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–Phlx–2011–04 and should be submitted on or before February 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–901 Filed 1–14–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63701; File No. SR–CBOE–2010–116]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Exchange Fees for Fiscal Year 2011

January 11, 2011.

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 December 29, 2010, the 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, II and III below, which Items have been prepared by CBOE. The Exchange has designated the proposal as one establishing or changing a due, fee, or other charge imposed by CBOE under Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder.[4] 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

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend its Fees Schedule to make various changes for Fiscal Year 2011. 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, CBOE 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. CBOE 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the CBOE Fees Schedule to make various fee changes. The proposed changes are the product of the Exchange's annual budget review. The fee changes were approved by the Exchange's Board of Directors pursuant to CBOE Rule 2.22 and will take effect on January 3, 2011. The Exchange proposes to amend the following fees:

Clearing Trading Permit Holder Proprietary Sliding Scale: The Clearing Trading Permit Holder Proprietary Sliding Scale reduces a Clearing Trading Permit Holder's ("CTPH") per contract transaction fee based on the number of contracts the CTPH trades in a month. The Exchange proposes to replace the existing Clearing Trading Permit Holder Proprietary Sliding Scale with: (1) A Multiply-Listed Options Fee Cap for CTPH Proprietary Orders, and (2) a CBOE Proprietary Products Sliding Scale for CTPH Proprietary Orders, as further described below.

Multiply-Listed Options Fee Cap: The Exchange proposes to cap CTPH Proprietary transaction fees in all products except options on OEX, XEO, SPX, and volatility indexes,[5] in the aggregate, at $75,000 per month per CTPH, except that any AIM Execution Fees incurred by a CTPH would not count towards the cap (AIM Execution Fees are described below). A CTPH would continue to pay any AIM Execution Fees after reaching the cap in a month. AIM Execution Fees would be excluded from the proposed fee cap because the AIM Execution Fee is a discounted fee ($.05 per contract) and therefore the Exchange believes those fees should not count towards the cap. The proposed fee cap is similar to a "Firm Related Equity Option Cap" in place at NASDAQ OMX PHLX, LLC.[6] The Exchange believes the proposed fee cap would create an incentive for CTPHs to continue to send order flow to the Exchange.

CBOE Proprietary Products Sliding Scale: The Exchange proposes to adopt a CBOE Proprietary Products Sliding Scale that would reduce the standard CTPH Proprietary transaction fee in OEX, XEO, SPX, and volatility indexes ("CBOE Proprietary Products")[7] provided a CTPH reaches certain volume thresholds in multiply-listed options on the Exchange in a month as described below.

Specifically, the standard CTPH Proprietary transaction fee in CBOE Proprietary Products would be reduced to the fees shown in the following table for CTPHs that execute at least 375,000 contracts but less than 1,500,000 contracts in multiply-listed options on the Exchange in a month, excluding contracts executed in AIM that incurred the AIM Execution Fee (the AIM Execution Fee is described below).[8]

Tiers	CBOE proprietary product contracts per month	Rate
First	First 750,000	18 cents

[19] 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. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] OEX is the symbol for options on the S&P 100 index, XEO is the symbol for European-Style options on the S&P 100 index and SPX is the symbol for options on the S&P 500 index. Volatility indexes include options on the CBOE Volatility Index (VIX).

[6] NASDAQ OMX PHLX Firms are subject to a maximum fee of $75,000. *See* NASDAQ OMX PHLX, LLC Fee Schedule, Section II (Equity Options Fees).

[7] The CTPH Proprietary transaction fee in CBOE Proprietary Products (as defined) is currently $.20 per contract and is proposed to be changed to $.25 per contract (as described below).

[8] Contracts executed in AIM that incurred the AIM Execution Fee would be excluded from the sliding scale for the same reason that AIM Execution Fees would not apply to the Multiply-Listed Options Fee Cap; the Exchange believes it is appropriate to exclude such contracts from the proposed sliding scale because such contracts have already received a discounted transaction fee ($.05 per contract).

