SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77822; File No. SR–CBOE–2016–043]

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

May 12, 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 May 2, 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, 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 the Frequent Trader Program. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule. On April 1, 2016, the Exchange adopted a program that offers transaction fee rebates to Customers (origin code ''C'') that meet certain volume thresholds in CBOE VIX Volatility Index options (''VIX options'') and S&P 500 Index options (''SPX''), weekly S&P 500 options (''SPXW'') and p.m.-settled SPX Index options (''SPXpm'') (collectively referred to as ''SPX options'') provided the Customer registers for the program (the ''Frequent Trader Program'' or ''Program'').[3]

To participate in the Frequent Trader Program, Customers register with the Exchange. Once registered, the Customer is provided a unique identification number (''FTID'') that can be affixed to each of its orders. The FTID allows the Exchange to identify and aggregate all electronic and manual trades during both the Regular Trading Hours and Extended Trading Hours sessions from that Customer for purposes of determining whether the Customer meets any of the various volume thresholds. The Customer has to provide its FTID to the Trading Permit Holder (''TPH'') submitting that Customer's order to the Exchange (executing agent'' [sic] or ''executing TPH'') and that executing TPH would have to enter the Customer's FTID on each of that Customer's orders.[4] As there are instances in which a Customer's FTID was not or could not be, affixed to an order, the Exchange also provided executing TPHs the ability to submit to the exchange [sic] a form (the ''Frequent Trader Program—Volume Corrections Form'' or ''Corrections Form'') that would provide a mechanism for executing TPHs to identify transactions to the Exchange that should have been, but were not, associated with particular FTIDs. More specifically, the executing TPH can identify on the form the ''correct'' FTID that should be associated with a specific transaction, so that such volume is properly counted towards the appropriate Customer's aggregated volume for purposes of determining what tier, if any, the customer meets. Currently, the Fees Schedule provides that the Corrections Form must be submitted to the Exchange within 3 business days in order to ensure timely processing (''3 business day rule'').

The Exchange now proposes to provide that for the month of April 2016, it will not enforce the requirement that the Corrections Form be submitted within 3 business days and instead provide that the Corrections Form will be accepted through May 4, 2016 (by 5:00 p.m. CST), for all transactions, regardless of when in April the transaction(s) occurred. Specifically, the Exchange notes that a number of executing TPHs were unable to (i) affix FTIDs onto their Customers' orders and (ii) complete and submit the Corrections Form within 3 business days for their Customers registered in the Frequent Trader Program. Many TPHs are still familiarizing themselves with this new program and its requirements and as such the Exchange desires to give them additional time to implement their systems and procedures, including their systems and procedures related to completing and submitting the Corrections Form. Additionally, the Exchange does not wish to penalize the Customers who would miss out on rebates they would otherwise be entitled to if the deadline is not extended. Accordingly, the Exchange does not wish to enforce the 3 business day rule for April 2016. The Exchange believes providing additional time to submit Corrections Forms will ensure Customers are not unfairly deprived of any rebates that they are entitled to under the Frequent Trader Program for the month of April.

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.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] 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)[7] 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 not enforcing the 3 business day rule for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* SR–CBOE–2016–023.

[4] The Exchange notes that it is the responsibility of the Customer to request that the executing TPH affix its FTID to its order(s), and that it is voluntarily for the executing TPH to do so.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

the month of April 2016 provides executing TPHs additional time to submit Corrections Forms, which removes impediments to and perfects the mechanism of a free and open market and a national market system, and protects investors and the public interest as it avoids penalizing Customers who would otherwise miss out on rebates they are entitled to under the Frequent Trader Program. Corrections Forms allow the Exchange to ensure that a customer's total volume at the end of the month accurately reflects their real trading volume, including volume from transactions that, upon submission of the order, did not reflect their FTID. As noted above, many TPHs are still in the process of familiarizing themselves with the new Frequent Trader Program and its requirements and do not yet have the systems or procedures in place to process the Corrections Forms within the timeframe the Exchange initially required. As such, the Exchange does not believe it would be fair to the Customers to enforce the 3 business day rule for the first month of the Frequent Trader Program (*i.e.,* April 2016). Additionally, waiving the 3 business day rule for April 2016 eliminates confusion in that it gives the executing TPHs extra time to understand the requirements of the Program and implement policies, procedures, and system changes needed to properly take advantage of the program, which again removes impediments to and perfects the mechanism of a free and open market and a national market system, and 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 because the proposed change applies uniformly to all executing TPHs of Customer FTID orders and because it provides for a clear process to rectify scenarios in which a FTID(s) were not or could not be applied to Customer's order and where Corrections Forms were not submitted in a timely manner in April 2016. 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 proposed rule change 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Consistent with the protection of investors and the public interest, waiver of the 30-day operative delay will provide TPHs with additional time (to May 4) to submit Corrections Forms for participating Customer transactions that occurred in April under the new Frequent Trader Program, which should help TPHs acclimate to the new process for submitting their participating Customer trades to CBOE and thereby ensure that their April volume under the program accurately reflects their trading volume. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[12]

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 shall 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*. Please include File Number SR–CBOE–2016–043 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–2016–043. 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

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). Rule 19b–4(f)(6)(iii) requires the Exchange to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of 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. The Commission has determined to waive the five business day requirement.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 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).

information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2016–043, and should be submitted on or before June 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–11645 Filed 5–17–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77823; File No. SR–CBOE–2016–034]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Split-Price Priority

May 12, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 6, 2016, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II 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 rules related to split-price priority. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

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Chicago Board Options Exchange, Incorporated Rules

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Rule 1.1. Definitions

When used in these Rules, unless the context otherwise requires:

(a)–(eee) No change.

