

securities in which it is registered as a DMM. The Exchange does not need to spell out the term “designated market maker” as it, and the term DMM unit, are defined terms in Rule 2.

The Exchange proposes to implement these changes on October 1, 2010.<sup>4</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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. The Exchange believes the proposed Rule is consistent with these principles in that it seeks to increase the trading performance of SLPs, which will benefit all market participants.

### *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 on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent

with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>10</sup>

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 Number SR-NYSEAmex-2010-85 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-NYSEAmex-2010-85. 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 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-NYSEAmex-2010-85 and should be submitted on or before September 28, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

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

[FR Doc. 2010-22206 Filed 9-3-10; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62793; File No. SR-CBOE-2010-076]

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

August 30, 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 August 17, 2010, Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 Fees Schedule relating to routing charges. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.org/legal>), at

<sup>4</sup> As noted above, the SLP program is a pilot program currently set to expire on September 30, 2010. The Exchange intends to file to make the program permanent or extend the pilot program so that it can continue past September 30, 2010.

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s intent to file the proposed rule change along with a brief description and the text of 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 the pre-filing requirement.

<sup>11</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.

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 is proposing to modify its fee schedule related to routing large orders to other exchanges for execution in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in CBOE Rule 6.80. Currently, when the Exchange receives a marketable order for the account of a non-broker dealer when CBOE is not at the national best bid or offer ("NBBO"), CBOE transmits a message to market participants in accordance with Rule 6.14A to see in an attempt to achieve an execution at the NBBO price or better for the order (*i.e.*, step-up) so that CBOE can avoid routing order flow to a competing exchange. If step-up is not achieved, CBOE will route a "linkage" order to the NBBO market(s) up to the size of the displayed interest at the NBBO or the size of the order (whichever is smaller).<sup>3</sup> If the linkage order is executed (which is typically the case), CBOE absorbs all transaction costs associated with the execution at the away market. CBOE also routes the order for free. When CBOE receives a similar marketable order for the account of a broker dealer, however, CBOE charges \$0.50 per contract for the routing and away execution costs, in addition to the customary CBOE execution charges. This is because the service is geared more toward retail customer orders.

CBOE is now seeking to refine the cost structure of the program as it relates

<sup>3</sup> We note that, pursuant to Rule 6.14A(a)(i), if one or more orders are resting at the Exchange's BBO and there is insufficient Market-Maker interest at the BBO price to satisfy the entire marketable order, the Exchange will immediately route away without processing for step-up.

to large non-broker dealer customer orders. Specifically, when CBOE receives a qualifying customer order that has an original size of 1,000 or more contracts that is routed, in whole or in part, to one or more exchanges, CBOE will charge \$ 0.35 per contract executed on another exchange, in addition to the customary CBOE execution charges (when applicable). The changes will take effect on August 23, 2010.

These larger non-broker dealer customer orders are more akin to broker dealer orders and CBOE believes it is appropriate and consistent to pass through some of these costs. We note that the step-up service should still be a very attractive offering for these larger non-broker dealer orders since, when step-up is achieved, they will continue to receive considerable cost savings. As is the case today, order senders can request that orders be cancelled if step-up is not achieved without routing to an away market, thereby avoiding this new charge. The program will remain unchanged for orders that fall under the 1,000 contract threshold.

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>4</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>5</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. Because non-broker dealer customer orders with an original size of 1,000 contracts or more are more akin to broker dealer orders, CBOE believes it is appropriate to pass through some costs associated with this routing service.

### 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 on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

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

<sup>5</sup> 15 U.S.C. 78f(b)(4).

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A)(ii)<sup>6</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>7</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.

## 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-CBOE-2010-076 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-2010-076. 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

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 C.F.R. 240.19b-4(f)(2).

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 will also 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 No. SR-CBOE-2010-076 and should be submitted on or before September 28, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62801; File No. SR-OCC-2010-13]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change To Allow for Adjustments to the Settlement Price of Exchange-Designated Security Futures for All Cash Dividends or Distributions Paid by the Issuer of the Underlying Security

August 31, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on August 19, 2010, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") and on August 25, 2010, amended the proposed rule change as described in Items I and II below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to revise OCC's By-Laws to allow OCC to make adjustments to the settlement price of exchange-designated security futures for all cash dividends or

distributions paid by the issuer of the underlying security.

