The agenda for the meeting includes: Remarks from Commissioners; a discussion of regulatory approaches to combat retail investor fraud; a discussion regarding cybersecurity risk disclosures (which may include a recommendation of the Investor as Owner Subcommittee); a discussion regarding financial support for law school clinics that support investors (which may include a recommendation of the Committee as a whole); a discussion regarding dual-class share structures (which may include a recommendation of the Investor as Owner Subcommittee); a discussion regarding efforts to combat the financial exploitation of vulnerable adults; subcommittee reports; and a nonpublic administrative work session during lunch.


Brent J. Fields, Secretary.

[FR Doc. 2018–02850 Filed 2–12–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule Concerning the Floor Broker SPX Surcharge

February 7, 2018.

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 February 1, 2018, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) 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 monthly fee of $3,000 per month for any Floor Broker Trading Permit Holder (“TPH”) that executes more than 20,000 SPX (including SPXW) contracts during the month (“FB SPX Surcharge”). Particularly, the Exchange proposes to adopt an exclusion for Multi-Class Broad-Based Index Option Spread Orders (“Multi-Class Spread Orders”). The text of the proposed rule change is also 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.

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 monthly fee of $3,000 per month for any Floor Broker Trading Permit Holder (“TPH”) that executes more than 20,000 SPX (including SPXW) contracts during the month (“FB SPX Surcharge”). Particularly, the Exchange proposes to adopt an exclusion for Multi-Class Broad-Based Index Option Spread Orders (“Multi-Class Spread Orders”). By way of background, Cboe Options Rule 24.19 permits the execution of Multi-Class Spread Orders, which are generally defined as orders to buy a stated number of contracts of a broad-based index option or exchange-traded fund (“ETF”) / exchange-traded note (“ETN”) option derived from a broad-based index and to sell an equal number, or an equivalent number of contracts of a different broad-based index option or ETF/ETN option derived from a broad-based index. These orders may be represented at the trading station of either option involved, subject to the conditions in Rule 24.19.

The FB SPX Surcharge was not enacted with the intention of assessing it to Floor Brokers to whom it would only apply due to their execution of Multi-Class Spread Orders that included an SPX component. Rather, the surcharge was intended to be assessed on Floor Brokers that regularly execute SPX trades in the SPX trading crowd. In order to avoid being assessed the FB SPX Surcharge as a result of the execution of Multi-Class Spread Orders with an SPX component, the Exchange proposes to provide that Floor Brokers to which the FB SPX Surcharge is not otherwise applicable will not be assessed the FB SPX Surcharge if they only execute SPX open outcry transactions as part of a Multi-Class Spread Order. In order to identify those instances, the Exchange is proposing to require that Floor Brokers submit the Floor Broker SPX Surcharge Exclusion for Multi-Class Broad-Based Index Spread Transactions Form (the “Form”) within three business days of execution of the applicable spread transaction(s).

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. 4 Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) 5 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 Section 6(b)(4) of the Act, 6 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 the proposed rule change is reasonable because it allows Floor Brokers to whom the FB SPX Surcharge would apply only due to their execution of Multi-Class Spread Orders with an SPX component to avoid having to pay the surcharge. The proposed rule change is equitable and not unfairly discriminatory because the

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7 See Cboe Options Rule 24.19.
FB SPX Surcharge is intended to be assessed on those Floor Brokers who regularly conduct open outcry transactions in SPX or SPX Weeklys (i.e., Floor Brokers who are engaging in regular SPX trades), since those Floor Brokers are engaging in transactions for which executing SPX trades is the primary purpose of such transactions (or are signing up to do so). Floor Brokers who only engage in SPX transactions through the execution of Multi-Class Spread Orders with an SPX component are not engaging in such transactions with primary purpose of executing an SPX order, but instead are just executing an SPX order as part of a larger Multi-Class Spread Order. Additionally, all Floor Brokers who only engage in SPX transactions through the execution of Multi-Class Spread Orders with an SPX component will have the opportunity to be excluded from the FB SPX Surcharge.

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

The Exchange does not believe that the proposed rule change will impose any burdens on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe 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 rule change provides Floor Brokers not engaged in regular SPX trades with an opportunity to be excluded from the FB SPX Surcharge, which is intended to be assessed on those Floor Brokers who engage in transactions for which executing SPX trades is the primary purpose of such transactions (or are signing up to do so). The Exchange does not believe that the proposed rule changes will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change only affects trading on the Exchange’s trading floor. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options 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.