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SECURITIES AND EXCHANGE COMMISSION  
[Release No. 34-73832; File No. SR-CBOE-2014-092]

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

December 12, 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 December 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

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

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

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 December 1, 2014. First, the Exchange proposes to amend the Trade Processing Services fee. Currently, the Exchange assesses a \$0.0025 fee per contract side for each matched and unmatched trade. The Exchange notes that unmatched trades are also charged if and when they become matched. As such, the Exchange does not believe it's necessary to charge unmatched trades the Trading Processing Fee, as the trades ultimately will be charged once matched. The Exchange further notes that when the fee was adopted, the billing processes were done manually and the fee helped offset the work involved in processing each of the trades, both matched and unmatched. The Exchange notes that this billing process is now automated and does not believe it is necessary to continue to bill unmatched trades. The Exchange additionally proposes to explicitly state in the Fees Schedule that for billing purposes, the Trade Processing Services fee will be rounded to the nearest \$0.01 using standard rounding rules on a monthly basis.

Currently, the Fees Schedule states that the quoting bandwidth allowance for a Market-Maker Trading Permit is equivalent to a maximum of 32,400,000 quotes over the course of a trading day. The Exchange intends to increase quoting bandwidth allowance by 10%. As such, the Exchange seeks to make a corresponding amendment to the Fees Schedule. Specifically, the Exchange proposes to update the number of maximum quotes over the course of trading day from 32,400,000 to 35,640,000. The Exchange notes that the

increase of quoting bandwidth allowance applies to all Market-Maker Trading Permits and all Quoting and Order Entry Bandwidth Packets.

The Exchange always strives for clarity in its rules and Fees Schedule, so that market participants may best understand how rules and fees apply. As such, the Exchange proposes to clarify its use of the terms “multiply-listed” (or “multi listed”) and “single-listed” options classes in the Fees Schedule. In conjunction with these clarifying changes, the Exchange also proposes to use the term “Underlying Symbol List A” in the Fees Schedule to refer to a specific set of proprietary products (i.e., OEX, XEO, SPX (including SPXw), SPXpm, SRO, VIX, VXST, VOLATILITY INDEXES and binary options).

By way of background, the Exchange notes that a specific set of proprietary products are commonly listed out in the Fees Schedule as being included or excluded from a variety of programs, qualification calculations and transactions fees. In lieu of listing out these products in various sections of the Fees Schedule, the Exchange proposes to use the term “Underlying Symbol List A,” to represent these products, which the Exchange believes will simplify the Fees Schedule and make it easier to read. Underlying Symbol List A shall represent the following: OEX, XEO, SPX (including SPXw), SPXpm, SRO, VIX, VXST, VOLATILITY INDEXES and binary options. The Exchange proposes to add a new Footnote (i.e., Footnote 34), which defines the term “Underlying Symbol List A” as referring to the products listed above.

The Exchange next proposes to amend the Liquidity Provider Sliding Scale table. The Liquidity Provider Sliding Scale provides reduced transaction fees for a CBOE Market-Maker based on the Market-Maker executing a certain number of contracts per month. Currently, the Liquidity Provider Sliding Scale table provides that the volume thresholds are

“based on total national Market-Maker volume of any option classes with traded volume on CBOE during the calendar month.” Additionally, the notes section of the Liquidity Provider Sliding Scale table provides that the reduced transaction fees are not applicable to “mini-options, SPX, SPXpm, SRO, VIX, VXST, VOLATILITY INDEXES, OEX or XEO.” The Exchange proposes to change how the volume thresholds are calculated. Specifically, the Exchange proposes that the volume thresholds be based on the total national Market-Maker volume in all underlying symbols excluding those in Underlying Symbol List A and mini-options. The Exchange notes that currently, the calculation of the volume thresholds for the Liquidity Provider Sliding Scale is based on total national Market-Maker volume of any options classes with traded volume on CBOE during the calendar month and excludes volume in products that may not be listed on CBOE. As certain options classes may have volume traded on CBOE in some months, but not others, the Exchange believes it is more challenging for Trading Permit Holders (“TPHs”) to anticipate which classes will be part of the calculation each month and how that may or may not affect which tier and transaction fee will apply to them. The Exchange believes the proposed rule change eliminates this uncertainty by including all options classes except those in Underlying Symbol List A (and mini-options), which will reduce confusion and make it easier for TPHs to calculate and anticipate what volume threshold tier they will fall into each month and consequently which rates will be applicable to them. Additionally, the Exchange believes the proposed change will more accurately reflect which option classes are counted towards the qualifying volume thresholds. Lastly with respect to the Liquidity Provider Sliding Scale, the Exchange proposes to replace the list of products for which the Liquidity Provider Sliding Scale does not apply with the term “Underlying Symbol List A.”

