

is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements provisions of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed fee schedule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

Moreover, as previously described, the Exchange believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, the Exchange does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, the Exchange does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, the Exchange believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**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)(ii) of the Act,<sup>57</sup> and Rule 19b-4(f)(2)<sup>58</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 shall institute proceedings to determine whether the proposed rule 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](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2017-18 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-MIAX-2017-18. 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 information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2017-18, and should be submitted on or before June 9, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>59</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-10130 Filed 5-18-17; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-80671; File No. SR-CBOE-2017-039]

**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 15, 2017.

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 May 1, 2017, 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.

<sup>59</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>57</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>58</sup> 17 CFR 240.19b-4(f)(2).

## I. Self-Regulatory Organization's Statement of the Terms of the 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 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 Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange proposes to amend its Fees Schedule to adopt a new Supplemental CBOE Volatility Index ("VIX") Total Firm Volume Discount for Clearing Trading Permit Holders' ("TPHs") proprietary orders ("Supplemental VIX Discount"). The Supplemental VIX Discount allows VIX options transaction fees for Clearing TPHs' (including its Non-TPH affiliates) proprietary orders to be discounted provided a Clearing TPH (including its Non-TPH affiliates) reaches certain VIX firm volume percentage thresholds during a calendar month.

The proposed transaction fee discounts for the different volume percentage tiers for the Supplemental VIX Discount are as follows:

VIX firm volume percentage	Transaction fee discount %
11.00–12.99 .....	20
13.00–14.99 .....	30
Above 14.99 .....	40

The VIX Discount applies to orders bearing the origin codes "F" and "L." The purpose of the VIX Discount is to encourage greater Clearing TPH proprietary trading of VIX options while

maintaining an incremental incentive for Clearing TPHs to strive for the highest discount level.

To determine a Clearing TPH's applicable discount, the Exchange will calculate a Clearing TPH's total proprietary order volume in VIX as a percentage of all Clearing TPHs' total proprietary order volume in VIX during a calendar month. Total proprietary order volume is calculated by accounting for all volume in VIX with an "F" or "L" Origin Code, with volume in the Extended Trading Hours (ETH) aggregated with Regular Trading Hours (RTH) volume for the same calendar month included for purposes of calculating the VIX firm volume threshold and applicable transaction fee discount. The transaction fee discount percentage will apply to all of a Clearing TPH's transaction fees assessed for proprietary order volume in VIX during the calendar month.

In conjunction with the adoption of the Supplemental VIX Discount, the Exchange proposes to amend Footnote 11 of its Fees Schedule to reference the Supplemental VIX Discount. Like the Clearing TPH Fee Cap, CBOE Proprietary Products Sliding Scale, and the Proprietary VIX Sliding Scale, the VIX Discount will apply to (i) Clearing TPH proprietary orders ("F" origin code), and (ii) orders of Non-TPH Affiliates of a Clearing TPH.<sup>3</sup> A "Non-TPH Affiliate" would be defined for the purposes of the VIX Discount the same way it is defined for the Clearing TPH Fee Cap, CBOE Proprietary Products Sliding Scale, and the Proprietary VIX Sliding Scale: A 100% wholly-owned affiliate or subsidiary of a Clearing TPH that is registered as a United States or foreign broker-dealer and that is not a CBOE TPH. As with the Clearing TPH Fee Cap, CBOE Proprietary Products Sliding Scale, and the Proprietary VIX Sliding Scale, only proprietary orders of the Non-TPH Affiliate ("L" origin code) effected for purposes of hedging the proprietary over-the-counter trading of the Clearing TPH or its affiliates will be included in calculating the VIX Discount, and such orders must be marked with a code approved by the Exchange identifying the orders as eligible for the VIX Discount. As with the Clearing TPH Fee Cap, CBOE Proprietary Products Sliding Scale, and the Proprietary VIX Sliding Scale, each Clearing TPH is responsible for notifying the TPH Department of all of its affiliations so that fees and contracts of the Clearing TPH and its affiliates may be aggregated for purposes of the VIX Discount and is required to certify

<sup>3</sup> See CBOE Fees Schedule, Footnote 11.

the affiliate status of any Non-TPH Affiliate whose trading activity it seeks to aggregate. In addition, each Clearing TPH is required to inform the Exchange immediately of any event that causes an entity to cease to be an affiliate.

