

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-91547; File No. SR-CBOE-2021-021)

April 14, 2021

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend its Fees Schedule to Adopt Reduced Permit Fees for New Floor Brokers

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 April 1, 2021, Cboe Exchange, Inc. (“CBOE” or the “Exchange”) 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

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options) proposes to amend its Fees Schedule to adopt reduced permit fees for new Floor Brokers. The text of the proposed rule change is provided in Exhibit 5.

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 to adopt reduced permit fees for new Floor Brokers. By way of background, a Floor Broker Permit ("FB Permit") entitles the holder to act as a Floor Broker on the floor of the exchange. The Exchange currently maintains a Floor Trading Permit Sliding Scale, which allows Floor Brokers to pay reduced rates for higher quantity of FB Permits. Particularly, Floor Brokers pay \$7,500 for the first FB Permit, \$5,700 per permit for the 2nd and 3rd FB Permits, \$4,500 per permit for the 4th and 5th FB permits and \$3,200 for each additional FB Permit. The Exchange proposes to now adopt a discount for FB Permits for new Trading Permit Holders ("TPHs") or for TPHs that have not held a FB Permit in at least twelve (12) months (collectively referred to herein as "New Floor Brokers").

Specifically, the Exchange proposes to assess New Floor Brokers \$500 per permit for up to two FB Permits. Thereafter, any additional permit would be subject to the current Floor Trading Permit Sliding Scale.³ A New Floor Broker is only eligible for reduced fees for 6 months starting from the month the 1st permit is activated. The Exchange believes the proposed change may incentivize new market participants to become Floor Brokers on the Exchange and help

³ For example, if a new Floor Broker purchases 4 FB Permits, the first two permits will be assessed \$500 each per month, and the third permit would be assessed \$5,700 per month and the fourth permit would be assessed \$4,500 per month. See Cboe Options Fees Schedule, Floor Trading Permit Sliding Scales.

offset initial costs of operation as Floor Brokers. The Exchange also notes the proposed reduced rate is consistent with the rates charged by another Exchange to Floor Broker participants.⁴

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,⁵ in general, and furthers the objectives of Section 6(b)(4),⁶ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of 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 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, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

⁴ See NYSE American Options Fees Schedule, Section III (Monthly Trading Permit, Rights, Floor Access and Premium Product Fees).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78f.(b)(5).

⁸ Id.

In particular, the Exchange believes that the proposed discount for the first two FB Permits for New Floor Brokers is reasonable as such market participants will pay lower costs for those permits. Also as noted above, the proposed discounted rate is consistent with the amount charged by another exchange for Floor Broker permits.⁹ The Exchange notes it is not otherwise amending any of the rates in the Floor Trading Permits Sliding Scale. The Exchange believes the proposed change is also reasonable as it may incentivize new market participants to become Floor Brokers on the Exchange and help offset initial costs associated with becoming a Floor Broker. The Exchange believes the proposed discount is equitable and not unfairly discriminatory because all New Floor Brokers are eligible. The Exchange also believes it's equitable and not unfairly discriminatory to provide the discount to New Floor Brokers because it is designed to encourage new market participants to become Floor Brokers on the Exchange that may not otherwise do so because of the expense involved in becoming a Floor Broker. The Exchange also believes it's equitable and not unfairly discriminatory to offer a discount to Floor Brokers because Floor Brokers serve an important function in facilitating the execution of orders via open outcry, which as a price-improvement mechanism, the Exchange wishes to encourage and support. Further, the proposed change is designed to further encourage the execution of orders via open outcry, which should increase volume, which would benefit all market participants. Lastly, the Exchange notes that it is not aware of any market participant that is expected to qualify as a New Floor Broker within the next month, but to the extent that this discount proves attractive to market participants, they are welcome to become Floor Brokers on the Exchange and receive the proposed discount.

⁹ See NYSE American Options Fees Schedule, Section III (Monthly Trading Permit, Rights, Floor Access and Premium Product Fees).

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. 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 it is limited to Floor Brokers, Floor Brokers serve an important function in facilitating the execution of orders via open outcry, which as a price-improvement mechanism, the Exchange wishes to encourage and support. Further, the proposed change is designed to encourage more Floor Brokers which may further encourage more execution of orders via open outcry, which should increase volume, which would benefit all market participants trading via open outcry. The Exchange does not believe that the proposed change will impose an unnecessary or inappropriate burden on intermarket competition because it only applies to Cboe Options. To the extent that this discount proves attractive to Floor Brokers on other options exchanges, or its results prove attractive to market participants on other exchanges, such Floor Brokers or market participants may elect to become Floor Brokers or market participants at the Exchange.

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)(ii)¹⁰ of the Act.

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

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 shall institute proceedings under Section 19(b)(2)(B)¹¹ of the Act 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 No. SR-CBOE-2021-021 on the subject line.

Paper Comments:

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

All submissions should refer to File No. SR-CBOE-2021-021. 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

¹¹ 15 U.S.C. 78s(b)(2)(B).

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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-CBOE-2021-021, 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.¹²

J. Matthew DeLesDernier
Assistant Secretary

¹² 17 CFR 200.30-3(a)(12).