Tiers	CBOE proprietary product contracts per month	Rate
Second	Next 250,000	5 cents
Third	Above 1,000,000	2 cents

If a CTPH reaches the aforementioned volume thresholds in multiply-listed options on the Exchange in a month, under the proposed sliding scale the first 750,000 contracts traded by the CTPH in a month in CBOE Proprietary Products would be assessed at $.18 per contract. The next 250,000 contracts traded in a month in CBOE Proprietary Products (up to 1,000,000 total contracts traded) would be assessed at $.05 per contract. All contracts above 1,000,000 contracts traded in a month in CBOE Proprietary Products would be assessed at $.02 per contract.

The standard CTPH Proprietary transaction fee in CBOE Proprietary Products would be reduced to the fees shown in the following table for CTPHs that execute 1,500,000 or more contracts in multiply-listed options on the Exchange in a month, excluding contracts executed in AIM that incurred the AIM Execution Fee:

Tiers	CBOE proprietary product contracts per month	Rate
First	First 750,000	15 cents
Second	Above 750,000	1 cent

If a CTPH reaches the 1,500,000 contract threshold in multiply-listed options on the Exchange in a month, under the proposed sliding scale the first 750,000 contracts traded by the CTPH in a month in CBOE Proprietary Products would be assessed at $.15 per contract. All contracts above 750,000 contracts traded in a month in CBOE Proprietary Products would be assessed at $.01 per contract.

A CTPH that executes less than 375,000 contracts in multiply-listed options on the Exchange in a month would not be eligible for the CBOE Proprietary Products Sliding Scale and would pay the standard CTPH Proprietary transaction fee for CBOE Proprietary Products. Due to the Exchange's obligation to pay license fees on the CBOE Proprietary Products, Surcharge Fees [9] applicable to the CBOE Proprietary Products would also continue to apply in addition to the standard CTPH Proprietary transaction fee and the rates on the sliding scale.

As is the case with the existing CTPH Proprietary Sliding Scale, the proposed Multiply-Listed Options Fee Cap and CBOE Proprietary Products Sliding Scale would apply to Clearing Trading Permit Holder proprietary orders ("F" origin code), except for orders of joint back-office ("JBO") participants. The Exchange would also aggregate the fees and contracts of a Clearing Trading Permit Holder and its affiliates in the same manner as it does under the existing CTPH Proprietary Sliding Scale.[10]

Clearing Trading Permit Holder Proprietary Transaction Fee: The Exchange currently charges $.20 per contract for Clearing Trading Permit Holder Proprietary transactions in index options (including ETF, ETN and HOLDRs options). The Exchange proposes to increase the Clearing Trading Permit Holder Proprietary transaction fee to $.25 per contract for OEX, XEO, SPX and volatility indexes. This rate would be subject to the proposed CBOE Proprietary Products Sliding Scale for CTPH Proprietary orders.

AIM Execution Fee: The Exchange currently charges an AIM Execution Fee of $.20 per contract to certain broker-dealer orders executed in the Automated Improvement Mechanism ("AIM") [11] that were initially entered into AIM as the contra party to an Agency Order. [12]

The Exchange proposes to amend the AIM Execution Fee to (i) reduce the fee from $.20 per contract to $.05 per contract, and (ii) apply the fee to all orders (all origin codes) in all products, except OEX, XEO, SPX and volatility indexes, executed in AIM that were initially entered into AIM as the contra party to an Agency Order. The proposed fee would apply to such executions instead of the applicable standard transaction fee except if the applicable standard transaction fee is lower than $.05 per contract, in which case the applicable standard transaction fee would apply.[13] Applicable standard transaction fees would apply to AIM executions in OEX, XEO, SPX and volatility indexes. The proposed AIM Execution Fee is similar to the fee charged by NASDAQ OMX PHLX to an "Initiating Order" that is contra-side to a "PIXL Order" in the PIXL Auction.[14]

Floor Brokerage Fees: The Exchange currently charges floor brokers executing orders in volatility index options $.02 per contract and $.01 per contract for crossed orders. The Exchange proposes to increase these

[9] *See* CBOE Fees Schedule, Section 1 Index Options, and Footnote 14.

