

*Paper Comments*

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

All submissions should refer to File Number SR-CBOE-2015-079. 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-2015-079 and should be submitted on or before October 9, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Brent J. Fields,**  
*Secretary.*

[FR Doc. 2015-23395 Filed 9-17-15; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-75908; File No. SR-CBOE-2015-026]

**Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Relating to Rules 6.74A and 6.74B**

September 14, 2015.

On March 6, 2015, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission"), 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> a proposed rule change to amend its rules regarding the solicitation of Market-Makers as the contra party to an agency order entered into the Exchange's Automated Improvement Mechanism ("AIM") and Solicitation Auction Mechanism ("SAM") auctions. The proposed rule change was published for comment in the **Federal Register** on March 23, 2015.<sup>3</sup> On May 4, 2015, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change, to June 21, 2015.<sup>4</sup> On June 18, 2015, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.<sup>5</sup> On July 21, 2015, the Commission received a letter from the Exchange responding to the Order Instituting Proceedings.<sup>6</sup> Subsequently, the Commission received one other comment letter on the proposed rule change.<sup>7</sup>

Section 19(b)(2) of the Act<sup>8</sup> provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the

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

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

<sup>3</sup> See Securities Exchange Act Release No. 74519 (March 17, 2015), 80 FR 15264 ("Notice").

<sup>4</sup> See Securities Exchange Act Release No. 74862 (May 4, 2015), 80 FR 26599 (May 8, 2015).

<sup>5</sup> See Securities Exchange Act Release No. 75245 (June 18, 2015), 80 FR 36386 (June 24, 2015) ("Order Instituting Proceedings").

<sup>6</sup> See Letter to Brent J. Fields, Secretary, Commission, from Kyle Edwards, Attorney, CBOE, dated July 21, 2015 ("CBOE Letter").

<sup>7</sup> See Letter to Brent J. Fields, Secretary, Commission, from Gavin Rowe, Senior Director, Dash Financial LLC, dated August 11, 2015 ("Dash Financial Letter").

<sup>8</sup> 15 U.S.C. 78s(b)(2).

proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. In this case, the proposed rule change was published for notice and comment in the **Federal Register** on March 23, 2015.<sup>9</sup> September 19, 2015, is 180 days from that date, and November 18, 2015, is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change and the comment letters submitted in response to the Order Instituting Proceedings.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> designates November 18, 2015 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-CBOE-2015-026).

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

**Brent J. Fields,**  
*Secretary.*

[FR Doc. 2015-23401 Filed 9-17-15; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-75913; File No. SR-CBOE-2015-076]

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

September 14, 2015.

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> notice is hereby given that on September 1, 2015, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule

<sup>9</sup> See *supra* note 3.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(57).

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

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

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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 proposes to amend its 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'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 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 make certain amendments to its Fees Schedule, effective September 1, 2015.

##### Extended Trading Hour Fees

First, the Exchange proposes to amend the Fees Schedule with respect to Extended Trading Hours fees. The Exchange notes that it recently amended its rules to offer trading in two exclusively listed options (SPX, including SPXW, and VIX) during extended trading hours from 2:00 a.m. to 8:15 a.m. Chicago time Monday through Friday ("Extended Trading Hours" or "ETH"). In conjunction with the adoption of ETH, the Exchange established fees for the trading of SPX, SPXW and VIX options during ETH, including fees for ETH Trading Permits and Bandwidth Packets, as well as for CMI and FIX login IDs. In order to promote and encourage trading during the ETH session, the Exchange had waived ETH Trading Permit and Bandwidth Packet fees for one (1) of each initial Trading Permits and one (1)

of each initial Bandwidth Packet, per affiliated TPH, through the first six (6) calendar months immediately following the implementation of ETH, including the month ETH was launched (*i.e.*, through August 31, 2015). The Exchange also waived fees through August 31, 2015 for a CMI and FIX login ID if the CMI and/or FIX login ID is related to a waived ETH Trading Permit and/or waived Bandwidth packet. In order to continue promoting trading during ETH, the Exchange wishes to extend these waivers through December 31, 2015.

