



This document is scheduled to be published in the Federal Register on 07/09/2013 and available online at <http://federalregister.gov/a/2013-16380>, and on FDsys.gov

8011-01p

**SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69916; File No. SR-CBOE-2013-065)**

July 2, 2013

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

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 24, 2013, 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend the Fees Schedule of its CBOE Stock Exchange. 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 specified in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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. First, CBSX proposes to establish a separate fees structure for transactions in AMD, BAC, MU, NOK and SIRI (the “Select Symbols”) that is different than the fees for transactions in all other symbols (all fees discussed in this proposed rule change apply to transactions in securities priced \$1 or greater; CBSX does not propose to amend any fees for transactions in securities priced less than \$1). Currently, transactions in all securities (including the Select Symbols) are subject to the following fees structure:

Execution Type	Rate
Maker (adds less than 0.08% of TCV of liquidity in one day) (1)(5)	\$0.0018 per share
Maker (adds at least 0.08% but less than 0.16% of TCV of liquidity in one day) (1)(5)	\$0.0017 per share
Maker (adds at least 0.16% but less than 0.24% of TCV of liquidity in one day) (1)(5)	\$0.0016 per share
Maker (adds at least 0.24% but less than 0.42% of TCV of liquidity in one day) (1)(5)	\$0.0015 per share
Maker (adds 0.42% or more of TCV of liquidity in one day) (1)(5)	\$0.0014 per share

Taker (removes 9,999,999 shares or less of liquidity in one day (1) or less than 85% Execution Rate)	\$0.0015 rebate per share
Taker (removes 10,000,000 shares or more of liquidity in one day (1) and equal to or greater than 85% Execution Rate)	\$0.0017 rebate per share
Maker (adds liquidity using a silent order)	\$0.0018 per share
Taker (removes silent order liquidity)	\$0.0014 rebate per share
Maker (adds liquidity using a silent-mid or silent-post-mid order)	\$0.0008 per share
Taker (removes silent-mid or silent-post-mid liquidity)	\$0.0004 rebate per share

CBSX hereby proposes to except the Select Symbols out of this structure. Instead, CBSX proposes to assess a fee of \$0.0050 per share for Maker transactions in the Select Symbols (including to a Maker who adds liquidity using a silent, silent-mid or silent-post-mid order) and provide a rebate of \$0.0045 per share for Taker transactions in the Select Symbols (including to a Taker who removes silent, silent-mid or silent-post-mid liquidity). CBSX proposes this change due to the liquidity profiles of the Select Symbols. The NBBO market width in the Select Symbols is most often \$0.01, and the proposed fee and rebate structure for the Select Symbols is designed to get close to synthesizing a midpoint between the NBBO. For example, say the market in a select symbol is 3.15 – 3.16. In the case of the proposed pricing in the Select Symbols, a participant would be able to buy the displayed offer at 3.16 and receive a \$0.0045 rebate per share, which is similar to the economics of a midpoint execution. The “Select Symbols” will be defined in the proposed new Footnote 6 to the Fees Schedule.

CBSX does not propose to amend fees for all other symbols (all symbols except for the Select Symbols), with the exception of fees and rebates related to silent, silent-mid and silent-post-mid orders. Currently, CBSX provides a rebate of \$0.0014 per share for Taker orders that remove silent order liquidity, and \$0.0004 per share for Taker orders that remove silent-mid or silent-post-mid liquidity. CBSX proposes to increase these rebates to \$0.0015 per share. This normalizes the Taker rebate for orders that remove silent, silent-mid, or silent-post-mid liquidity with the regular Taker rebate (for a Taker who removes 9,999,999 shares of liquidity in one day or less than 85% Execution Rate). In conjunction with this rebate increase, CBSX proposes to increase the fee for a Maker that adds liquidity using a silent-mid or silent-post-mid order to \$0.0018 per share in order to help offset the increases in the rebate for Taker orders that remove silent, silent-mid, or silent-post-mid liquidity. The fee for a Maker that adds liquidity using a silent order is already \$0.0018 per share.

The proposed changes are to take effect on July 1, 2013.

