



8011-01

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82648; File No. SR-CBOE-2018-015]

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 24.19.³

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

³ See Cboe Options Rule 24.19.

⁴ 15 U.S.C. 78f(b).

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 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

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78f(b)(4).

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 intermarket 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.

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 Act⁷ 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. 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 e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2018-015 on the subject line.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f).

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-2018-015. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2018-015 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Eduardo A. Aleman,

Assistant Secretary.

⁹ 17 CFR 200.30-3(a)(12).

[FR Doc. 2018-02859 Filed: 2/12/2018 8:45 am; Publication Date: 2/13/2018]