

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79086; File No. SR-CBOE-2016-072)

October 12, 2016

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

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 30, 2016, 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 Fees Schedule. The text of the proposed rule change is available on the Exchange’s website (<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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 amend its Fees Schedule, effective October 3, 2016. Specifically, the Exchange proposes to increase the transaction fee for Professional Customers and Voluntary Professionals (“W” origin code) (“Professionals”) for all manual transactions in all penny and non-penny equity, index (excluding Underlying Symbol List A³), ETF and ETN option classes from \$0.00 per contract to \$0.12 per contract. The Exchange recently reduced this fee from \$0.25 per contract to \$0.00 per contract, which amount was comparable to the amount assessed to similar transactions for Professionals at another exchange.⁴ Upon further review of manual transaction fees, the Exchange proposes to increase the fee to restore a more competitive balance among Professionals and broker-dealers (which pay manual transaction fees in varying amounts⁵) with respect to manual transactions on the Exchange’s trading floor. The Exchange notes the proposed \$0.12 fee is lower than the \$0.25 fee assessed to Professionals for manual transactions prior to September 1, 2016. Additionally, the proposed change is consistent with the approximate average transaction fee amount assessed to market-makers for manual transactions.⁶

³ See CBOE Fees Schedule, Footnote 34.

⁴ See Securities Exchange Act Release No. 34-78786 (September 8, 2016), 81 FR 63242 (September 14, 2016) (SR-CBOE-2016-066).

⁵ See CBOE Fees Schedule, Equity, ETF and ETN, and Index Options Rate Tables.

⁶ See CBOE Fees Schedule, Liquidity Provider Sliding Scale for the transaction

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.⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ 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 facilitating 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 Section 6(b)(4) of the Act,⁹ 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 it is reasonable to increase the transaction fee for Professionals for manual transactions in all penny and non-penny equity, index (excluding Underlying Symbol List A), ETF and ETN options classes to \$0.12 per contract because it is lower than the \$0.25 fee assessed to Professionals for manual transactions prior to September 1, 2016. Additionally, the proposed fee is consistent with the approximate average transaction fee amount assessed to market-makers for manual

fees for market-makers based on volume thresholds.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78f(b)(4).

transactions. The Exchange believes it is equitable and not unfairly discriminatory to propose to increase the manual transaction fee only for Professionals because it is designed to create a more competitive balance between Professionals (who have trading characteristics akin to broker-dealers) and broker-dealers for open outcry trades. With respect to manual transactions, Professionals often participate on trades in a similar manner as broker-dealers, and therefore the Exchange believes it is reasonable for Professionals to pay a transaction fee for those trades so they can compete on more equal footing for participation on those trades.¹⁰ Additionally, because the proposed fee is lower than the \$0.25 fee Professionals were assessed for manual transactions prior to September 1, 2016, the Exchange believes the proposed fee change will continue to attract a greater number of Professional orders for those classes, which may create greater trading opportunities that benefit all market participants. The Exchange lastly notes assessing a different fee amount for manual executions than for electronic executions is equitable and not unfairly discriminatory because the Exchange has expended considerable resources to develop its electronic trading platforms and recoups the costs of such expenditures through electronic transaction fees.

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

The Exchange does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition not necessary or appropriate in furtherance of the purposes of the Act because, while increasing the transaction rate to \$0.12 for manual executions in

¹⁰ See CBOE Rule 1.1(fff) and (ggg) (including Interpretation and Policy .01 to paragraph (ggg)) for the definition of Professionals.

penny and non-penny equity, index (excluding Underlying Symbol List A), ETF and ETN option classes only applies to Professionals, broker-dealers currently pay transaction fees when trading as parties to those executions. The proposed change is designed to create a more competitive balance between Professionals and broker-dealers for open outcry trading. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes only affect trading on CBOE. 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.

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 Act¹¹ and paragraph (f) of Rule 19b-4¹² 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

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f).

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. 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-2016-072 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-2016-072. 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, D.C. 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-2016-072 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.¹³

Robert W. Errett
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).