

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-49524; File No. SR-CBOE-2004-18)

April 2, 2004

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to an Extension of Its Prospective Fee Reduction Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder<sup>2</sup>, notice is hereby given that on March 26, 2004, the Chicago Board Options Exchange, Inc. (“CBOE” or “Exchange”) submitted to the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by CBOE. CBOE filed this proposal pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2)<sup>4</sup> thereunder, as one establishing or changing a due, fee, or other charge imposed by the Exchange, which renders the proposal effective upon filing with the Commission. 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

CBOE proposes to make a change to its Fee Schedule to extend the Prospective Fee Reduction Program through the close of the current Exchange Fiscal Year on June 30, 2004.

Below is the text of the proposed rule change. Proposed new language is italics; proposed deletions are in [brackets].

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

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FEE SCHEDULE  
APRIL 1, 2004

1.-18            No Change

19    PROSPECTIVE FEE REDUCTION PROGRAM

A Prospective Fee Reduction Program will be in effect for February [and March]through June 2004. CBOE Market Maker (as defined in CBOE Rule 8.1) transaction fees will be reduced from standard rates by \$.02 per contract side. In addition, floor brokerage fees will be reduced by \$.003 (three-tenths of one cent) per contract side.

Remainder of Fee Schedule    No Change

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II.    Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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. CBOE 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

CBOE represents that in recognition of high trading volume and positive financial results to date during its current fiscal year, the Exchange recently re-implemented a Prospective Fee

Reduction Program for February and March 2004.<sup>5</sup> The Exchange now proposes to extend the current Prospective Fee Reduction Program through the close of the current CBOE fiscal year on June 30, 2004. Under the extended program, CBOE Market-Makers (as defined in CBOE Rule 8.1) will continue to have their transaction fees reduced from standard rates by \$.02 per contract side. In addition, under the extended program, CBOE will continue to reduce all floor brokerage fees by \$.003 per contract side. As before, the Exchange will continue to monitor its financial results to determine whether the Prospective Fee Reduction Program should be continued, modified, or eliminated in the future.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>7</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

### 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 not necessary or appropriate in furtherance of purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

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<sup>5</sup> See Securities Exchange Act Release No. 49341 (March 1, 2004), 69 FR 10492 (March 5, 2004).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposal has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and Rule 19b-4(f)(2)<sup>9</sup> thereunder because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate 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.

### 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-CBOE-2004-18. The 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, comments should be sent in hardcopy or by e-mail but not by both methods. 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 inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 C.F.R. 240.19b-4(f)(2).

office of the Exchange. All submissions should refer to the File No. SR-CBOE-2004-18 and should be submitted by [insert date 21 days from date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).