appointed in AWDE, FTEM, FXTM or UKXM because these DPMs have ongoing DPM costs related to these products and the Exchange wants to continue to incentivize the DPMs to continue to serve as DPMs in these products.

The Exchange believes extending the FLEX Asian and Cliquet Flex Trading Incentive Program is reasonable, equitable and not unfairly discriminatory because the Exchange believes the amount of the current incentives provided to FLEX Traders should encourage the Flex

Traders to trade FLEX Asian and Cliquet options, which should result in a more robust price discovery process that will result in better execution prices for customers. In addition, the proposed change applies equally to all FLEX Traders.

The Exchange believes that the proposed subsidy to the DPM appointed in RVX is reasonable because it offsets the DPM's ongoing DPM costs. The Exchange notes that the DPM provides a crucial role in providing quotes and the opportunity for market participants to trade RVX, which can lead to increased volume, thereby providing a robust market. Additionally, the Exchange believes the proposed change is equitable and not unfairly discriminatory because the DPM in RVX incurs costs as part of being a DPM. Moreover, as noted above, a similar compensation plan is already in place for DPM(s) of AWDE, FTEM, FXTM and UKXM. While the amount of the proposed subsidy for RVX is larger than the amount provided to the DPM(s) of AWDE, FTEM, FXTM, UKXM, the Exchange notes that it is more difficult to quote a volatility index, as opposed to a cash index. Additionally, the Exchange notes that there is currently more volume in RVX than the products mentioned above and as such, the Exchange wishes to ensure the DPM continues to provide liquid and active markets in the product to encourage its continued growth.

The Exchange believes that permitting Professional Customer, Broker-Dealer and JBO orders to count towards the qualifying volume thresholds for VIP is reasonable because it will allow TPHs to more easily reach qualifying volume thresholds (and thereby receive more credits). The Exchange believes the proposed change is equitable and not unfairly discriminatory because it applies to TPHs equally. The Exchange also notes that, while only certain orders would count towards the qualifying thresholds, Professional Customers, Broker-Dealers and JBOs are similar to Customers in that these market participants' orders are primarily

executed by an agent and VIP is an incentive program for agency trading. Additionally, an increase in Customer, Professional Customer, Broker-Dealer and JBO order flow would bring greater volume and liquidity, which benefits all market participants by providing more trading opportunities and tighter spreads. Indeed, the Exchange notes that incentive programs based on aggregate volume of certain market participants already exist elsewhere within the industry.⁹ Additionally, the Exchange believes it's reasonable, equitable and not unfairly discriminatory to only apply credits to Customer orders (i.e., "C" origin code) because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer volume is important because it continues to attract liquidity to the Exchange, which benefits all market participants by providing more trading opportunities, which attracts Market-Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Moreover, the options industry has a long history of providing preferential pricing to Customers. Lastly, while the proposed rule change may affect the Affiliate Volume Plan ("AVP"), the Exchange believes the proposed change is still appropriate for the reasons set forth in filings related to AVP.¹⁰

Lastly, the Exchange believes (i) eliminating references to SPXPM in the Fees Schedule and (ii) correcting an inadvertent failure to include a reference to "subcabinet" trades in Footnote 25 will help to avoid confusion, thereby removing impediments to and perfecting the mechanism

⁹ See e.g., NASDAQ Stock Market Rules, Chapter XV, Options Pricings, Sec. 2 Options Market – Fees and Rebates, Tiers 1-5 and Tier 8.

¹⁰ See Securities Exchange Act Release No. 76923 (January 15, 2016), 81 FR 3841 (January 22, 2016) (SR-CBOE-2016-002) and Securities Exchange Act Release No. 77926 (May 26, 2016), 81 FR 35421 (June 2, 2016) (SR-CBOE-2016-045).

of a free and open market and a national market system. Additionally, the Exchange notes that no substantive changes are being made by these particular proposed rule changes.

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. The Exchange 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, while different fees and rebates are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances as discussed above. For example, Clearing TPHs have clearing obligations that other market participants do not have and DPMs have quoting obligations that other market participants do not have. There is also a history in the options markets of providing preferential treatment to customers. Further, the proposed changes, are intended to encourage market participants to bring increased volume to the Exchange (which benefits all market participants), while still covering Exchange costs (including those associated with the upgrading and maintenance of Exchange systems). The Exchange 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. To the extent that the proposed change makes CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome 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 Act¹¹ and paragraph (f) of Rule 19b-4¹² 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-2017-055 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-2017-055. 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

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f).

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 offices 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-2017-055, 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.¹³

Eduardo A. Aleman
Assistant Secretary

¹³ 17 CFR 200.30-3(a)(12).