

Act of 1934 and Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The duty officer has determined that no earlier notice was practicable.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: March 10, 2014.

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71663; File No. SR-CBOE-2014-018]

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

March 7, 2014.

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 March 4, 2014, 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

CBOE proposes to amend the Fees Schedule of its CBOE Stock Exchange ("CBSX"). 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 amend the CBSX Fees Schedule in connection with a planned business and market reorganization regarding CBSX. One effect of this proposed change will be to simplify transaction fees. Currently, for transactions in securities priced \$1 or greater, there are a variety of fee and rebate tiers depending at least partly on the liquidity that a market participant adds to or removes from CBSX.<sup>3</sup> Fee amounts can also depend on the type of order being utilized or order liquidity being removed, as well as the products being traded.<sup>4</sup> For transactions in securities priced less than \$1, CBSX assesses different fee amounts depending on whether the market participant is a Maker or a Taker. CBSX now proposes to cease offering a Maker-Taker pricing structure that may distinguish fee and rebate amounts based upon amount of liquidity added or removed by the market participant, the product being traded, or whether the trade adds liquidity using a silent, silent-mid, or silent-post-mid order, or removes silent, silent-mid, or silent-post-mid liquidity. Instead, the Exchange proposal would simplify its pricing. For transactions in securities priced \$1 or greater, whether Maker or Taker, CBSX will assess a fee of \$0.0030 per share. For transactions in securities priced less than \$1, whether Maker or Taker, CBSX will assess a fee of 0.30% of the dollar value of the transaction. Along with aiding in preparation for a planned business and market reorganization regarding CBSX, the Exchange believes that the proposed

simplified fee structure may make it easier for market participants to determine which fees apply to their transactions.

CBSX also proposes to eliminate its Inactivity Fee.<sup>5</sup> The Inactivity Fee is applied to CBSX Trading Permit Holders that do not transact a certain amount of shares on CBSX. CBSX no longer believes that this fee is necessary, and therefore proposes to eliminate it.

In conjunction with these proposed changes, CBSX proposes to clean up its Fees Schedule. Footnotes 1, 4, 5 and 6 to the transaction fees will no longer be applicable, and therefore CBSX proposes to delete them. Current footnotes 2 and 3 will become footnotes 1 and 2, respectively. Due to the deletion of section 5, the Inactivity Fee, all sections afterwards will be re-numbered (current section 6 becomes section 5, current section 7 becomes section 6, current section 8 becomes section 7, and current section 9 becomes section 8).

###### 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>6</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>7</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 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,<sup>8</sup> which requires that Exchange rules provide for the equitable allocation of reasonable

<sup>5</sup> The Inactivity Fee is charged to any CBSX Trading Permit Holder that trades less than an average of 100,000 shares per day over a calendar month period. This fee will be calculated monthly. The amount of this fee is \$5,000 per month. A CBSX Trading Permit Holder may not be assessed this fee until the calendar month following the first full calendar month after the effective date of the Trading Permit. If a CBSX Trading Permit Holder incurs this fee for a calendar month period but trades at least an average of 200,000 shares per day over the following calendar month period, then the Exchange will rescind the Inactivity Fee.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>3</sup> See CBSX Fees Schedule, section 2.

<sup>4</sup> See CBSX Fees Schedule, section 2. While CBSX offers different pricing for products classified as the "Select Symbols", there currently are no products listed as "Select Symbols".

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

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

dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed new fees structure, for transactions priced \$1 or greater and for those priced less than \$1, is reasonable because the amounts are similar to those assessed by other exchanges or by CBSX,<sup>10</sup> and is consistent with those limits set by Regulation NMS.<sup>11</sup> Further, the Exchange believes that the proposed simplified fee structure may make it easier for market participants to determine which fees apply to their transactions. The Exchange believes that the proposed new fees structure is equitable and not unfairly discriminatory because it will apply to all market participants and will not distinguish fee and rebate amounts based upon whether the market participant is a Maker or Taker, the amount of liquidity added or removed by the market participant, the product being traded, or whether the trade adds liquidity using a silent, silent-mid, or silent-post-mid order, or removes silent, silent-mid, or silent-post-mid liquidity.

The Exchange believes that the elimination of the Inactivity Fee is reasonable because market participants that would otherwise have qualified to be assessed the fee now will not be assessed the fee. The Exchange believes that this elimination is equitable and not unfairly discriminatory because it will apply to all market participants, and nobody will be assessed the Inactivity Fee.

The Exchange believes that cleaning up the Fees Schedule by deleting no-longer-relevant footnotes and amending the numbering of sections due to the deletion of the Inactivity Fee will eliminate potential confusion and make the Fees Schedule easier to read, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system.

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

CBSX 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. CBSX does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes apply to all CBSX market participants equally. CBSX does not believe that 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 apply to trading on CBSX. To the extent that the proposed changes may make CBSX a more attractive trading venue to market participants at other exchanges, such market participants may elect to become CBSX 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 Act<sup>12</sup> and paragraph (f) of Rule 19b-4<sup>13</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. 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-2014-018 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-2014-018. 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-2014-018 and should be submitted on or before April 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

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

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<sup>9</sup> *Id.*

<sup>10</sup> BATS Exchange, Inc. ("BATS") assesses a fee of \$0.0030 per share that removes liquidity for all securities priced \$1.00 or above (see BATS Fee Schedule). For Taker transactions in securities priced less than \$1, CBSX already assesses a fee of 0.30% of the dollar value of the transaction; CBSX merely proposes to assess the same fee amount for the Maker side of such transactions.

<sup>11</sup> See 17 CFR 242.610(c)(1)-(2).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f).

<sup>14</sup> 17 CFR 200.30-3(a)(12).