



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77758; File No. SR-CBOE-2016-040]

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

May 3, 2016

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 April 21, 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 and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 to update references to quoting bandwidth. The text of the proposed rule change is available on the Exchange’s website

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

(<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 its Fees Schedule, effective April 21, 2016.

The Fees Schedule currently sets forth the quoting bandwidth allowance for a Market-Maker Trading Permit. The bandwidth allowance is referenced as a maximum number of quotes over the course of the trading day (currently 35,640,000). The Exchange notes however, that the current reference applies to the Regular Trading Hours session ("RTH") only. In order to avoid confusion and maintain clarity and transparency in the rules, the Exchange proposes to add a reference to the quoting bandwidth allowance for an Extended Trading Hours⁵ ("ETH") Market-Maker Trading Permit (i.e., 37,500,000 quotes over the course of the ETH session)⁶. The Exchange notes that ETH

⁵ Extended Trading Hours are from 2:00 a.m. Central time ("CT") to 8:15 a.m. (CT) on Monday through Friday.

⁶ The Exchange notes that prior to April 18, 2016, the maximum bandwidth quoting allowance during ETH was 33,000,000 quotes over the course of the ETH session.

bandwidth applies to all ETH Market-Maker Trading Permits and all ETH Quoting and Order Entry Bandwidth Packets. The Exchange also notes that the trading hours for RTH and ETH differ and as such, an ETH Market-Maker Trading Permit is equivalent to a different maximum number of quotes over the course of the trading session.⁷

The Exchange next proposes to update the bandwidth currently set forth in Fees Schedule. The Fees Schedule currently states that the quoting bandwidth allowance for a Market-Maker Trading Permit is equivalent to a maximum of 35,640,000 quotes over the course of a trading day. The Exchange proposes to clarify that the stated quoting bandwidth reflects the maximum number of quotes over the course of a trading “session” instead of trading “day”. Particularly, RTH and ETH are separate trading sessions that are part of the same trading day. As such, the current expression of RTH bandwidth as quotes over the course of a trading “day” is inaccurate. Next, the Exchange notes that it increased quoting bandwidth allowance, effective April 18, 2016. The Exchange therefore seeks to make a corresponding amendment to the Fees Schedule. Specifically, the Exchange proposes to update the reference to the number of maximum quotes from 35,640,000 to 40,500,000. The Exchange notes that the increase of quoting bandwidth allowance applies to all RTH Market-Maker Trading Permits and all RTH Quoting and Order Entry Bandwidth Packets.

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

⁷ The rate per second(s) for quoting bandwidth is (and has always been) the same for both the RTH and ETH sessions. Because the ETH trading session is shorter than the RTH trading session, the stated number of quotes over the course of a trading session is less for ETH than RTH.

the Exchange and, in particular, the requirements of section 6(b) of the Act.⁸ Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)⁹ 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 the section 6(b)(5)¹⁰ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that adding a reference to the quoting bandwidth allowance during ETH avoids potential confusion and maintains transparency in the Fees Schedule, thereby removing impediments to and perfecting the mechanism of a free open market and a national market system, and, in general, protecting investors and the public interest. Similarly, as RTH and ETH are separate trading sessions (but part of the same trading day), the current reference to the RTH bandwidth as a maximum number of quotes over the course of a trading “day” is no longer accurate and as such, the Exchange believes replacing “trading day” with “trading session” eliminates incorrect terminology and avoids potential confusion.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ Id.

The Exchange 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, protecting investors and the public interest. The Exchange also notes that increasing quoting bandwidth helps ensure that Market-Makers have an adequate capacity and ability to continue to make active markets, which also removes impediments to and perfects the mechanism of a free open market and a national market system, and, in general, protects 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. The Exchange 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 change applies to all Market-Makers and is merely updating the Fees Schedule to accurately reflect an increase in quoting bandwidth, update outdated terminology, and reflect what the maximum bandwidth is for ETH. The Exchange believes that the proposed rule change will not cause an unnecessary burden on intermarket competition because it only applies to 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

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,¹¹ the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³

A proposed rule change filed under Rule 19b-4(f)(6)¹⁴ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),¹⁵ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the

¹¹ The Exchange has fulfilled this requirement.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that without a waiver of the operative delay, the Fees Schedule would reflect an outdated bandwidth amount, of only one trading session, which could cause potential confusion to TPHs. The Commission believes that it is consistent with the protection of investors and the public interest to waive the 30-day operative delay so the Exchange's Fees Schedule may immediately reflect the correct bandwidth fees. For this reason, the Commission designates the proposed rule change to be operative upon filing.¹⁶

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

¹⁶ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2016-040 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-2016-040. 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-2016-040 and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Robert W. Errett,

Deputy Secretary.

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¹⁷ 17 CFR 200.30-3(a)(12).

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