For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–23204 Filed 9–19–12; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–67861; File No. SR–CBOE–2012–088]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the CBOE Stock Exchange Fees Schedule

September 14, 2012.

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 7, 2012, 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 the CBOE Stock Exchange (''CBSX'') Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission.

### 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 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

CBSX proposes to amend its Fees Schedule. Starting on September 10, 2012, CBSX will begin to implement the functionality that will allow CBSX Traders to send silent orders, silent-mid orders, silent-post-mid orders, and silent-mid-seeker orders to CBSX.[3] Pursuant to such implementation, CBSX proposes to adopt Maker and Taker fees for transactions in securities priced $1 or greater relating to these new order types. For transactions in securities priced less than $1, these new order types will be subject to the same Maker and Taker fees ($0.00 fee for Makers, 0.30% of the dollar value of the transaction fee for Takers) that apply to most other orders.

The Maker fee for adding liquidity using a silent order will be $0.0018 per share, same as the regular Maker rate (though not subject to the reduced fee tiers for adding increasing amounts of liquidity in one day). The Taker rebate for removing silent order liquidity will be $0.0014 per share. The Maker fee for adding liquidity using a silent-mid or silent-post-mid order will be $0.0008 per share. The Taker rebate for removing silent-mid or silent-post-mid liquidity will be $0.0004 per share. The purpose of the new Maker fees is to incentivize passive liquidity provision using the silent, silent-mid, and silent-post-mid order types. The purpose of the new Taker rebates is to incentivize routing to the Exchange for the purpose of removing liquidity. The fees proposed for adding and rebates for removing liquidity are both intended to compliment the existing maker-taker fee structure and to improve realized prices and price discovery on the Exchange by efficiently and predictably allocating the economics specifically for each form of liquidity provision, and to incentivize participants to route orders to the Exchange in the first instance.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[5] which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. The amount of the proposed Maker fee for silent orders is reasonable because it is the same amount as the regular Maker fee. Not applying the reduced fee tiers for adding increasing amounts of liquidity in one day to silent Maker orders is equitable and not unfairly discriminatory because these silent orders are not displayed [sic] do not improve the Exchange's displayed prices. Further, the Maker fee for silent orders will apply to all market participants trading silent orders.

The amount of the proposed Taker rebate for removing silent order liquidity is reasonable because it will allow market participants removing silent order liquidity to receive a rebate (and not pay a fee) for doing so. The proposed Taker rebate is equitable and not unfairly discriminatory because such undisplayed orders do not transparently improve the prices available within the market, while displayed orders do. As such, the pricing is designed to promote the use of and interaction with displayed liquidity more than undisplayed liquidity. Further, the Taker rebate for silent orders will apply to all market participants trading silent orders.

The amount of the proposed Maker fee for adding liquidity using a silent-mid or silent-post-mid order is reasonable because it is lower than the amount of the fee for other Maker orders. This is equitable and not unfairly discriminatory because the liquidity is priced at the midpoint of the NBBO, and therefore the fee will be less. This offers the remover of liquidity significant price improvement. Further, the Maker [sic] proposed Maker fee for adding liquidity using a silent-mid or silent-post-mid order will apply to all market participants adding liquidity using a silent-mid or silent-post-mid order.

The amount of the proposed Taker rebate for removing silent-mid or silent-post-mid liquidity is reasonable because it will allow market participants removing silent order liquidity to receive a rebate (and not pay a fee) for doing so. The proposed Taker rebate for removing silent-mid or silent-post-mid liquidity is equitable and not unfairly discriminatory because the trade will result in an improved price over the

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67548 (July 31, 2012) 77 FR 46783 (August 6, 2012) (SR–CBOE–2012–049).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

displayed market (as the trade occurs at the midpoint of the NBBO). Further, the Taker removing silent-mid or silent-post-mid liquidity will apply to all market participants removing silent-mid or silent-post-mid liquidity.

Assessing different fees for orders priced $1 or greater than for such orders priced less than $1 is equitable and not unfairly discriminatory because since orders priced less than $1 can be entered in sub-penny increments (four-decimal increments), the Exchange believes that employing Maker-Taker pricing similar to that employed for orders priced $1 or greater would not be effective given a market participant's ability to more-transparently and finitely establish prices in the book. Further, CBSX already assesses different fees for other orders priced $1 or greater than for the same orders priced less than $1.[6]

*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.

*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)[7] of the Act and paragraph (f) of Rule 19b–4[8] 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.

**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:

[6] *See* CBSX Fees Schedule, Section 2.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 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 email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2012–088 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2012–088. This file number should be included on the subject line if email 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 Web site (*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 Web site 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–2012–088 and should be submitted on or before October 11, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–23179 Filed 9–19–12; 8:45 am]

**BILLING CODE 8011–01–P**

[9] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–67865; File No. SR–ISE–2012–22]**

## Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Disapprove Proposed Rule Change, as Modified by Amendment No. 1, To Add an Index Option Product for Trading on the Exchange

September 14, 2012.

On March 9, 2012, the International Securities Exchange, LLC (''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade options on the ISE Max SPY Index. The proposed rule change was published for comment in the **Federal Register** on March 22, 2012.[3] The Commission initially received three comment letters on the proposed rule change.[4] On May 1, 2012, the Commission extended the time period for Commission action to June 20, 2012.[5] On May 4, 2012, the Exchange submitted a response to the comment letters[6] and filed Amendment No. 1 to the proposed rule change. The Commission subsequently received three additional comment letters[7] and a second response letter from the Exchange.[8] On June 20, 2012, the Commission instituted proceedings to determine whether to disapprove the proposed rule change, as modified by

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 66614 (March 16, 2012), 77 FR 16883.

[4] *See* letters to Elizabeth M. Murphy, Secretary, Commission, from Janet McGinness, EVP & Corporate Secretary, NYSE Euronext, dated April 2, 2012; Kenneth M. Vittor, Executive Vice President and General Counsel, McGraw-Hill Companies, Inc., dated April 11, 2012; and Edward T. Tilly, President and Chief Operating Officer, Chicago Board Options Exchange, Incorporated (''CBOE''), dated April 13, 2012.

[5] *See* Securities Exchange Act Release No. 66889 (May 1, 2012), 77 FR 26812 (May 7, 2012).

[6] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Michael J. Simon, Secretary and General Counsel, ISE, dated May 4, 2012.

[7] *See* letters to Elizabeth M. Murphy, Secretary, Commission, from Edward T. Tilly, President and Chief Operating Officer, CBOE, dated June 7, 2012; Kenneth M. Vittor, Executive Vice President and General Counsel, McGraw-Hill Companies, Inc., dated June 18, 2012; and Edward T. Tilly, President and Chief Operating Officer, CBOE, dated June 19, 2012.

[8] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Michael J. Simon, Secretary and General Counsel, ISE, dated June 15, 2012.