

the Exchange does not distinguish between ROUC and ROUE when yielding Flag K, the Exchange proposes to assess a charge of \$0.0028 per share for Members orders that are routed to PSX using either ROUC or ROUE, which represents the more favorable of the two rates for its Members. The Exchange's proposal to offer its Members the more favorable of two rates is also equitable because it is similar to the rates associated with Flag C, where the Exchange offers Members the more favorable rebate of \$0.0014 per share for orders routed to BX that remove liquidity regardless of whether the Member achieves the tiered volume necessary to exceed the default rebate of \$0.0005 per share.¹⁹ In addition, the rate of \$0.0028 per share for Flag K is also reasonable because it is similar to the rates charged by PSX for orders routed to its exchange, where PSX assesses charges between \$0.0028 per share and \$0.0030 per share depending on the routing strategy employed.²⁰ Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

The Exchange's proposal to add the title "EdgeBook Depth Fees" to the fee schedule increases transparency on the fee schedule for Members and does not represent any change in EdgeBook Depth fees.

The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

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 Act²¹ and Rule 19b-4(f)(2)²² thereunder. At any time within 60 days of the filing of such 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.

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-EDGA-2012-46 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-EDGA-2012-46. 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-EDGA-2012-46 and should be submitted on or before December 4, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68163; File No. SR-CBOE-2012-098]

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

November 6, 2012.

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 October 24, 2012, 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.

¹⁹ See Securities Exchange Release No. 67980 (October 4, 2012), 77 FR 61800 (October 11, 2012) (SR-EDGA-2012-45).

²⁰ See NASDAQ OMX PSX, Price List—Trading and Connectivity, http://www.nasdaqtrader.com/Trader.aspx?id=PSX_pricing.

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 19b-4(f)(2).

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Web site (www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx), at the Exchange's Office of the Secretary, and at the Commission.

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

Beginning on November 1, 2012, the Exchange will be introducing a new origin code. The "J" origin code will be used to indicate orders for a joint back office ("JBO") account to be cleared into the Firm range at the Options Clearing Corporation ("OCC").³ Currently, such orders are marked with the "F" origin code and are included within the category of Clearing Trading Permit Holder Proprietary orders (and assessed fees as if they were Clearing Trading Permit Holder Proprietary orders). Going forward, such orders will continue to be assessed the same fees as Clearing Trading Permit Holder Proprietary orders. Because origin codes are now listed on the CBOE Fees Schedule, the Exchange merely proposes to amend its Fees Schedule to add the "J" origin code to any section that currently lists the "F" origin code (with the exception of the tables for the CBOE Proprietary Products Sliding Scale (the "Sliding Scale") and Clearing Trading Permit Holder Fee Cap (the "Fee Cap"), since the Sliding Scale and Fee Cap do not apply to orders of JBO participants).⁴ No substantive changes to any fee amounts are being made.

The proposed change is to take effect on November 1, 2012.

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.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 promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. Adding the "J" origin code to the appropriate sections on the Fees Schedule will ensure that market participants entering JBO orders account to be cleared into the Firm range at the OCC will easily be able to discern the fees that apply to such orders. This will eliminate any potential confusion, thereby removing a potential impediment to and perfecting the mechanism for a free and open market and a national market system, and, in general, protecting 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.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)⁷ of the Act and paragraph (f) of Rule 19b-4⁸ 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.

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-2012-098 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2012-098. 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-CBOE-2012-098 and should be submitted on or before December 4, 2012.

³ See CBOE Regulatory Circulars RG12-118 (August 27, 2012) and RG12-136 (October 5, 2012).

⁴ See CBOE Fees Schedule, Footnote (11).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2012-27509 Filed 11-9-12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68169; File No. SR-CBOE-2012-105]

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

November 6, 2012.

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 October 26, 2012, 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 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.

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 intends to introduce its Automated Improvement Mechanism ("AIM") for FLEXible EXchange Options ("FLEX Options") transactions beginning November 1, 2012. In conjunction with that introduction, the Exchange proposes to amend its CFLEX fees in order to encourage greater FLEX Options trading activity. Specifically, the Exchange proposes to eliminate the CFLEX Surcharge Fee as it applies to equity, ETF, ETN, HOLDRs and index (excluding SPX, SPXW, SPX Range Options, OEX, XEO, VIX and Volatility Indexes, XSP and DJX (the "Excluded Classes")) FLEX Options transactions (the "Fee Elimination").

The Exchange also proposes to provide a \$0.10-per-contract credit for all equity, ETF, ETN, HOLDRs and index (excluding the Excluded Classes) FLEX Options orders executed via a CFLEX AIM auction from November 1, 2012 through December 31, 2012 (the "CFLEX AIM Credit"). The CFLEX AIM Credit would apply to transactions executed via AIM because the Exchange wants to encourage the distribution of the newly-developed CFLEX AIM technology among Trading Permit Holders ("TPHs") in order to attract greater FLEX Options order flow. AIM is a facilitation mechanism, and facilitation trades are the manner in which most FLEX Options trades are currently executed, and so the Exchange correspondingly wants to attract more FLEX Options facilitation trades to the Exchange via this CFLEX AIM technology. The CFLEX AIM Credit is limited to the Agency/Primary side of a FLEX Options AIM transaction because this will encourage the entry of FLEX Options AIM orders, as well as the adoption of the FLEX Options AIM technology by any party wishing to execute a FLEX Options AIM order. The CFLEX AIM Credit would be capped at \$250 (2,500 contracts) per trade in order to limit the Exchange's potential exposure for providing the CFLEX AIM Credit and ensure that the provision of the CFLEX AIM Credit is economically viable to the Exchange. In addition, \$250 per trade is the current maximum fee for the CFLEX Surcharge Fee.

Each TPH may only receive the CFLEX AIM Credit on one order per underlying product per day, and the CFLEX AIM Credit will be applied to the smallest-sized order in each underlying product sent to the Exchange by that TPH on each day. The purpose of this limitation is to limit the

Exchange's potential exposure for providing rebates and ensure that the provision of the CFLEX AIM Credit is economically viable to the Exchange. For purposes of the CFLEX AIM Credit, multiple legs of a complex order will be considered separate simple orders in order to prevent parties from being able to receive the CFLEX AIM Credit on multiple orders in the same underlying product in the same day. These details of the CFLEX AIM Credit will be explained in new Footnote 28 to the Exchange Fees Schedule.

The purpose of this is to encourage greater FLEX Options trading via the newly-introduced AIM (which encourages facilitation) and the distribution of the FLEX Options AIM technology among the Exchange's TPHs. The proposed changes are to take effect on November 1, 2012.

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.³ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁴ which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. The Fee Elimination is reasonable because it will allow market participants who are currently engaging in FLEX Options trades in equity, ETF, ETN, HOLDRs and index options (excluding the Excluded Classes) to avoid having to pay the CFLEX Surcharge Fee in the future. Eliminating the CFLEX Surcharge Fee for equity, ETF, ETN, HOLDRs and most index options while not eliminating the CFLEX Surcharge Fee for the Excluded Classes is equitable and not unfairly discriminatory because the Exchange expended significant resources developing the products listed in the Excluded Classes and must receive fees in order to recoup such expenditures.

The CFLEX AIM Credit is reasonable because it will allow market participants who engage in FLEX Options trades in equity, ETF, ETN, HOLDRs and index options (excluding the Excluded Classes) to receive a rebate for such transactions. Excluding the

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(4).