[10] *See* CBOE Fees Schedule, Footnote 11. Each CTPH would be responsible for notifying the Exchange's TPH Department of all of its affiliations so that fees and contracts of the CTPH and its affiliates may be aggregated for purposes of the fee cap and sliding scale. The Exchange would aggregate the fees and trading activity of separate CTPHs for the purposes of the fee cap and sliding scale if there is at least 75% common ownership between the CTPHs as reflected on each CTPH's Form BD, Schedule A. A Clearing Trading Permit Holder's fees and contracts executed pursuant to a CMTA agreement (*i.e.,* executed by another clearing firm and then transferred to the Clearing Trading Permit Holder's account at the OCC) would be aggregated with the Clearing Trading Permit Holder's non-CMTA fees and contracts for purposes of the fee cap and sliding scale.

[11] AIM is an electronic auction system that exposes certain orders electronically in an auction to provide such orders with the opportunity to receive an execution at an improved price. AIM is governed by CBOE Rule 6.74A.

[12] *See* Securities Exchange Act Release No. 59379 (February 10, 2009), 74 FR 7713 (February 19, 2009). The existing AIM Execution Fee applies to broker-dealer orders (orders with "B" origin code), non-Trading Permit Holder market-maker orders (orders with "N" origin code), orders from specialists in the underlying security (orders with "Y" origin code) and certain orders with "F" origin code (orders from OCC members that are not CBOE Trading Permit Holders). *See* CBOE Fees Schedule, Footnote 16.

[13] For example, public customer orders ("C" origin code) pay no transaction fee in equity options and QQQQ options and thus such orders would pay no transaction fee (would not pay the AIM Execution Fee) for such AIM transactions. Transaction fees for certain public customer orders in certain ETF, ETN and HOLDRs options are currently waived and thus such orders would pay no transaction fee (would not pay the AIM Execution Fee) for such AIM transactions. *See* CBOE Fees Schedule, Footnotes 8 and 9.

[14] NASDAQ OMX PHLX assesses a fee of $.05 per contract to an Initiating Order when the Initiating Order executes against a PIXL Order in the PIXL Auction. *See* NASDAQ OMX PHLX, LLC Fee Schedule, Section IV, PIXL Pricing.

fees to $.03 per contract and $.015 per contract for crossed orders.[15]

PAR Official Fees: The Exchange proposes to establish PAR Official Fees.[16] These fees would apply to all orders executed by a PAR Official, except for customer orders ("C" origin code) that are not directly routed to the trading floor (an order that is directly routed to the trading floor is directed to a PAR Official for manual handling by use of a field on the order ticket). Such orders would be charged $.02 per contract and, like floor brokerage fees, a discounted rate of $.01 per contract would apply for crossed orders. The purpose of the proposed fee is to help offset the Exchange's costs of providing PAR Official services (e.g., salaries, etc). As noted above, the Exchange would not charge the fee to public customer orders except for any customer order that is directly routed to the trading floor. The Exchange believes it is reasonable to charge the fee to a customer that specifically requests order handling by a PAR Official. PAR Official Fees would be charged to the order originating firm unless the originating firm cannot be identified, in which case the fees would be charged to the executing firm on the trade record.

Volatility Index Surcharge Fee: The Exchange currently charges a surcharge fee of $.08 per contract on all non-public customer [17] transactions in volatility index options. The Exchange proposes to increase the surcharge fee for volatility index options to $.10 per contract. The surcharge fee is assessed to help the Exchange recoup license fees the Exchange pays to index licensors for the right to list volatility index options for trading and is similar to surcharge fees charged by other exchanges.

Linkage Fee: Currently, when the Exchange receives a 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 in connection with the Options Order Protection and Locked/Crossed Market Plan, the Exchange charges $.35 per contract executed on another exchange in addition to the customary CBOE execution charges.[18] The Exchange proposes to reduce the qualifying customer order size from 1,000 or more contracts to 500 or more contracts. The purpose of this Linkage Fee is to pass through some of the transaction costs incurred by the Exchange associated with the execution of customer orders at away markets. The Exchange believes it is appropriate to pass through some of these costs to these larger non-broker-dealer customer orders that are more akin to broker-dealer orders.