##### Qualified Contingent Cross Transactions

The Exchange next proposes to amend its Fees Schedule with respect to Qualified Contingent Cross ("QCC")<sup>3</sup> orders. Currently, the Fees Schedule provides for a transaction fee for all non-customer QCC orders of \$0.15 per contract side (customer orders are not assessed a charge) and a \$0.10 per contract credit for the initiating order side, regardless of origin code. The Exchange proposes to further provide that the \$0.10 per contract credit will not be available for customer-to-customer transactions. Particularly, the Exchange notes that it does not collect QCC transaction fees on customer-to-customer transactions (since customers are not assessed QCC transaction fees) and it would not be economically feasible or viable to provide a credit on an order that is trading with an order that is not generating a fee. The Exchange notes that another Exchange also excludes customer-to-customer QCC orders from receiving a rebate.<sup>4</sup>

##### Linkage

The Exchange proposes to (i) adopt a \$0.05 per contract Linkage fee (in addition to the applicable away fees) for customer orders and (ii) increase the Linkage fee for non-customer orders from \$0.65 per contract to \$0.70 per contract. The Fees Schedule currently provides that, in addition to the customary CBOE execution charges, for each customer order that is routed, in whole or in part, to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Rule 6.80, CBOE shall pass through the actual transaction fee assessed by the exchange(s) to which the order was

<sup>3</sup> A QCC order is comprised of an order to buy or sell at least 1,000 contracts (or 10,000 mini-option contracts) that is identified as being part of a qualified contingent trade, coupled with a contra side order to buy or sell an equal number of contracts.

<sup>4</sup> See NASDAQ OMX PHLX LLC ("PHLX") Pricing Schedule, Section II, Multiply Listed Options Fees.

routed. The Exchange proposes to assess an additional \$0.05 per contract for customer orders routed away in addition to the applicable pass through fees. The purpose of these proposed changes is to help recoup costs incurred by the Exchange associated with routing customer and non-customer orders through linkage. The Exchange notes that other exchanges also assess an additional fee on top of passing through transaction fees for customer orders and that the proposed amount of the fee is in line with the amount assessed at another exchange.<sup>5</sup> The Exchange also notes that the amount of the proposed non-customer linkage fee is still lower than corresponding non-customer Linkage fees assessed by other exchanges.<sup>6</sup>

##### Volume Incentive Program

Next, the Exchange proposes to amend its Volume Incentive Program ("VIP"). Under VIP, the Exchange credits each Trading Permit Holder ("TPH") the per contract amount set forth in the VIP table resulting from each public customer ("C" origin code) order transmitted by that TPH (with certain exceptions) which is executed electronically on the Exchange in all underlying symbols excluding Underlying Symbol List A,<sup>7</sup> DJX, MXEA, MXEF, XSP, XSPAM, and mini-options, provided the TPH meets certain volume thresholds in a month.<sup>8</sup> The Exchange first proposes to change the different fee tier thresholds in the VIP. Currently, qualification for the different fee rates at different tiers in the VIP is based on a TPH's percentage of national customer volume in all products, excluding Underlying Symbol List A, DJX, MXEA, MXEF, XSP, XSPAM and mini-options. The current qualification tiers are set to, in ascending order, 0% through 0.75%, above 0.75% through 2.0%, above 2.0% through 2.75%, and above 2.75%. The Exchange proposes to adjust the threshold percentages for Tiers 2 through 4. Specifically, the Exchange is proposing to amend the

<sup>5</sup> See *e.g.*, PHLX Pricing Schedule, Section V, Customer Routing Fees.

<sup>6</sup> See *e.g.*, PHLX Pricing Schedule, Section V, Non-Customer Routing Fee of \$0.99 per contract.

<sup>7</sup> The following products are included in "Underlying Symbol List A": OEX, XEO, RUT, SPX (including SPXw), SPXpm, SRO, VIX, VXST, VOLATILITY INDEXES and binary options.

<sup>8</sup> Excluded from the VIP credit are options in Underlying Symbol List A, DJX, MXEA, MXEF, XSP, XSPAM, mini-options, QCC trades, public customer to public customer electronic complex order executions, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Rule 6.80 (see CBOE Fees Schedule, Volume Incentive Program).

tiers to be, in ascending order, 0% through 0.75%, above 0.75% through 1.50%, above 1.50% through 3.0%, and above 3.0%. The Exchange also proposes to increase the VIP credit for simple orders in Tier 3 from \$0.11 per contract to \$0.12 per contract and in Tier 4 from \$0.14 per contract to \$0.15 per contract. The Exchange proposes to increase the VIP credit for complex orders in Tier 3 from \$0.22 per contract to \$0.24 per contract and in Tier 4 from \$0.23 per contract to \$0.25 per contract. The purpose of these changes is to incentivize the sending of both simple and complex orders to the Exchange and to adjust the incentive tiers accordingly as competition requires while maintaining an incremental incentive for TPH's to strive for the highest tier level.

