

trade, 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.

In particular, the proposed rule change relating to the handling of transactions in series quoted no bid at the NBBO will promote just and equitable principles of trade by adding more certainty and consistency to the obvious error. The proposed rule change to increase the time limit for both Market Makers and OTP Holders acting as agent for Customers to request a review of a transaction under the provisions of Rule 6.87 is designed to protect investors and the public interest. Granting Market Makers more time to request a review of a trade for obvious error treatment will ensure they are comfortable they can meet the deadline. This comfort level should allow Market Makers to continue to aggressively provide that liquidity in a transparent and non-discriminatory manner to all participants which is in the public interest. Further, ensuring Customers sufficient time to request a review for trades is also consistent with investor protection and furthering the public interest as it allows those market participants furthest removed from the point of execution time to evaluate each trade and have adequate time to notify the Exchange of a potential error.

The Exchange believes that the proposed rule changes that address the handling of Complex Orders involved in obvious errors are also consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Detailing how Complex Orders involved in obvious errors will be busted and/or adjusted is important since it grants investors greater certainty. Preventing a market participant from busting trades solely the result of a leg(s) of a Complex Order executing in a no-bid series furthers the protection of investors and the public interest by preventing potential abuse. In the Exchange's view, the determination of whether an "obvious error" has occurred should be based on specific and objective criteria and subject to specific and objective procedures. The Exchange believes that the proposed rule change provides such objective guidelines for the determination of whether an obvious price error has occurred.

#### *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 the purposes of the Act. To the contrary, the proposal further promotes competition on the Exchange which should lead to tighter, more efficient markets to the benefit of market participants including public investors that engage in trading and hedging on the Exchange, and thereby make the Exchange a desirable market vis a vis other options exchanges.

#### *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.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEARCA-2013-15 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-NYSEARCA-2013-15. 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 such 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 publicly available. All submissions should refer to File Number SR-NYSEARCA-2013-15 and should be submitted on or before March 14, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-68932; File No. SR-CBOE-2013-021]

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

February 14, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup>

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

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

notice is hereby given that on February 6, 2013, 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 the Substance of the Proposed Rule Change**

The Exchange is proposing to amend the text in the 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**

The Exchange is proposing to update the text in its Fees Schedule to clarify the fee exemptions in the "Index Options Rate Table." The proposed change in this filing is solely administrative and will not amend any current fees. Currently, the Index Options Rate Table Section of the Exchange Fee Schedule has two different customer transaction fees. Specifically, the Exchange charges a \$0.18 transaction fee per contract for all customer transactions in all index products excluding "SPX, SPXW, SRO, OEX, XEO, VIX and Volatility Indexes." In addition, however, in a recent rule filing, the Exchange has eliminated this customer transaction fee in XSP index

option transactions.<sup>3</sup> The Exchange is proposing to clarify in the second category that the \$0.18 transaction fee per contract is applicable to "All Index Products Excluding SPX, SPXW, SRO, OEX, XEO, VIX, XSP and VOLATILITY INDEXES."

The Exchange believes the proposed rule change will make it clear that there is no \$0.18 customer transaction fee per contract in transaction [sic] in XSP index options. The Exchange believes the proposed addition of rule text will provide greater clarity for customers. Thus, more customers may engage in XSP index options trading as a result of a greater awareness of the lower fees associated with such transactions. This would bring greater liquidity to the market, which benefits all market participants.

##### **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.<sup>4</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>5</sup> 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 facilitation [sic] 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 the Section 6(b)(5)<sup>6</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change will promote just and equitable principles of trade by clarifying to Trading Permit Holders that there is no fee for customer transaction fees in XSP index option trading. Providing a clearer representation of fees in the Exchange fee schedule will remove any confusion that may exist with the current wording in the Fees Schedule. In addition, by

<sup>3</sup> See SR-CBOE-2013-015 (January 30, 2013) (immediately effective rule change to eliminate the customer transaction fee for XSP index options).

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

<sup>5</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> *Id.*

making the fee waiver more explicit, the proposed rule change will encourage more customer transactions in XSP index options. The proposed changes are equitable and not unfairly discriminatory because bringing clarity to the Exchange Fees Schedule benefits all Trading Permit Holders. In addition, clarifying that there are not customer transaction fees in XSP index option trading would bring greater liquidity to the market, which benefits all market participants.