#### II. Self-Regulatory Organization'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 such statements.<sup>2</sup>

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

The primary purpose of this proposed rule change is to revise OCC's By-Laws to allow OCC to make adjustments to the settlement price of exchange-designated security futures for all cash dividends or distributions paid by the issuer of the underlying security. Under its current rules, OCC makes such adjustments only for "non-ordinary" dividends. However, OneChicago, LLC ("OneChicago") has informed OCC that it believes there is a demand for security futures that would be adjusted in response to all cash dividends or distributions. Accordingly, OCC is proposing to amend Section 3 of Article XII of its By-Laws to permit exchanges to designate certain security futures that would be adjusted for ordinary as well as "non-ordinary" dividends. Exchanges could continue to trade security futures that would be adjusted only in the event of a "non-ordinary" dividend.

For security futures subject to adjustment for all cash dividends or distributions, it would be the exchange's responsibility to inform OCC of the issuance of a cash dividend or distribution and the appropriate adjustment amount. Provided that such information (including any corrections thereto) is reported to OCC before a designated cut-off time prior to the ex-date, OCC would then make the appropriate adjustment to the settlement price of the security futures contract. Such adjustments would be effective before the opening of business on the ex-date.<sup>3</sup> If the exchange failed to report

dividend or distribution information to OCC on a timely basis or reported incorrect dividend or distribution information to OCC, then the exchange would be able to report such information or corrected information to OCC on the ex-date, and OCC would effect the adjustment as soon as practicable thereafter.<sup>4</sup> In the event the exchange already opened trading in the security futures contracts affected thereby, the exchange would provide OCC with direction on whether such trades should be cleared or disregarded as provided for in Article VI, Section 7 of OCC's By-Laws. Pursuant thereto, disregarded transactions would be deemed null and void and given no effect. These procedures are intended to preserve OCC's ability to initiate and conduct nightly processing on a timely basis, but they also provide the exchange with the opportunity to report to OCC dividend or distribution information that was not available to it before OCC's processing cut-offs or to correct erroneously reported information to ensure an appropriate adjustment to the settlement price for the affected contracts.

In connection with OneChicago's proposal, OneChicago and OCC also have agreed to amend the Security Futures Agreement for Clearing and Settlement Services, dated April 1, 2002 (the "Clearing Agreement"), by entering into Amendment No. 1 thereto.<sup>5</sup> Amendment No. 1 would amend Section 5 of the Clearing Agreement to permit OneChicago to designate those security futures contracts for which adjustments will be made in response to all cash dividends or distributions and to set forth for OneChicago's obligation to furnish OCC with notice of all relevant information regarding such dividends or distributions in order for

distribution date and parallels the adjustment made to the price of the underlying stock by the securities exchanges on the ex-distribution date. It is intended to ensure that no futures mark-to-the-market attributable to the adjustment made to the stock price for the dividend will occur.

<sup>4</sup> OCC also proposes to add Interpretation and Policy .10 to Article XII, Section 3 that provides that officially reported settlement prices will not be adjusted (other than as provided for in the By-Laws and Rules) except in extraordinary circumstances. The Interpretation further provides that in no event will a completed settlement be adjusted due to errors discovered thereafter. This latter provision is intended to preserve the finality of money settlements should it be later determined that an officially reported settlement price was erroneous and is based on existing provisions of OCC's By-Laws. See, e.g., Article XIV, Section 6, Interpretation and Policy .01; Article XVI, Section 4, Interpretation and Policy .01; and Article XVII, Section 4, Interpretation and Policy .01.

<sup>5</sup> Amendment No. 1, which will be executed after the effectiveness of this filing, would amend and restate Section 5 of the Clearing Agreement.

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by OCC.

<sup>3</sup> The standard method for adjusting futures contracts in response to cash distributions is to decrease the prior day's settlement price by the amount of the dividend. This adjustment is effective at the opening of business on the ex-