As with the Clearing TPH Fee Cap, the CBOE Proprietary Products Sliding Scale, and the Proprietary VIX Sliding Scale, the Exchange will aggregate the fees and trading activity of separate Clearing TPHs for the purposes of the VIX Discount if there is at least 75% common ownership between the Clearing TPHs as reflected on each Clearing TPH's Form BD, Schedule A. A Clearing TPH's fees and contracts executed pursuant to a CMTA agreement (*i.e.*, executed by another clearing firm and then transferred to the Clearing TPH's account at the OCC) are aggregated with the Clearing TPH's non-CMTA fees and contracts for purposes of the VIX Discount.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with 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 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)<sup>6</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination 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.

The adoption of the Supplemental VIX Discount is reasonable because it

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

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

<sup>6</sup> *Id.*

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

will allow Clearing TPHs who engage in VIX options trading the opportunity to obtain a discount on its transaction fees. Similarly, aggregating the fees and trading activity of separate Clearing TPHs for the purposes of the Supplemental VIX Discount if there is at least 75% common ownership between the Clearing TPHs and aggregating a Clearing TPH's fees and contracts executed pursuant to a CMTA agreement with the Clearing TPH's non-CMTA fees and contracts for the purpose of the Supplemental VIX Discount is reasonable because this will allow more Clearing TPHs to qualify for the discount at the higher rates in the Supplemental VIX Discount table.

Applying the Supplemental VIX Discount to Clearing TPH (and their affiliates, in the manner described above) proprietary orders only is equitable and not unfairly discriminatory because, as noted above, Clearing TPHs take on a number of obligations and responsibilities (such as membership with the Options Clearing Corporation), significant regulatory burdens, and financial obligations that other market participants are not required to undertake. Further, the Supplemental VIX Discount is designed to encourage increased Clearing TPH proprietary VIX options volume, which provides increased VIX options volume and greater trading opportunities for all market participants. Similarly, applying higher discount rates for Clearing TPHs who hit the higher percentage of total VIX options contract proprietary volume of all Clearing TPHs on the VIX Discount is equitable and not unfairly discriminatory because this is designed to encourage increased TPH proprietary VIX options volume, which provides increased VIX options volume and greater trading opportunities for all Clearing TPHs, including those who are not able to reach the higher volume percentages. Moreover, the Exchange already offers other fee-lowering programs (such as the Fee Cap, CBOE Proprietary Products Sliding Scale, and Proprietary VIX Sliding Scale) which entail lower fees for Clearing TPHs (and their affiliates, in the manner described above) and are limited to Clearing TPHs (and their affiliates, in the manner described above).

Applying the Supplemental VIX Discount to VIX options and not to other products is equitable and not unfairly discriminatory because the Exchange would like to encourage more trading in VIX.

The Exchange believes adding references to the Supplemental VIX Discount in Footnote 11 of the Fees Schedule alleviates potential confusion

by investors reading the Fees Schedule in light of the proposed change. This avoidance of confusion removes impediments to and perfects the mechanism of a free and 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*

The Exchange does not believe that the proposed rule changes 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, while the Supplemental VIX Discount applies only to Clearing TPH proprietary orders, Clearing TPHs take on a number of obligations and responsibilities (such as membership with the Options Clearing Corporation), significant regulatory burdens, and financial obligations that other market participants are not required to undertake. Further, the Supplemental VIX Discount is designed to encourage increased Clearing TPH proprietary VIX options volume, which provides increased VIX options volume and greater trading opportunities for all market participants. Therefore, the Exchange believes that any potential effects on intramarket competition that the proposed adoption of the Supplemental VIX Discount may cause are therefore justifiable. The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change applies only to 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.