Voluntary Professional

(fff) The term ''Voluntary Professional'' means any person or entity that is not a broker or dealer in securities that elects, in writing, to be treated in the same manner as a broker or dealer in securities for purposes of Rules 6.2A, 6.2B, 6.8C, 6.9, 6.13A, 6.13B, 6.25, 6.45, 6.45A (except for Interpretation and Policy .02), 6.45B (except for Interpretation and Policy .02), *6.47,* 6.53C(c)(ii), 6.53C(d)(v), subparagraphs (b) and (c) under Interpretation and Policy .06 to Rule 6.53C, 6.74 (except Voluntary Professional orders may be considered public customer orders subject to facilitation under paragraphs (b) and (d)), 6.74A, 6.74B, 8.13, 8.15(d), 8.87, 24.19, 43.1, 44.4, 44.14, and for cancellation fee treatment. The Voluntary Professional designation is not available in Hybrid 3.0 classes.

Professional

(ggg) The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A Professional will be treated in the same manner as a broker or dealer in securities for purposes of Rules 6.2A, 6.2B, 6.8C, 6.9, 6.13A, 6.13B, 6.25, 6.45, 6.45A (except for Interpretation and Policy .02), 6.45B (except for Interpretation and Policy .02), *6.47,* 6.53C(c)(ii), 6.53C(d)(v), subparagraphs (b) and (c) under Interpretation and Policy .06 to Rule 6.53C, 6.74 (except Professional orders may be considered public customer orders subject to facilitation under paragraphs (b) and (d)), 6.74A, 6.74B, 8.13, 8.15(d), 8.87, 24.19, 43.1, 44.4, 44.14. The Professional designation is not available in Hybrid 3.0 classes. All Professional orders shall be marked with the appropriate origin code as determined by the Exchange.

. . . *Interpretations and Policies:*

.01 No change.

(hhh)—(sss) No change.

. . . *Interpretations and Policies:*

.01—.05 No change.

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Rule 6.47. Priority on Split-Price Transactions Occurring in Open Outcry

(a) [Purchase or sale]*Split-Price* [p]*P*riority. If *an order or offer (bid) for any number of contracts of a series is represented to the crowd,* a Trading Permit Holder *that buys* [purchases] (sells) one or more [option]contracts of *that order or offer (bid)*[a particular series] at *one*[a particular] price[or prices, he shall, at the next lower (higher) price at which a Trading Permit Holder other than the Order Book Official is bidding (offering),] *will* have priority [in] *over all other orders and quotes, except public customer orders resting in the book, to buy* [purchasing](sell[ing]) up to the [equivalent]*same* number of [option] contracts of *those remaining from* the same *order or offer (bid)*[series that he purchased (sold)] at the *next lower (*higher[(lower]) price[or prices, but only if his bid (offer) is made promptly and the purchase (sale) so effected represents the opposite side of a transaction with the same order or offer (bid) as the earlier purchase or purchases (sale or sales). This paragraph only applies to transactions effected in open outcry].

(b) [Purchase or sale]*Split-Price* [p]*P*riority for *O*[o]rders *or Offers (Bids)* of 100 *or More* [c]*C*ontracts[or more]. If *an order or offer (bid) of 100 or more contracts of a series is represented to the crowd,* a Trading Permit Holder *that buys*[purchases] (sells) *50*[fifty] or more *of the* [option]contracts of *that order or offer (bid)*[a particular series] at *one*[a particular] price [or prices, he shall, at the next lower (higher) price]*will* have priority [in]*over all other orders and quotes to buy* [purchasing](sell[ing]) up to the [equivalent]*same* number of [option]contracts of *those remaining from* the same [series that he purchased (sold)]*order or offer (bid)* at the *next lower (*higher[(lower]) price[or prices, but only if his bid (offer) is made promptly and the purchase (sale) so effected represents the opposite side of a transaction with the same order or offer (bid) as the earlier purchase or purchases (sale or sales)]. The Exchange may increase the [‘‘]minimum qualifying [order]size['' above] *of* 100 contracts on a class-by-class basis[.]*,* [Announcements regarding]*which* changes [to the minimum qualifying order size shall be made]*the Exchange will announce* via Regulatory Circular.[This paragraph only applies to transactions effected in open outcry.]

(c) Two or [m]*M*ore Trading Permit Holders [e]*E*ntitled to [p]*P*riority. If the bids or offers of two or more Trading Permit Holders are both entitled to *split-price* priority[in accordance with paragraph (a) or paragraph (b)], it [shall]*will* be afforded [them insofar as]*to the extent* practicable[,] on a pro-rata basis.

(d) Conditions. Split-price priority is subject to the following:

(i) The priority is available for open outcry transactions only and does not apply to complex orders.

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.