#### Strategy Orders and Fee Cap

The Exchange also proposes to amend the Fees Schedule with respect to rebates offered on strategy executions and make certain clarifications with regards to the Clearing Trading Permit Holder Fee Cap ("Fee Cap"). By way of background, the Fee Cap provides for a cap up to \$75,000 on certain order executions in all products except those in Underlying Symbol List A excluding binary options, on Clearing Trading Permit Holder Proprietary (origin code "F" or "L") orders. For example, transaction fees for Qualified Contingent Cross ("QCC")<sup>9</sup> orders count towards the \$75,000 fee cap. The Exchange notes that transaction fees resulting from certain strategy orders also apply towards reaching the Fee Cap.<sup>10</sup> For all non-customer orders, the Exchange notes that fees are capped at \$1,000 for all merger strategies and short stock interest strategies and \$700 for reversals, conversions and jelly roll strategies executed on the same trading day in the same option class, excluding any option class on which the Exchange charges the Index License surcharge fee under Footnote 14 of the Fees Schedule. The Fees Schedule also currently provides that these transaction fees are further capped at \$25,000 per month per initiating Trading Permit Holder (excluding Clearing Trading Permit Holders, who instead are subject to the \$75,000 Fee Cap). Additionally, the Fees Schedule states that floor brokerage fees assessed on these strategies are eligible

for a full rebate. In order to qualify for the fee caps and floor brokerage fees rebate, a rebate request with supporting documentation must be submitted to the Exchange within three (3) business days of the transactions.

The Exchange proposes to make a number of amendments and clarifications with respect to the Fee Cap table and Footnote 13 of the Fees Schedule. First, the Exchange proposes to provide that the strategy rebates described in Footnote 13 of the Fees Schedule apply only to equities, Exchange-Traded Funds ("ETFs") and Exchange-Traded Notes ("ETNs") options. As such, the Exchange proposes adding this language directly into Footnote 13, as well as appending Footnote 13 to the ETF and ETN Options Rate Table to clarify its applicability.<sup>11</sup> The Exchange also proposes to eliminate the following language from Footnote 13 in conjunction with this change: ". . . excluding any option class on which the Exchange charges the Index License surcharge fee under footnote 14 of this Fees Schedule." The Exchange notes that while the strategy rebates always applied to ETF and ETN options, strategy rebates for reversals, conversions and jelly roll strategies also applied to any index option for which an Index License surcharge fee (under Footnote 14) was not assessed (e.g., XSP). The Exchange notes that it no longer seeks to incentivize strategy orders on index options (that weren't otherwise already excluded) and as such, proposes to exclude all indexes from the rebate. Additionally, the Exchange seeks to eliminate the following language from Footnote 13: "Floor brokerage fees assessed on any of these strategies are eligible for a full rebate (see below)", as floor brokerage fees are only assessed for products for which strategy order rebates do not apply and therefore it is unnecessary to maintain this language in the Fees Schedule.

Next, the Exchange proposes to add clarifying language to the Notes section of the Clearing Trading Permit Holder Fee Cap table. Specifically, the Exchange proposes to clarify that transaction fees assessed as part of the strategies cap described in Footnote 13 are including in the Clearing Trading Permit Holder Cap. The Exchange also seeks to make clear that a Clearing Trading Permit Holder that has reached the Fee Cap in a given month would no longer be eligible for the strategy

rebates, as no transaction fees would have been assessed on those additional transactions. The Exchange believes the proposed clarifications maintain clarity in the Fees Schedule and reduces potential confusion.

The Exchange next notes that strategy orders can be executed as part of a QCC transaction. The Exchange also notes that, as previously mentioned, all non-customer QCC transactions are subject to a \$0.15 per contract transaction fee and a \$0.10 per contract credit for the initiating side of the QCC transaction. As QCC transactions already receive a credit, the Exchange seeks to amend the Fees Schedule to provide that any strategies described in Footnote 13 of the Fees Schedule that is tied to a QCC transaction will not be eligible for the rebates provided for in Footnote 13 of the Fees Schedule. The Exchange notes that another exchange currently excludes these transactions from similar caps.<sup>12</sup>

The Exchange lastly proposes to clarify in Footnote 11 of the Fees Schedule and the Notes section of the CBOE Proprietary Products Sliding Scale ("Sliding Scale") that contract volume resulting from any strategies defined in Footnote 13 for which the strategy cap is applied will not apply towards reaching the qualifying ADV thresholds for the Sliding Scale. The Exchange notes that these contracts are not counted towards these thresholds because such contracts have already received the benefit of the strategy fee cap.

