

general, to protect investors and the public interest. In particular, the Exchange believes that the proposal, if approved, will result in additional liquidity available at improved prices with competitive final pricing out of the initiating member's control, thus increasing competition in the crossing auctions and providing more options contracts with price improvement. As a result of the increased opportunity for price improvement, the Exchange believes that market participants will be incented to initiate more crossing actions. Increases in the number of auctions will directly correlate with an increase in the number of customer orders that are provided with the opportunity to receive price improvement over the NBBO.

#### *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 Exchange 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**

Because the foregoing 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<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>16</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)<sup>17</sup>

permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay because the proposed changes will allow immediate increases in the liquidity available at improved prices. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposal operative upon filing.<sup>18</sup>

At any time within the 60-day period beginning on the date 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2010-61 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-ISE-2010-61. 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 Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission,<sup>19</sup> 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, on official business days between the hours of 10 a.m. and 3 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-ISE-2010-61 and should be submitted on or before August 31, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010-19657 Filed 8-9-10; 8:45 am]

BILLING CODE 8010-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-62650; File No. SR-CHX-2010-18]

### **Self-Regulatory Organizations; The Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Alter its Tiered Schedule of Fees and Rebates for Participants for Trade Executions of Single-Sided Orders in Securities Priced Over One Dollar**

August 4, 2010.

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 July 30, 2010, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. CHX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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 Exchange has satisfied this requirement.

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>18</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>19</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.

<sup>20</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).

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

effective upon filing with the Commission. 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 CHX proposes to amend its Schedule of Participant Fees and Assessments (the "Fee Schedule"), effective August 1, 2010, to alter its tiered schedule of fees and rebates for Participants for trade executions of single-sided orders in securities priced over one dollar that occur within the Exchange's Matching System. The text of this proposed rule change is available on the Exchange's Web site at [http://www.chx.com/rules/proposed\\_rules.htm](http://www.chx.com/rules/proposed_rules.htm) and in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549.

### **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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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**

Through this filing, the Exchange is proposing to amend its Fee Schedule, effective August 1, 2010, to alter its tiered schedule of fees and rebates for Participants for trade executions of single-sided orders in securities priced over one dollar. The fee imposed on Participants for removing liquidity from the Matching System (the "take fee") or credit given to Participants which display orders in the Matching System which result in trade executions (the "provide credit") currently varies depending on the executing Participant's Average Daily Volume ("ADV").<sup>5</sup> A Participant's ADV is determined by the number of shares it

has executed as a liquidity provider in any and all trading sessions on average per trading day (excluding partial trading days) across all tapes on the trading facilities of the CHX (excluding all cross transactions) for the calendar month in which the executions occurred. There are three volume-based Tiers and the rate of applicable take fees and provide credits vary based upon the Tier into which a Participant falls.

According to this proposal, the Exchange would delete those provisions of the Fee Schedule which vary the take fee based upon the Participant's ADV. In its place, the Exchange proposes to impose a flat take fee of \$0.003/share across all Tapes. The Exchange is also proposing to reduce the provide credit for executions in Tape A & C securities from \$0.0026/share to \$0.0025/share for the lowest Tier of activity, from \$0.0028/share to \$0.0027/share in the middle Tier and from \$0.003/share to \$0.0029/share in the highest Tier. For Tape B securities, the provide credit is being reduced from \$0.0028/share to \$0.0026/share in the lowest Tier, from \$0.003/share to \$0.0028/share in the middle Tier and from \$0.0032/share to \$0.0031/share in the highest Tier. The flat provide credit paid to CHX-registered Institutional Brokers when they represent agency orders which execute in the CHX Matching System in Tape B securities will be reduced from \$0.0032 to \$0.0031/share.

Furthermore, the Exchange proposes to alter the ADV requirements for Participants to qualify for the escalating Tiers and associated provide credits. The ADV requirement for the lowest Tier of activity would be increased from 500,000 shares or less daily to 1,000,000 shares or less daily. The middle Tier would be changed from an ADV which is greater than 500,000 and up to and including 5,000,000 shares to an ADV which is greater than 1,000,000 and up to and including 5,000,000 shares. The ADV for the highest Tier will remain at its current level of greater than 5,000,000 shares.

Finally, we propose to remove the exclusion of trade activity in securities priced under \$1 in the ADV calculation. Going forward, executions in such securities would count towards the determination of a Participant's monthly ADV.

##### **2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4)

of the Act<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members. Among other things, the Exchange believes that these changes better tailor the existing tiered fee structure to the amount and type of volume which order sending Participants direct to the Exchange and may attract additional orders to be displayed and executed on our trading facilities.

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

The Exchange 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 Regarding the Proposed Rule Change Received From Members, Participants or Others*

No written comments were either solicited or 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>8</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>9</sup> because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File

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

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

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> Through its filing on January 4, 2010, the Exchange instituted a tiered fee and rebate structure based on a Participant's ADV. See Securities Exchange Act Release No. 61322 (Jan. 11, 2010), 75 FR 2914 (Jan. 19, 2010) (SR-CHX-2010-01).

<sup>6</sup> 15 U.S.C. 78f.

Number SR-CHX-2010-18 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-CHX-2010-18. 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 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 a.m. and 3 p.m. Copies of such 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 publicly available. All submissions should refer to File Number SR-CHX-2010-18 and should be submitted on or before August 31, 2010.

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

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-19656 Filed 8-9-10; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62648; File No. SR-CBOE-2010-071]

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

August 4, 2010.

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 July 30, 2010, Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by CBOE under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 Fees Schedule to make changes related to its Marketing Fee Program. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/Legal>), 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 self-regulatory organization 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 those 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 parts of such statements.

<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)(ii).

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

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### (a) Purpose

CBOE proposes to amend its Marketing Fee Program to increase the amount of the fee that is assessed in options on the SPDR S&P 500 (SPY) and options on the iShares Russell 2000 Index (IWM). Currently, the marketing fee is assessed at the rate of \$0.10 per contract in SPY options and \$0.00 per contract in IWM options. CBOE proposes to assess the marketing fee at the rate of \$0.25 per contract in SPY options and IWM options, which is consistent with the marketing fee that CBOE assesses in nearly all of the option classes participating in the Penny Pilot Program. CBOE also notes that it would be consistent with the fee NYSE Amex assesses for its payment for order flow program in option classes participating in the Penny Pilot Program.

CBOE proposes to implement this change to the marketing fee program beginning on August 1, 2010. CBOE is not amending its Marketing Fee Program in any other respects.

##### (b) Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>6</sup> of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE Trading Permit Holders and other persons using its facilities. The Exchange believes the fee change proposed by this filing is equitable and reasonable in that it will allow the Exchange to be competitive with the fees assessed by the NYSE Amex in its payment for order flow program.

#### 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 not necessary or appropriate in furtherance of the purposes of the Act.

#### C. Self-Regulatory Organization's Statement on Comments Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

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