#### *B. 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>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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-CBOE-2017-039 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 No. SR-CBOE-2017-039. 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 such filing also will be available for

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

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

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 No. SR-CBOE-2017-039, and should be submitted on or before June 9, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-10126 Filed 5-18-17; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80672; File No. SR-OCC-2017-012]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Concerning the Options Clearing Corporation's Management Structure

May 15, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 5, 2017, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below; Items I and II have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6)<sup>4</sup> thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by OCC concerns the amendment of OCC's By-Laws to provide that the Board of Directors ("Board") may, in its discretion, designate the Chief Operating Officer ("COO") to act as President of OCC.

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.<sup>5</sup>

##### (A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

On April 26, 2017, the Commission approved a proposed rule change by OCC that, among other things, amended OCC's By-Laws and Rules to: (1) Remove all references to OCC's President to reflect the fact that the President would no longer be a recognized officer within OCC's management and (2) reallocate the authority and responsibilities previously granted to the President between the COO and a newly appointed Chief Administrative Officer ("CAO").<sup>6</sup> OCC is now proposing to amend Article IV, Section 1 of the By-Laws to provide that the Board may, in its discretion, designate that the COO also serve as President of OCC. The purpose of the proposed rule change is to provide further clarity and transparency around OCC's management structure and the roles and titles of its senior management.

Prior to the approval of SR-OCC-2017-002,<sup>7</sup> OCC's By-Laws stipulated that its President would also serve as COO, with the authority and responsibilities of the COO and President primarily being addressed throughout the By-Laws and Rules in terms of this officer's capacity as President. As a result of SR-OCC-2017-002,<sup>8</sup> OCC's By-Laws and Rules were amended to eliminate all references to the President; however, the position of COO was retained, and OCC's senior management was reorganized within an

Office of the Executive Chairman comprised of the Executive Chairman and Chief Executive Officer, the COO and the CAO. Pursuant to Article IV, Section 8 of the By-Laws, the COO and CAO are responsible for the aspects of OCC's business that do not report directly to the Executive Chairman, with such responsibilities being determined by the Board to promote the efficient and effective management and operation of OCC. The By-Laws and Rules also address various other authorities and responsibilities of the COO and CAO.<sup>9</sup>

The proposed rule change would provide that the Board may, in its discretion, designate that the COO also serve as President. The two roles would not, however, be tied together by operation of the By-Laws as it was prior to the approval of SR-OCC-2017-002 and would instead provide the Board with the discretionary authority to make this determination as it deems appropriate. The proposed rule change is not intended to modify OCC's current management structure or the allocation of duties and responsibilities currently associated with the roles of COO or CAO as set forth in By-Laws and Rules. If the Board determines to designate that the COO also serve as President, the authority and responsibilities of the COO and President would continue to be governed by the allocation of authority and responsibilities of the COO as currently set forth in OCC's By-Laws and Rules. The proposed rule change would take a similar approach to the previous construction of OCC's By-Laws and Rules regarding the role of COO and President; however, the proposed approach would now describe the authority and responsibilities of the President and COO throughout the By-Laws and Rules in terms of this officer's capacity as COO (as opposed to President).

OCC notes that, under Article IV, Section 1 of the By-Laws, the Board may, but need not, elect such other officers (*i.e.*, officers in addition to the Executive Chairman, Member Vice Chairman, COO, CAO, Secretary, and Treasurer) as it may from time to time

<sup>9</sup> For example, OCC's Rules provide the Executive Chairman, COO and CAO with the authority to, among other things, impose certain restrictions on a Clearing Member's transactions, positions and activities based on the financial or operational condition of the Clearing Member (Rule 305); extend settlement times in emergency conditions; (Rule 505); waive the required margin deposit of a Clearing Member in the interest of maintaining fair and orderly markets (Rule 609A); and make a determination as to whether the immediate liquidation of some or all of a suspended Clearing Member's margin deposits and/or contributions to the Clearing Fund would not be in the best interests of the OCC, other Clearing Members, or the general public (Rule 1104).

<sup>5</sup> OCC's By-Laws and Rules can be found on OCC's public Web site: <http://optionsclearing.com/about/publications/bylaws.jsp>.

<sup>6</sup> See Securities Exchange Act Release No. 80531 (April 26, 2017), 82 FR 20502 (May 2, 2017) (SR-OCC-2017-002).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

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

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).