#### 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.<sup>13</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>14</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 transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market

<sup>9</sup> A QCC order is comprised of an order to buy or sell at least 1,000 contracts (or 10,000 mini-option contracts) that is identified as being part of a qualified contingent trade, coupled with a contra side order to buy or sell an equal number of contracts.

<sup>10</sup> For details about strategy executions, see Footnote 13 of the Fees Schedule.

<sup>11</sup> Footnote 13 is already appended to the Equities Rate Table. See CBOE Fees Schedule, Equity Options Rate Table.

<sup>12</sup> See PHLX Pricing Schedule, Section II, Multiply Listed Option Fees, which provides that all dividend, merger, short stock interest, reversal and conversion strategy executions are excluded from the Monthly Firm Fee Cap.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>15</sup> which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes extending the waiver of ETH Trading Permit and Bandwidth Packet fees for one of each type of Trading Permit and Bandwidth Packet, per affiliated TPH through December 31, 2015 is reasonable, equitable and not unfairly discriminatory, because it promotes and encourages trading during the ETH session and applies to all ETH TPHs. The Exchange believes it's also reasonable, equitable and not unfairly discriminatory to waive fees for Login IDs related to waived Trading Permits and/or Bandwidth Packets in order to promote and encourage ongoing participation in ETH and also applies to all ETH TPHs.

The Exchange believes it's reasonable, equitable and not unfairly discriminatory to exclude customer-to-customer transactions from the QCC credit because these transactions, unlike customer-to-non customer or non-customer to non-customer transactions, are not assessed a QCC transaction fee. The Exchange notes that other exchanges also exclude customer-to-customer transactions from available rebates.<sup>16</sup>

The Exchange's proposal to increase the Linkage fee from \$0.65 per contract to \$0.70 per contract for non-customer orders and to adopt a \$0.05 per contract fee (in addition to applicable transaction fees) for customer orders is reasonable because the increase non-customer fee and adoption of the customer fee will help offset the costs associated with routing orders through Linkage. Additionally, the proposed amounts are reasonable as they are in line with amounts charged by other Exchanges for similar transactions.<sup>17</sup> The Exchange believes it's equitable and not unfairly discriminatory to assess higher linkage rates to non-customers as opposed to customers because if a non-customer market participant wishes to avoid the Linkage fee, it may choose to specify that the Exchange not route orders away on its behalf or designate the order as Immediate or Cancel, which would

prevent the order from linking away to another Exchange. Moreover, a non-customer market participant may route directly to exchanges posting the best market if desired to avoid Linkage routing fees.

The Exchange believes the proposed change to amend the fee tier thresholds in VIP are reasonable. Specifically, the Exchange believes it's reasonable to decrease the upper threshold in the second tier (and thus the corresponding lower threshold in the third tier) and increase the upper threshold in the third tier (and therefore the corresponding threshold in the fourth tier) because the slight change is designed to provide TPHs a greater ability to reach higher tiers and therefore receive higher credits as well as adjust the incentive tiers accordingly as competition requires while maintaining an incremental incentive for TPH's to strive for the highest tier level. This change is also equitable and not unfairly discriminatory because it will be applied to all TPHs uniformly. The Exchange believes that increasing the VIP simple and complex order credits in the third and fourth tiers is reasonable because it will allow all TPHs transmitting public customer simple and complex orders that reach certain volume thresholds to receive an increased credit for doing so. The amounts of the credits being proposed are also closer to the amounts of credits paid to market participants by another exchange for similar transactions.<sup>18</sup> Additionally, the Exchange notes that increasing the credit (and providing higher credits for complex orders than for simple orders) is reasonable, equitable and not unfairly discriminatory because it is intended to incentivize the sending of more complex orders to the Exchange. This should provide greater liquidity and trading opportunities, including for market participants who send simple orders to the Exchange (as simple orders can trade with the legs of complex orders). The greater liquidity and

trading opportunities should benefit not just public customers (whose orders are the only ones that qualify for the VIP) but all market participants.