The Exchange also proposes to amend the CBOE Proprietary Products Sliding Scale table. Currently, the CBOE Proprietary Products Sliding Scale table provides that Clearing Trading Permit Holder Proprietary transaction fees and transaction fees for Non-Clearing Trading Permit Holder Affiliates in OEX, XEO, SPX, SPXpm, VIX, VXST, and VOLATILITY INDEXES are reduced provided a Clearing Trading Permit Holder reaches certain volume thresholds in “multiply-listed” options classes on the Exchange in a month. The Exchange proposes to replace the list of proprietary products set forth in the notes section with the term “Underlying Symbol List A.”<sup>3</sup> The Exchange also proposes to replace the term “multiply-listed” with the following language: “all underlying symbols excluding Underlying Symbol List A and mini-options.” The Exchange notes that the proposed change more accurately describes which option classes are included in the qualification thresholds for the CBOE Proprietary Products Sliding Scale. Particularly, the Exchange notes that DJX, XSP, and XSPAM are included towards the qualification thresholds of the CBOE Proprietary Products Sliding Scale. Specifically, DJX and XSP are used to compete with multi-listed products that are also listed on CBOE (for example, the singly-listed XSP options compete with the multiply-listed SPY options, both of which approximate 1/10 of the S&P 500 Index, and the singly-listed DJX options compete with the multiply-listed DIA options, both of which are based on 1/100 of the value of the Dow Jones Industrial Average). Including the multiply-listed products for qualification towards the CBOE Proprietary Products Sliding Scale while excluding their singly-listed competitors could create a pricing advantage that might discourage trading in some of the singly-listed products that the Exchange expended

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<sup>3</sup> Although included in the proposed Footnote 34 definition of “Underlying Symbol List A,” the Exchange notes that SROs are excluded from the CBOE Proprietary Products Sliding Scale. This exclusion is already, and will continue to be, referenced in the Notes section of the CBOE Proprietary Products Sliding Scale table.

resources to develop. As such, the Exchange includes these singly-listed products for qualification towards the CBOE Proprietary Products Sliding Scale along with their multiply-listed competitors. The Exchange believes the proposed change makes the CBOE Proprietary Sliding Scale table easier to read and more clearly describes the option classes included and excluded in the threshold volumes. The Exchange also proposes to make corresponding changes to Footnote 23, which Footnote relates to the CBOE Proprietary Sliding Scale.

The Exchange next proposes to amend the Volume Incentive Program (VIP) table. Under VIP, the Exchange credits each TPH the per contract amount set forth in the VIP table resulting from each public customer (“C” origin code) order transmitted by that TPH which is executed electronically on the Exchange in all “multiply-listed option classes,” with certain exclusions, provided the TPH meets certain volume thresholds in “multiply-listed options classes.” The Exchange proposes to replace the term “multiply-listed options classes” with the phrase “all underlying symbols excluding Underlying Symbol List A, RUT, DJX, XSP, XSPAM, credit default options, credit default basket options and mini-options.” The Exchange notes that the VIP Program has always been limited to multiply-listed options classes (i.e., options listed and traded on another national securities exchange) and mini-options. The Exchange believes the proposed change more clearly describes the option classes that are currently excluded from the VIP volume thresholds and per contract credit.

The Exchange proposes to similarly amend Footnote 12 (relating to Clearing Trading Permit Holder Proprietary Transaction Fees). Currently, Footnote 12 of the Fees Schedule provides that the Clearing Trading Permit Holder Proprietary Transaction Fee will be waived for Clearing Trading Permit Holders executing facilitation orders in “multiply-listed” FLEX

Options classes. The Exchange proposes to change the reference to “multiply-listed” FLEX options to “FLEX options in all underlying symbols excluding Underlying Symbol List A, credit default options and credit default basket options.” The Exchange believes the proposed change more accurately describes which Flex options will and will not have the Clearing Trading Permit Holder Transaction Fee waived. For the reasons described above, the Exchange notes that Clearing Trading Permit Holder Proprietary Transaction Fees are waived for DJX, XSP, and XSPAM, as not waiving Clearing Trading Permit Holder Proprietary Transaction Fees for both these products and their multiply-listed competitors could create a pricing advantage that might discourage trading in some of the singly-listed products that the Exchange expended resources to develop.

Current Footnote 25, which governs rebates on Floor Broker Trading Permits, also references the term “multiply-listed options classes.” Specifically, Footnote 25 provides that any Floor Broker that executes a certain average of customer open-outcry contracts per day over the course of a calendar month in “multiply-listed option classes,” excluding subcabinet trades, will receive a rebate on that Floor Broker’s Trading Permit Holder’s Floor Broker Trading Permit Fees. The Exchange proposes to replace the term multiply-listed options classes” with “all underlying symbols excluding Underlying Symbol List A, DJX, XSP, XSPAM, credit default options, credit default basket options” and also proposes to not count mini-options towards the Floor Broker Trading Permit rebate. The Exchange believes the proposed rule change provides consistency in the Fees Schedule and makes clear which option classes are meant to be included (and excluded) in the calculation of the volume threshold used to qualify for the rebate.