Facility Fees: The Exchange proposes to amend the following facility fees in Section 8 of the Fees Schedule:

Booth Fees: The Exchange currently charges $185 per month for use of a perimeter booth on the trading floor. The Exchange proposes to increase this fee to $195 per month. The fee for an OEX booth is proposed to be increased from $330 per month to $550 per month, equaling the rate charged for DJX and MNX booths. The fee for VIX booths is also proposed to be increased to $550 per month due to high demand for booth space for VIX options, which recently moved into a larger pit on the trading floor. The $550 per month fee for booths by the OEX book is proposed to be eliminated because there are no longer such booths due to the relocation of the OEX pit.[19]

Forms and Form Storage Fees: The Exchange currently charges a fee of $10 per month for cabinet space at the Exchange used by trading permit holders to store paper forms such as trade order forms. The Exchange proposes to increase this fee to $11 per month. The Exchange has provided trading permit holders with boxes of 5-part and 2-part paper trade order forms for many years at no charge. The Exchange proposes to charge trading permit holders $50 per box to recoup the cost of making these forms available to trading permit holders.

Access Badge Fees: The Exchange proposes to increase certain fees for access badges. These fees have not changed in approximately ten years. The monthly fees for access badges would increase from $110 to $120 for Floor Managers and from $55 to $60 for clerks. In addition, the Exchange proposes to amend the following charges per occurrence: (1) The fee for issuance of a badge would increase from $15 to $16.50, (2) the fee to replace a badge would increase from $15 to $16.50, (3) the fee for failure to return an access badge would increase from $75 to $82.50, (4) the fee for a temporary badge for a non-trading permit holder would increase from $10 to $11, and (5) the fee for a temporary badge for a trading permit holder would increase from $10 to $11 (the first three badges per year are free of charge).

Coat Room Services Fee: The Exchange charges trading permit holders $15 per month for coat room services. The Exchange proposes to increase the fee to $25 per month to help the Exchange recoup increased costs for making this service available to trading permit holders.

Telecommunication Fees: The Exchange proposes to increase certain telecommunication fees. These fees have not changed in over seven years. The Exchange proposes the following changes to Section 8(F) of the Fees Schedule:

Monthly fees:

a. Exchangefone Maintenance—Increase from $52.00 to $57.00.

b. Single Line Maintenance—Increase from $10.50 t0 $11.50.

c. PhoneMail with Outcall & Pager—Increase from $17.00 to $18.75.

d. Intra-Floor Lines—Increase from $52.50 to $57.75.

e. Voice Circuits—Increase from $14.40 to $16.00.

f. Data Circuits at Local Carrier (entrance)—Increase from $14.40 to $16.00.

g. Lines Between Local Carrier and Communications Center—Increase from $11.60 to $12.75.

h. Lines Direct From Local Carrier to Trading Floor—Increase from $11.60 to $12.75.

i. Lines Between Communications Center and Trading Floor—Increase from $11.60 to $12.75.

Fees for installation, relocation and removal of lines:

j. Data Circuits at In-House Frame:

i. Lines Between Local Carrier and Communications Center—The installation fee would increase from $200 to $550 and would include the removal fee. The existing removal fee of $100 would be eliminated.

ii. Lines Direct From Local Carrier to Trading Floor—The installation fee would increase from $350 to $725 and

[15] The Exchange proposes to delete DXL options (options based on 1/10th the value of the Dow Jones Industrial Average) from Section 3 of the Fees Schedule and delete all other references to DXL from the Fees Schedule because DXL options are no longer listed on CBOE.

[16] A PAR Official is an Exchange employee or independent contractor whom the Exchange may designate as being responsible for (i) operating the PAR workstation in a Designated Primary Market-Maker ("DPM") trading crowd with respect to the classes of options assigned to him/her; (ii) when applicable, maintaining the book with respect to the classes of options assigned to him/her; and (iii) effecting proper executions of orders placed with him/her. The PAR Official may not be affiliated with any Trading Permit Holder that is approved to act as a Market-Maker. *See* CBOE Rule 7.12.