The Exchange believes it's reasonable, equitable and not unfairly discriminatory to apply the strategy rebates described in Footnote 13 of the Fees Schedule to equities, ETFs and ETNs because the Exchange no longer seeks to incentivize sending of strategy orders in index options classes and the proposed change applies to all TPHs. The Exchange believes that removing language relating to index options in Footnote 13 serves 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 by preventing any potential confusion regarding which option classes the strategy rebates apply. Similarly, the Exchange believes that eliminating reference to floor brokerage rebates, which apply only to products for which strategy rebates do not apply, alleviates potential confusion, thereby protecting investors and public interest.

The Exchange believes that adding clarifying language to the Fees Schedule to specify that once a Clearing Trading Permit Holder reaches the Fee Cap they are no longer eligible for additional strategy rebates also prevents potential confusion, which removes impediments to and perfects the mechanism of a free and open market and national market system.

The Exchange believes it is reasonable to exclude strategies tied to a QCC transaction from the strategy rebates described in Footnote 13 because those transactions already receive the benefit of a credit under the QCC incentive program and the Exchange does not believe an additional incentive is required. Additionally, another Exchange already excludes these transactions from similar caps.<sup>19</sup> The Exchange believes it's equitable and not unfairly discriminatory to exclude QCC strategy orders from the strategy rebates because the proposed change applies to all TPHs uniformly for these types of transactions.

Finally, the Exchange believes that explicitly clarifying in the Fees Schedule that that contract volume for which a strategy cap (as defined in Footnote 13 of the Fees Schedule) has been applied is not included for purposes of reaching the qualifying ADV thresholds for the CBOE Proprietary Products Sliding Scale maintains clarity in the Fees Schedule

<sup>19</sup> See PHLX Pricing Schedule, Section II, Multiply Listed Option Fees.

<sup>18</sup> See e.g., International Securities Exchange, LLC ("ISE") Schedule of Fees, Section II (which lists complex order fees and rebates). For each public customer order transmitted by a market participant (with certain exceptions) a rebate of between \$0.30 per contract and \$0.46 per contract in Select Symbols and between \$0.63 per contract and \$0.83 per contract is given to that market participant, depending on the qualifying thresholds that market participant meets. For each public customer complex order. [sic] See also, PHLX Pricing Schedule, Section II.B [sic], Multiply Listed Options Fees [sic], Customer Rebate Program, which provides for a rebate of between \$0.10 per contract and \$0.21 per contract for electronically delivered customer simple orders in Penny and Non-Penny Pilot multiply-listed equity and ETF options (excluding SPY) classes.

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

<sup>16</sup> See PHLX Pricing Schedule, Section II, Multiply Listed Option Fees.

<sup>17</sup> See PHLX Pricing Schedule, Section V, Non-Customer and Customer Routing Fees.

and serves 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 by preventing any potential confusion regarding whether or not the volume is included towards the Sliding Scale.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. In particular, the Exchange does not believe that the proposed rule change to extend certain ETH fee waivers will impose any burden on intramarket competition because the proposed waiver would apply equally to all CBOE ETH TPHs. Additionally, the Exchange believes the proposed rule change will continue to encourage trading during ETH, which will provide additional liquidity and enhance competition during ETH. The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change applies only to CBOE.

The Exchange does not believe that the proposed rule change to exclude customer-to-customer transactions from receiving the \$0.10 QCC credit imposes a burden on intramarket competition because although customer-to-customer transactions will not be receive a rebate, these transactions are not assessed QCC transaction fees (unlike customer-to-non customer or non-customer to non-customer QCC transactions). The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change applies only to CBOE and because other Exchanges have similar exclusions.<sup>20</sup>

The Exchange does not believe that the proposed change to the non-customer Linkage fees will impose a burden on intramarket competition because the increase to the non-customer Linkage fee will apply equally to all non-customer orders routed via linkage and will help offset costs associated with routing non-customer orders via linkage. The Exchange does not believe that the proposed change to the customer Linkage fee will impose a burden on intramarket competition

because it will apply equally to all customer orders routed via linkage and will help offset costs associated with routing customer orders via linkage. Additionally, the Exchange notes that while the Linkage fee assessed to non-customers is higher than that assessed to customers, non-customer market participants wishing to avoid the Linkage fee may choose to specify that the Exchange not route orders away on its behalf or designate the order as Immediate or Cancel, which would prevent the order from linking away to another Exchange. The Exchange believes the proposed changes will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it only applies to trading on the Exchange and orders sent from the Exchange to other exchanges via Linkage. Additionally, the Exchange notes that the proposed changes remain generally in line with routing fees assessed at other options exchanges.<sup>21</sup>