#### *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. The Exchange does not believe the proposed administrative changes to the Exchange Fees Schedule will cause any unnecessary burden on intramarket competition because nothing is changing substantively. The Exchange is merely adding additional language to create more clarity. In addition, the Exchange does not believe the proposed rule change will cause any unnecessary burden on intermarket competition because the Fees Schedule will continue to function in the same way it currently does. The proposed changes are only administrative to clarify the Fees in the Exchange Fees Schedule.

#### *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 Act<sup>7</sup> and paragraph (f) of Rule 19b-4<sup>8</sup> 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,

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 C.F.R. 240.19b-4(f).

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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2013-021 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-2013-021. 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 such 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-2013-021, and should be submitted on or before March 14, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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<sup>9</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68935; File No. SR-OCC-2012-801]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of No Objection To Advance Notice Filing, as Modified by Amendment No. 1 Thereto, To Enter Into an Unsecured, Committed Credit Agreement

February 14, 2013.

#### I. Introduction

On December 18, 2012, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") advance notice SR-OCC-2012-801 pursuant to Section 806(e) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"),<sup>1</sup> entitled the Payment, Clearing, and Settlement Supervision Act of 2010 ("Title VIII" or "Clearing Supervision Act"). On December 21, 2012, OCC filed Amendment No. 1 to advance notice SR-OCC-2012-801.<sup>2</sup> The advance notice, as amended by Amendment No. 1, was published in the **Federal Register** on January 16, 2013.<sup>3</sup> The Commission did not receive comments on the advance notice publication. This publication serves as a notice of no objection to the advance notice.

#### II. Description of Proposed Rule Change

OCC filed this advance notice to permit it to enter into an unsecured, committed credit agreement ("Facility") in an aggregate principal amount not to exceed \$25 million. The Facility is designed to satisfy the Commodity Futures Trading Commission's ("CFTC") liquidity requirement contained in Regulation 39.11(e)(2) and also to provide OCC with access to additional liquidity for working capital needs and general corporate purposes.

Among other things, CFTC Regulation 39.11(a)(2) requires a derivatives clearing organization ("DCO") to hold an amount of financial resources that, at a minimum, exceeds the total amount that would enable the DCO to cover its operating costs for a period of at least

<sup>1</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (2010).

<sup>2</sup> Amendment No. 1 clarifies the date the proposed change was approved by the OCC Board of Directors.

<sup>3</sup> Notice of Filing of Advance Notice, as Modified by Amendment No. 1 Thereto, in Connection with a Proposed Change to Enter into an Unsecured, Committed Credit Agreement, Securities Exchange Act Release No. 34-68618 (January 10, 2013), 78 FR 3483 (January 16, 2013) ("Notice of Filing of Advance Notice").

one year, calculated on a rolling basis.<sup>4</sup> In turn, CFTC Regulation 39.11(e)(2) provides that these financial resources must include unencumbered, liquid financial assets (*i.e.*, cash and/or highly liquid securities), equal to at least six months' operating costs and that if any portion of such financial resources is not sufficiently liquid, the DCO may take into account a committed line of credit or similar facility for the purpose of meeting this requirement.<sup>5</sup> Accordingly, OCC would enter into a credit agreement for the Facility with BMO Harris Bank N.A. ("Lender") having a maximum aggregate principal loan amount not to exceed \$25 million.

A condition of OCC's access to the Facility is the execution of credit agreement documents between OCC and the Lender. OCC anticipates that the parties will finalize the forms of the credit agreement documents in early 2013. Ongoing conditions governing OCC's ability to access the Facility include that no default or event of default by OCC may exist before or during an extension of credit by the Lender to OCC through the Facility and that certain representations of OCC must remain true and correct. Events of default would include, but not be limited to, failure to pay any interest, principal, fees or other amounts when due, default under any covenant or agreement in any loan document, materially inaccurate or false representations or warranties, cross default with other material debt agreements, insolvency, bankruptcy, dissolution or termination of the existence of OCC, and unsatisfied judgments.

OCC anticipates that the Facility would be available to OCC on a revolving basis for a 364-day term. According to OCC, upon notice by OCC to the Lender of a request for funds, whether in writing or by telephone, the Lender would disburse loaned funds to OCC in U.S. dollars. The date of any loan would be required to be a business day, and the loans would be unsecured and made and evidenced by a promissory note provided by OCC. Any loan proceeds would be required to be used by OCC to finance its working capital needs or for OCC's general corporate purposes. According to OCC, its ability to draw against the Facility, even though no such draw is actually made, would contribute to OCC's compliance with the liquidity requirements prescribed by CFTC Regulation 39.11(e)(2).

<sup>4</sup> 17 CFR 39.11(a)(2).

<sup>5</sup> 17 CFR 39.11(e)(2).