[17] The Surcharge Fee applies to all non-public customer transactions (*i.e.* CBOE and non-Trading Permit Holder market-maker, Clearing Trading Permit Holder and broker-dealer), including voluntary professionals and professionals. *See* CBOE Fees Schedule, Section 1 (Index Options) and Footnote 14.

[18] *See* CBOE Fees Schedule, Section 20. *See, also,* Securities Exchange Act Release No. 62793 (August 30, 2010), 75 FR 54408 (September 7, 2010).

[19] The Exchange also proposes a clarifying change to Section 8(b) of the Fees Schedule. The Exchange proposes to change "Arbitrage Phone Positions" to "SPX Arbitrage Phone Positions" to clarify that this fee applies to booths that are adjacent to or near the SPX pit.

would include the removal fee. The existing removal fee of $200 would be eliminated. The relocation fee of $425 would be increased to $625.

iii. Lines Between Communications Center and Trading Floor—The installation fee would increase from $350 to $725 and would include the removal fee. The existing removal fee of $200 would be eliminated. The relocation fee of $425 would be increased to $625.

iv. [sic]

The Exchange currently charges a $350 installation fee for electrician services connected to the installation of a tether on the trading floor for a market-maker hand held terminal. The Exchange proposes to increase this fee to $450. The Exchange proposes to charge $900 for installation of a tether in index pits due to the higher costs associated with installing tethers in those larger pits. The fee for relocation of a tether would remain unchanged at $200 regardless of location.

Trading Floor Terminal Rental Fees: The Exchange proposes to increase fees for rental of trading floor terminals to help the Exchange offset increased costs. The Exchange currently charges $200 per month per login ID for use of a Floor Broker Workstation (FBW). The FBW is a system for electronically entering and managing orders on the Exchange floor. The Exchange proposes to increase this fee to $225 per month per login ID.

The Exchange charges trading permit holders $35 per month for Satellite TV on the trading floor. The Exchange proposes to increase this fee to $50 per month.

The Exchange charges $100 per month for use of a PAR Workstation. PAR Workstations are touch screen terminals designed to allow electronic representation of orders routed to it. The Exchange proposes to increase this fee to $125 per month.

Co-Location Fees: The Exchange provides cabinet space in CBOE's building for trading permit holders to place their network and quoting engine hardware, to help trading permit holders meet their need for high performance processing and low latency. Trading permit holders also receive power, cooling, security and assistance with installation and connection of the equipment to the Exchange's servers. For these services, the Exchange currently charges trading permit holders a co-location fee of $10 per "U" (1.75 inches) of shelf space and $20 per U for sponsored users, in increments of 4 U (7 inches). To bring its fees more in line with the current market for co-location services, the Exchange proposes to increase these fees to $20 per U and $40 per U for Sponsored Users.

DPM's and Firm Designated Examining Authority Fee: The Exchange charges DPMs and firms for which the Exchange is the Designated Examining Authority ("DEA"), a fee of $.40 per $1,000 of gross revenue as reported on quarterly FOCUS reports filed by such trading permit holders. The fee is subject to a minimum fee of $1,000 per month for Clearing Trading Permit Holders and $275 for non-Clearing Trading Permit Holders. The Exchange proposes to increase this fee, which has not changed in many years, from $.40 per $1,000 of gross revenue to $.50 per $1,000 of gross revenue.

CBOEdirect Connectivity Charges: The Exchange proposes to increase three monthly fees related to connectivity to CBOEdirect to bring the fees more in line with the current market for similar services. The Exchange charges trading permit holders a $40 per month Network Access Port Fee ($80 per month for Sponsored Users) and a $40 per month FIX Port Fee ($80 per month for Sponsored Users) for network hardware the Exchange provides to trading permit holders for access to the Exchange's network. The Exchange proposes to increase each fee to $80 per month ($160 per month for Sponsored Users). The Exchange charges trading permit holders a $40 per month CMI Client Application Server Fee ($80 per month for Sponsored Users) for server hardware that enables trading permit holders to connect to CBOE's two Application Protocol Interfaces: CMI (CBOE Market Interface) and Financial Information Exchange (FIX). The Exchange proposes to increase this fee to $80 per month ($160 per month for Sponsored Users).