The Exchange believes the proposed changes to amend the tier thresholds in VIP, as well as increase the VIP credits for simple and complex orders in Tiers 3 and 4 do not impose a burden on intramarket competition because it applies uniformly to all TPHs and incentivizes the sending of more simple and complex orders to the Exchange, which provides greater liquidity and trading opportunities.

The Exchange does not believe that the proposed change to exclude index option classes from the strategy rebates described in Footnote 13 of the Fees Schedule will impose any burden on intramarket competition because it applies to all TPHs executing strategy orders. 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.

The Exchange does not believe that the proposal to exclude strategy orders tied to a QCC transaction from the strategy rebates described in Footnote 13 of the Fees Schedule will impose a burden on intramarket competition because the proposed change applies to all TPHs uniformly and because these transactions already receive the benefit of a credit under the QCC incentive program. 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.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the various proposed rule changes promote a competitive environment. 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. Finally, the Exchange notes that the remaining proposed changes are clarifying in nature and are intended to alleviate confusion and are not intended for competitive purposes.

#### *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>22</sup> and paragraph (f) of Rule 19b-4<sup>23</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. 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.

<sup>20</sup> See PHLX Pricing Schedule, Section II, Multiply Listed Option Fees.

<sup>21</sup> See PHLX Pricing Schedule, Section V, Customer and Non-Customer [sic] Routing Fees.

<sup>22</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>23</sup> 17 CFR 240.19b-4(f).

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-2015-076 on the subject line.

#### Paper Comments

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

All submissions should refer to File Number SR-CBOE-2015-076. 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-2015-076, and should be submitted on or before October 9, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

**Brent J. Fields,**

Secretary.

[FR Doc. 2015-23394 Filed 9-17-15; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75911; File No. SR-ISE-2015-29]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

September 14, 2015.

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> notice is hereby given that, on September 9, 2015, the International Securities Exchange, LLC (the "Exchange" or the "ISE") 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 self-regulatory organization. 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 ISE proposes to amend the Schedule of Fees to eliminate the disaster recovery network fee charged to telecommunications vendors that connect to the Exchange's backup datacenter in New York. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), at the principal office of the Exchange, 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 self-regulatory organization 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 self-regulatory organization 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 rents cabinet space in its backup datacenter to unaffiliated telecommunications vendors that are responsible for redistributing connectivity to market participants that desire access in order to maintain connectivity to the ISE when the primary datacenter is not operational.<sup>3</sup> The disaster recovery network fee assessed to these telecommunications vendors is based on the amount of cabinet space used by each vendor, and is \$2,300 per month for a half-cabinet and \$2,800 per month for a full cabinet. The fee is designed to recover the cost of running the backup datacenter, including space, power, and cooling, and also reflects the value that these telecommunications vendors receive from contracting with market participants that use their services to connect to the backup datacenter.<sup>4</sup> As the Exchange is in the process of moving its backup datacenter to a new facility that members will be able to connect to directly, the Exchange now proposes to eliminate the fees charged to telecommunications vendors that are connected to the current site. The telecommunications vendors that are connected to the backup datacenter provide access to members that need connectivity, and are expected to keep providing this access while members are gradually transferred over to the new disaster recovery site. With the upcoming changes, however, the telecommunication vendors, who have already paid substantial hardware and other costs in addition to the fees charged by the Exchange, may not be able to recoup fees from sufficient market participants to cover the cost of maintaining their connections during this period. The Exchange therefore believes that it is appropriate to eliminate the disaster recovery network fee at this time, and believes that doing so will allow telecommunications vendors to continue to provide access to the backup datacenter.

<sup>3</sup> For operational reasons, market participants are not permitted to connect directly to the backup datacenter, and must go through a telecommunication vendor.

<sup>4</sup> Telecommunications vendors contract with interested market participants that access the datacenter through their services for a fee. With this arrangement, the fees that ISE charges telecommunications vendors can be spread across multiple market participants.

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

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

<sup>24</sup> 17 CFR 200.30-3(a)(12).