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.³ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁴ 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 that the proposed fees and rebates for the Select Symbols are reasonable because the amount of the proposed Maker fee is merely \$0.0005 greater than the amount of the proposed Taker rebate, and because the NBBO

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(4).

market width in the Select Symbols in the Select Symbols is often \$0.01, and the proposed fee and rebate structure for the Select Symbols is designed to get close to synthesizing a midpoint between the NBBO. The Exchange notes that the proposed fees for the Select Symbols do not violate the limitation on access fees described in Rule 610 of Regulation NMS as the \$0.0050 per share proposed fee is a Maker fee, and Rule 610(c)(1)'s prohibition of fees greater than \$0.0030 applies to orders that execute against a quotation (Taker orders).⁵

The Exchange believes that offering a different fee and rebate structure for the Select Symbols is equitable and not unfairly discriminatory because the liquidity profiles of the Select Symbols are different from those for other symbols. The NBBO market width in the Select Symbols in the Select Symbols is often \$0.01, and the proposed fee and rebate structure for the Select Symbols is designed to get close to synthesizing a midpoint between the NBBO. Further, the proposed fee and rebate structure for the Select Symbols is intended to incentivize the trading on the Select Symbols. Finally, the proposed fees and rebates for the Select Symbols will apply equally to all market participants.

The Exchange believes that it is reasonable to increase, for all other symbols, the rebate for a Taker who removes silent order liquidity from \$0.0014 per share to \$0.0015 per share and for a Taker who removes silent-mid or silent-post-mid liquidity from \$0.0004 per share to \$0.0015 per share because this will allow such Takers to receive a greater rebate for such

⁵ 17 CFR 242.610. The relevant section of Rule 610(c) states: “(c) Fees for access to quotations. A trading center shall not impose, nor permit to be imposed, any fee or fees for the execution of an order against a protected quotation of the trading center or against any other quotation of the trading center that is the best bid or best offer of a national securities exchange, the best bid or best offer of The Nasdaq Stock Market, Inc., or the best bid or best offer of a national securities association other than the best bid or best offer of The Nasdaq Stock Market, Inc. in an NMS stock that exceed or accumulate to more than the following limits: (1) If the price of a protected quotation or other quotation is \$1.00 or more, the fee or fees cannot exceed or accumulate to more than \$0.003 per share;”

activity. The Exchange believes this is equitable and not unfairly discriminatory because it will set the rebate for a Taker who removes silent order liquidity and silent-mid or silent-post-mid liquidity at the same amount, as well as the same amount as the regular Taker rebate (for a Taker who removes 9,999,999 shares of liquidity in one day or less than 85% Execution Rate). Further, this rebate will apply equally for all market participants.

The Exchange believes that it is reasonable to increase, for all other symbols, the fee for a Maker who adds liquidity using a silent-mid or silent-post-mid order to \$0.0018 per share because this amount is within the range of other Maker fees assessed by CBSX. Further, this increase is necessary in order to offset the above-mentioned increase in the rebate for a Taker who removes silent-mid or silent-post-mid liquidity. CBSX believes that this increase is equitable and not unfairly discriminatory because it will make the amount of the fee for a Maker who adds liquidity using a silent-mid or silent-post-mid order the same as the amount of the fee for a Maker who adds liquidity using a silent order. Further, this fee will apply equally for all market participants.

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

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. CBSX does not believe that the proposed rule change will impose any burden on intermarket competition because these changes apply solely to trading on CBSX. To the extent that the proposed new fees structure for the Select Symbols or the changes to fees and rebates for orders involving silent, silent-mid and silent-post-mid liquidity may make CBSX a more attractive trading venue for market participants on other exchanges, such market participants may elect to become CBSX

market participants. Indeed, these changes may enhance competition by encouraging other exchanges to amend their fees to provide more attractive fees and rebate structures for their 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 Act⁶ and paragraph (f) 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. 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 e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2013-065 on the subject line.

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f).

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-2013-065. 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 20549-1090, 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-2013-065, 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.⁸

Elizabeth M. Murphy
Secretary

[FR Doc. 2013-16380 Filed 07/08/2013 at 8:45 am; Publication Date: 07/09/2013]

⁸ 17 CFR 200.30-3(a)(12).