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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-72608; File No. SR-CBOE-2014-055)

July 15, 2014

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

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 July 1, 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

The Exchange proposes to amend its 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 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.

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

<sup>2</sup> 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 proposes to amend its Fees Schedule, to be effective July 1, 2014. First, the Exchange proposes to increase the fees for electronic Professional/Voluntary Professional (W) (“Professional”) and Joint Back Office (J) (“JBO”) executions in equity, ETF, ETN and index options classes (except, SPX, SPXW, SPXpm, SRO, OEX, XEO, VIX, VXST and VOLATILITY INDEXES (the “Special Classes”)) from \$0.30 to \$0.45 for Penny Pilot Classes and \$0.60 for Non-Penny Pilot Classes. The Exchange notes that the proposed fees are the same amount that are currently assessed to Broker-Dealers and non-Trading Permit Holder Market Makers. The Exchange also notes that this change is being proposed due to competitive reasons and that the increased amount is within the range of fees assessed for similar transactions on other exchanges.<sup>3</sup>

The Exchange also proposes to amend its Fees Schedule to adopt a fee of \$200 per report per FBW group<sup>4</sup> per month for daily reports provided to requesting users of the Exchange’s aggregation Floor Broker Workstation (which are used on the Exchange trading floor to enter orders) (“FBW”). The Exchange licenses the FBW software from a third-party vendor, which vendor operates FBW on behalf of the Exchange. This vendor also provides upon request by TPHs on an ad hoc basis reports related to their use of FBW. For example, some TPHs request reports related to the orders they enter on FBWs. Other TPHs request reports related to their

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<sup>3</sup> See PHLX Pricing, Section II, Multiply Listed Options Fees.

<sup>4</sup> For business purposes, a Trading Permit Holder (“TPH”) firm may group FBW users within that firm into an FBW aggregation group (for example, a TPH may have an index group and an equity group). If a TPH has FBW aggregation groups, the proposed fee will be applied to each group. For example, if a TPH has an FBW index group and an FBW equity group, and the TPH requests that it receive daily market access control reports for both groups, the Exchange will charge the TPH \$400/month under the proposed fee.

market access control settings.<sup>5</sup> Currently, TPHs receive these ad hoc reports at no charge. Recently, however, FBW users have requested that they automatically receive reports on a daily basis. The FBW vendor has determined that the cost to provide a daily report for a TPH (or a TPH's FBW aggregation group, if applicable) is \$200 per month and will assess to the Exchange a fee in this amount for the provision of each daily report (for each FBW aggregation group) to a TPH.<sup>6</sup> As such, the Exchange proposes to charge a fee in the same amount (\$200 per report per month)<sup>7</sup> to each TPH that requests to receive a daily report(s) (for each FBW aggregation group, if applicable). The proposed fee essentially passes through to each requesting TPH the cost charged to the Exchange for daily reports for that TPH so that the Exchange can recoup this cost. Receipt of the daily reports, and thus the proposed fee, will be optional for TPHs.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (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>8</sup> Specifically, the

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<sup>5</sup> FBW includes a market access control window in which TPHs can input parameters and settings (which are displayed for each FBW aggregation group) with respect to their orders to help them manage their trading risk. These risk controls include pre-order controls (such as quantity of contracts per order, premium amount per order, number of identical orders and frequency of order entry) and aggregate controls (such as actual and predictive values for premium amount per day, quantity of contracts per day, and the number of orders with a status of working). Use of the market access control window is voluntary. Pursuant to the CBOE Fees Schedule, the Exchange charges TPHs \$100/month per login ID (capped at \$2,000 per month for a TPH) for use of the market access controls window costs.

<sup>6</sup> TPHs that want to receive daily reports should request them from the Exchange (as they currently do with respect to the ad hoc reports).

<sup>7</sup> For example, if a TPH requests that it receive a daily report for its orders and a daily report for its market access control settings, the Exchange will charge the TPH \$400 per month (\$200 for the order report and \$200 for the market access control report).

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

Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</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 facilitation 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. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>10</sup> which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders.

In particular, the Exchange's proposal to increase the electronic Professional and JBO options transaction fee in Penny Pilot Options to \$0.45 per contract and in Non-Penny Pilot Options to \$0.60 is reasonable because the Exchange's fees will remain competitive with fees at other options markets.<sup>11</sup> The Exchange believes that this proposed change is equitable and not unfairly discriminatory because the Exchange will assess Professionals, JBOs, Broker-Dealers and non-Trading Permit Holder Market Makers the same electronic options transaction fees in Penny Pilot options and Non-Penny options. The Exchange notes that it does not assess Customers the electronic options transaction fees in Penny Pilot and Non-Penny Pilot options because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market

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<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> See PHLX Pricing, Section II, Multiply Listed Options Fees.

participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The Exchange notes that Market Makers are assessed lower electronic options transaction fees in Penny Pilot and Non-Penny Pilot options as compared to Professionals, JBOs, Broker Dealers and non-Trading Permit Holder Market Makers because they have obligations to the market and regulatory requirements, which normally do not apply to other market participants (e.g., obligations to make continuous markets). Accordingly, the differentiation between electronic transaction fees for Customers, Market Makers and other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants.

The Exchange believes that the proposed fee of \$200 per file per month (for each FBW aggregation group, if applicable) for the receipt of daily reports is reasonable because this is the cost imposed on the Exchange by the third-party vendor for the provision of these reports. The proposed fee merely allows the Exchange to recoup this cost by passing it through to the requesting TPH. The Exchange will not keep any of the fees assessed on TPHs. The Exchange believes that the proposed fee is equitable and not unfairly discriminatory because this fee is optional and will be assessed uniformly to all TPHs that request the daily market access control.

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 that is not necessary or appropriate in furtherance of the purposes of the Act because, while different electronic transaction fees are assessed to different market participants, these different market participants have different obligations and different circumstances (as described in the "Statutory Basis" section above). For example, Market Makers have quoting obligations that other market participants do not have and Customer order flow enhances liquidity on the Exchange for the benefit of all market participants as described in above. The

Exchange believes that the proposal to increase the fee amount assessed to electronic Professional and JBO executions in Penny Pilot and Non-Penny Pilot options will not cause an unnecessary burden on intermarket competition because the fee and fee amount is similar to fees assessed at other exchanges.<sup>12</sup> 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.

Finally, CBOE does not believe that the proposed rule change to adopt a FBW Report Fee will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed fee will be assessed uniformly to all TPHs that use FBW and request the daily reports. Receipt of the daily reports (and thus the proposed fee) will be optional for TPHs. In addition, the proposed fee applies only to users of FBWs located at the Exchange and is not intended for competitive reasons. The proposed fee merely allows the Exchange to recoup the cost imposed on it by the third-party vendor for the provision of these daily reports by passing it through to each requesting TPH.

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>13</sup> and paragraph (f) of Rule 19b-4<sup>14</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,

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<sup>12</sup> See PHLX Pricing, Section II, Multiply Listed Options Fees.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f).

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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2014-055 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-2014-055. 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-2014-055 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.<sup>15</sup>

Kevin M. O'Neill,  
Deputy Secretary.

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<sup>15</sup> 17 CFR 200.30-3(a)(12).