

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64642; File No. SR-CBOE-2011-052)

June 10, 2011

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

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 June 1, 2011, the 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 Linkage fees. The text of the proposed rule change is available on the Exchange’s Web site (<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 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 those 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 parts 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On March 1, 2011, the Exchange ceased passing through or otherwise charging orders, including non-customer orders, routed to other exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan (“Linkage”) that were originally transmitted to the Exchange from the trading floor through an Exchange-sponsored terminal (e.g. a Floor Broker Workstation).³ However, the institution of this waiver had the unintended consequence of brokers-dealers submitting large-volume non-customer orders to the Exchange that CBOE ended up routing through the Linkage system to other exchanges. The Exchange was then forced to incur the costs of this process without making up for those costs in the collection of transaction fees. Therefore, the Exchange proposes to limit this Linkage Fees exception to customer orders. As a result, the \$0.50 per contract Linkage Fee under Section 20 of the Fees Schedule, plus customary CBOE execution charges, will apply to all non-customer orders. Customer orders originally transmitted to the Exchange from the trading floor through an Exchange-sponsored terminal (e.g. a Floor Broker Workstation) will still be exempt from such fees. This change is consistent with the Exchange’s philosophy regarding the handling of non-customer Linkage orders, which is that the Exchange should not be responsible for covering non-customer Linkage costs. The change will allow the Exchange to equitably assess reasonable fees incurred for processing such orders, and permit the Exchange to recoup administrative and other costs.

This fee change is to take effect as of June 1, 2011.

³ See Securities Exchange Act Release No. 64057 (March 8, 2011), 76 FR 13690 (March 14, 2011) (SR-CBOE-2011-019).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of 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 and other persons using its facilities. The Exchange believes limiting the exception from Linkage Fees to customer orders is equitable, reasonable and not unfairly discriminatory because non-customer (e.g., broker-dealer proprietary) orders originate from broker-dealers who are by and large more sophisticated than public customers and can readily control the exchange to which their orders are routed. While there may be some sophisticated customers who are capable of directing the exchange to which their orders are routed, generally, retail customers submit orders to their brokerages but do not or cannot specify the exchange to which a customer order is sent. Therefore, non-customer order flow can, in most cases, more easily route directly to other markets if desired and thus avoid Linkage Fees. This includes the ability of broker-dealers to sweep better-priced away markets in connection with routing large orders to CBOE's floor for handling by floor brokers. Moreover, the Commission has a long history of permitting differential treatment of customers and non-customer investors.⁶ Therefore, it is equitable to assess a reasonable fee to cover the costs incurred for processing non-customer Linkage orders while continuing to exempt such customer orders.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

⁶ See the Exchange Fees Schedule, which provides for differential treatment of customer and non-customer orders in at least 14 places, and has been permitted by the Commission, and more directly, the BATS Exchange, Inc. ("BZX"), BATS Y-Exchange, Inc. ("BYX"), NASDAQ Options Market ("NOM") and NYSE Amex LLC ("NYSE Amex") Fee Schedules, which provide for different pricing for the routing of customer and non-customer orders through Linkage.

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

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) of the Act⁷ and subparagraph (f)(2) of Rule 19b-4⁸ 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-2011-052 on the subject line.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 C.F.R. [sic] 240.19b-4(f)(2).

Paper comments:

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

All submissions should refer to File Number SR-CBOE-2011-052. 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 also will be available for inspection and copying at the principal office of CBOE. 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-2011-052 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Cathy H. Ahn
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).