Finally, the Exchange proposes to remove the reference to “single-listed options traded on CBOE” in Footnotes 29 and 30 (relating to the Order Router Subsidy (“ORS”) and Complex Order Router Subsidy (“CORS”) Programs) and instead reference the options classes “included in Underlying Symbol List A, DJX, XSP or XSPAM.” The Exchange notes that each of the products listed in Underlying Symbol List A are considered “single-listed” products, as are DJX, XSP and XSPAM (i.e., not listed and traded on another national securities exchange) and that no substantive changes are being made by this change. Rather, the proposed change is intended to provide further consistency and clarity in the Fees Schedule.

## 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>4</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>5</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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>6</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination

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

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

<sup>6</sup> Id.

between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>7</sup> 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.

In particular, the Exchange believes it is reasonable and equitable to cease charging the Trade Processing Services fee for unmatched trade data. As noted above, unmatched trades will be charged if and when they become matched. As such, the Exchange does not believe it's necessary to assess the Trading Processing Fee to unmatched trades. Additionally, when the fee was originally introduced, the billing processes for assessing this fee were done manually and the fee helped offset the work involved in matched and unmatched data. As the billing process is now automated, the Exchange does not believe it is necessary to continue to bill unmatched trades. The Exchange believes it's reasonable to cease charging unmatched trade data the Trade Processing Services fee because it will merely result in Trading Permit Holders no longer being subject to this fee. The Exchange believes the proposed change is not unfairly discriminatory as it applies equally to all Trading Permit Holders, who no longer will be charged the fee for unmatched trade data. Additionally, all trades, once matched, will continue to be charged the fee. The Exchange believes providing in the Fees Schedule that for billing purposes, the Trade Processing Services fee will be rounded to the nearest \$0.01 using standard rounding rules on a monthly basis, will alleviate confusion as to how the fee, which is under \$0.01, will be assessed. The alleviation of potential confusion will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

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<sup>7</sup> 15 U.S.C. 78f(b)(4).

The Exchange also believes that amending the Fees Schedule to accurately reflect the increase in quoting bandwidth allowance, alleviates confusion, thereby removing impediments to and perfecting the mechanism of a free open market and a national market system, and, in general, protect investors and the public interest.

The Exchange believes it is equitable, reasonable and not unfairly discriminatory to include DJX, XSP and XSPAM towards qualification of the CBOE Proprietary Products Sliding Scale and to waive Clearing Trading Permit Holder Proprietary Transaction Fees for DJX, XSP and XSPAM as these products are used to compete with multi-listed products that are also listed on CBOE (as explained above). The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to not count mini-option volume towards the Floor Broker Trading Permit rebate. The Exchange notes that it funds the costs associated with mini-options with revenues only from those participants who trade them. The Exchange also notes that the cost to process quotes, orders and trades in mini-options is the same as for standard options. Including mini-option volume towards the qualifying threshold for a Floor Broker Trading Permit rebate might necessitate raising costs for other market participants; therefore, the Exchange believes that the exclusion of mini-options is both reasonable and equitable. Further, as the measuring stick to determine whether a Trading Permit Holder meets the qualifying thresholds is the number of contracts traded, it would be difficult for the Exchange to count mini-option contracts, since they effectively function as 1/10th of a regular standard options contract.

Finally, the Exchange believes that eliminating potentially vague terms like “multiply-listed options classes” and “single-listed option classes” and replacing those terms with more explicit references to which option classes are or are not included or excluded in a

program alleviates potential confusion. The Exchange believes the proposed rule changes also eliminates uncertainty as to which options classes will or will not be used in calculating certain volume, which will reduce confusion and make it easier for TPHs to calculate and anticipate what volume thresholds they will meet and consequently which rates will be applicable to them. The Exchange believes that defining and then using the term “Underlying Symbol List A” to represent a commonly referred to set of proprietary products in lieu of listing out these products in various sections of the Fees Schedule simplifies the Fees Schedule and makes it easier to read. The alleviation of potential confusion will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

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. CBOE 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 Trading Permit Holders. The Exchange believes that the proposal to cease charging the Trade Processing Services fee for unmatched trade data will not cause an unnecessary burden on intermarket competition because other exchanges already do not charge a similar fee. 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 written 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>8</sup> and paragraph (f) of Rule 19b-4<sup>9</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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2014-092 on the subject line.

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f).

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2014-092. 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-2014-092 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>10</sup>

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<sup>10</sup> 17 CFR 200.30-3(a)(12).

Kevin M. O'Neill,  
Deputy Secretary.

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