Hybrid Fees: The Exchange provides certain hardware (*e.g.,* servers) and related maintenance services to third party vendors that provide trading permit holders with quoting software used by trading permit holders to trade on the Hybrid Trading System. The Exchange charges trading permit holders a Quoting Infrastructure User Fee of $150 per month to help the Exchange recover its costs in facilitating trading permit holder's receipt of these third party services. The Exchange proposes to increase this fee to $200 per month to help offset increased costs.

TickerXpress ("TX") is an Exchange service that supplies market data to Exchange market-makers trading on the Hybrid Trading System. Currently, the Exchange charges trading permit holders receiving "enhanced" TX market data a fee of $300 per month. Enhanced market data is data that has been processed so that it can be used by market-makers utilizing quoting software. The Exchange proposes to increase this fee to $350 per month to help offset the Exchange's increased costs in providing this data to Exchange trading permit holders.[20]

Miscellaneous Changes: The Exchange proposes the following housekeeping changes to its Fees Schedule. The Exchange proposes to amend footnotes 8 and 9 of the Fees Schedule to delete references to the effective dates of two fee waiver programs described therein that are still ongoing. The Exchange proposes to amend Section 1 and footnote 8 of the Fees Schedule to change references to "SPDR" to "SPY". The reason for this change is to clarify that Section 1 and footnote 8 apply to options on the SPDR S&P 500 ETF Trust (ticker symbol SPY) and not to other options listed on the Exchange that include "SPDR" in their name (*e.g.,* options on SPDR Gold Shares). The Exchange proposes to amend Section 15 of the Fees Schedule to delete a sentence relating to the Market Data Infrastructure Fee that is now outdated.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act"),[21] in general, and furthers the objectives of Section 6(b)(4) [22] of the Act in particular, in that it is designed to 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 Multiply-Listed Options Fee Cap and CBOE Proprietary Products Sliding Scale for CTPH Proprietary orders and AIM Execution Fee would allow the Exchange to remain competitive with similar programs at other exchanges. The Exchange believes the other proposed fee changes are equitable and reasonable in that in general they are intended to help the Exchange recover its costs of providing various products and services to trading permit holders and other persons using its facilities.

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

[20] The Exchange also proposes to amend Section 17 of the Fees Schedule to delete a reference to an effective date of April 1, 2007.

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(4).

necessary or appropriate in furtherance of 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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [23] and subparagraph (f)(2) of Rule 19b–4 [24] 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*. Please include File Number SR–CBOE–2010–116 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–2010–116. 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 CBOE. 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–2010–116 and should be submitted on or before February 8, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–919 Filed 1–14–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63694; File No. SR–BX–2011–001]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the BOX Trading Rules Regarding Voluntary Withdrawal From Trading Options Classes in Which They Are Appointed

January 11, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 7, 2011, NASDAQ OMX BX, Inc. (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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

The Exchange proposes to amend Chapter VI, Section 4 (Appointment of Market Makers) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to permit the Exchange and Market Makers greater flexibility in handling Market Makers' voluntary withdrawal from trading options classes in which they are appointed. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/.*

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 Chapter VI, Section 4(f) of the BOX Rules (Appointment of Market Makers) to eliminate the requirement that a Market Maker provide three business days' notice if they wish to withdraw from trading an options class in which they are appointed. The proposed rule change will provide that Boston Options Exchange Regulation, LLC ("BOXR") (i) may determine an appropriate minimum amount of prior notice required for Market Makers to withdraw from trading; and (ii) has the authority to place other conditions on Market Maker withdrawal as may be appropriate in the interests of maintaining fair and orderly markets.

Chapter VI, Section 4(f) of the BOX Trading Rules currently provides that a Market Maker may voluntarily withdraw from trading an options class that is within their appointment by providing BOX with three business days' written notice of such withdrawal. The proposed rule change will eliminate

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(2).

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.