

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81614; File No. SR-CBOE-2017-060)

September 14, 2017

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 September 1, 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. Specifically, the Exchange proposes to adopt a discount in the form of a cap on transaction fees for Market-Maker, Broker-Dealer, Non-Trading Permit Holder Market-Maker, Professional/Voluntary Professional and Joint Back-Office executions in VIX.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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.

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. Specifically, the Exchange proposes to adopt a discount in the form of a cap on transaction fees for Market-Maker, Broker-Dealer, Non-Trading Permit Holder Market-Maker, Professional/Voluntary Professional and Joint Back-Office (i.e., "M", "B", "N", "W" and "J" origin codes) executions in VIX (the "VIX Large Trade Discount"). Particularly, regular transaction fees will only be charged for up to 250,000 VIX options contracts per order for Market-Makers, Broker-Dealers, Non-Trading Permit Holder Market-Makers, Professional/Voluntary Professionals and Joint Back-Offices.³ The Exchange notes that the proposed VIX Large Trade Discount is similar to the Customer Large Trade Discount ("CLTD") program which places a cap on the quantity of Customer contracts (i.e., "C" origin code) that are assessed transaction fees in certain options classes, including VIX.⁴ Like the CLTD program, the Large Trade Discount will apply both in the Regular Trading Hours ("RTH") Session and the Extended Trading Hours ("ETH") Session, but for an order to be eligible to qualify for the discount, the order in its entirety must be executed in either RTH or ETH, but not both.⁵ Also like the CLTD program, qualification of an order for the fee cap is

³ The discount will be on transaction fees only. Other fees, such as the Index License Surcharge, will not be discounted.

⁴ See CBOE's Fees Schedule, Customer Large Trade Discount program.

⁵ The Exchange notes that the trading sessions has separate order books and require separate logins for access, and as there is no "rolling" of orders by the Exchange between the two sessions, in order to be eligible to qualify for the VIX Large Trade Discount, an

based on the trade date and order ID on each order. For complex orders, the total contracts of an order (all legs by underlying symbol) are counted for purposes of calculating the fee cap. To qualify for the discount, the entire order quantity must be tied to a single order ID (unless the order is a complex order with a number of legs that exceeds system limitations) either within the CBOE Command system or PULSe or in the front end system used to enter and/or transmit the order (provided the Exchange is granted access to effectively audit such front end system) (the order must be entered in its entirety on one system so that the Exchange can clearly identify the total size of the order). For an order entered via PULSe or another front end system, or a complex order with multiple order IDs, a request must be submitted to the Exchange within 3 business days of the transactions and must identify all necessary information, including the order ID and related trade details. Lastly, as noted above, only regular transaction fees are capped. To avoid potential confusion, however the Exchange proposes to make clear that floor brokerage fees are not subject to the cap on fees.

The Exchange proposes to adopt the VIX Large Trade Discount in order to incentivize the sending of large VIX orders. The greater liquidity and trading volume that the proposed cap encourages would benefit all market participants trading VIX options.

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

order must be executed in its entirety in either RTH or ETH, but not partly in both.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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. 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.

The Exchange believes that adopting the VIX Large Trade Discount is reasonable because Market-Makers, Broker-Dealers, Non-Trading Permit Holder Market-Makers, Professional/Voluntary Professionals and Joint Back-Offices participants (i.e., non-Customer, non-Firm market participants) will receive a discount for very large trades that they would not otherwise receive, which promotes and encourages larger VIX executions on the Exchange. This change is equitable and not unfairly discriminatory because all non-Customer, non-Firm market participants whose large trades qualify for the discount in VIX will receive it. The Exchange believes it's equitable and not unfairly discriminatory to adopt a cap on transaction fees for VIX and not other products because the Exchange desires to encourage VIX trading, which, along with bringing greater VIX options trading opportunities to all market participants [sic]. The Exchange believes that it is not unfairly discriminatory to not apply the proposed cap to Customers, as Customers are eligible for a discount on VIX discount under the CLTD program. The Exchange believes that it is not unfairly discriminatory to not apply the proposed VIX Large

⁸ 15 U.S.C. 78f(b)(4).

Trade Discount program to Firms (i.e., Clearing Trading Holder Proprietary, “F” and “L” origin codes), as Firms are eligible for discounts on VIX under the CBOE Clearing Trading Permit Holder Proprietary Products Sliding Scales.

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 the cap does not apply to Customers and Firms, other incentive programs already exist for those market participants with respect to VIX trading. Additionally, the proposed change is designed to encourage increased VIX options volume, which provides greater trading opportunities for all market participants. The Exchange believes that the proposed rule change will not cause an unnecessary burden on intermarket competition because VIX is 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.

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,

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 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 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-2017-060 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CBOE-2017-060. 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-2017-060 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

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Assistant Secretary

¹¹ 17 CFR 200.30-3(a)(12).