

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62793; File No. SR-CBOE-2010-076)

August 30, 2010

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend its Fees Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 17, 2010, Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 its Fees Schedule relating to routing charges. The text of the proposed rule change is available on the Exchange’s website (<http://www.cboe.org/legal>), 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 modify its fee schedule related to routing large orders to other exchanges for execution in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in CBOE Rule 6.80. Currently, when the Exchange receives a marketable order for the account of a non-broker dealer when CBOE is not at the national best bid or offer ("NBBO"), CBOE transmits a message to market participants in accordance with Rule 6.14A to see in an attempt to achieve an execution at the NBBO price or better for the order (i.e. step-up) so that CBOE can avoid routing order flow to a competing exchange. If step-up is not achieved, CBOE will route a "linkage" order to the NBBO market(s) up to the size of the displayed interest at the NBBO or the size of the order (whichever is smaller).³ If the linkage order is executed (which is typically the case), CBOE absorbs all transaction costs associated with the execution at the away market. CBOE also routes the order for free. When CBOE receives a similar marketable order for the account of a broker dealer, however, CBOE charges \$0.50 per contract for the routing and away execution costs, in addition to the customary CBOE execution charges. This is because the service is geared more toward retail customer orders.

CBOE is now seeking to refine the cost structure of the program as it relates to large non-broker dealer customer orders. Specifically, when CBOE receives a qualifying customer order that has an original size of 1,000 or more contracts that is routed, in whole or in part, to one or

³ We note that, pursuant to Rule 6.14A(a)(i), if one or more orders are resting at the Exchange's BBO and there is insufficient Market-Maker interest at the BBO price to satisfy the entire marketable order, the Exchange will immediately route away without processing for step-up.

more exchanges, CBOE will charge \$ 0.35 per contract executed on another exchange, in addition to the customary CBOE execution charges (when applicable). The changes will take effect on August 23, 2010.

These larger non-broker dealer customer orders are more akin to broker dealer orders and CBOE believes it is appropriate and consistent to pass through some of these costs. We note that the step-up service should still be a very attractive offering for these larger non-broker dealer orders since, when step-up is achieved, they will continue to receive considerable cost savings. As is the case today, order senders can request that orders be cancelled if step-up is not achieved without routing to an away market, thereby avoiding this new charge. The program will remain unchanged for orders that fall under the 1,000 contract threshold.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),⁴ in general, and furthers the objectives of Section 6(b)(4)⁵ of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE trading permit holders. Because non-broker dealer customer orders with an original size of 1,000 contracts or more are more akin to broker dealer orders, CBOE believes it is appropriate to pass through some costs associated with this routing service.

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 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

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

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

The proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A)(ii)⁶ of the Act and subparagraph (f)(2) of Rule 19b-4⁷ 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:

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 Number SR-CBOE-2010-076 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.

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

⁷ 17 C.F.R. 240.19b-4(f)(2).

All submissions should refer to File Number SR-CBOE-2010-076. 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 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 such filing will also 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 No. SR-CBOE-2010-076 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Florence E. Harmon
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).