

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 such filing also will be available for inspection and copying at the principal office of NYSE Arca. 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-NYSEARCA-2013-74 and should be submitted on or before August 26, 2013.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-18755 Filed 8-2-13; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70064; File No. SR-CBOE-2013-078]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule To Include a \$60 Session Fee for the Series 56 (S501) Continuing Education

July 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 25,

2013, the 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 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. 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'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 Fees Schedule.<sup>3</sup> More specifically, the Exchange is proposing to make changes to the section "Regulatory Fees." Currently under the Exchange's Regulatory Fees, the Exchange charges a \$100 session fee to registered persons at the Exchange for a continuing education ("CE") requirement that is outlined in Exchange Rule 9.3A. The Exchange is now proposing to add a \$60 session fee for those individuals that only have the Proprietary Trader ("Series 56") registration.

Exchange Rule 3.6A.08 outlines the registration and qualification requirements (including prerequisite examinations) for TPHs and TPH

organizations conducting proprietary trading, market-making and/or effecting transactions on behalf of other broker dealers.<sup>4</sup> Exchange Rule 9.3A requires all TPHs and TPH organizations to complete the Regulatory Element of the CE program beginning with the occurrence of "their second registration anniversary date and every three years thereafter or as otherwise prescribed by the Exchange."<sup>5</sup> Recently, the Exchange amended Rule 9.3A to enumerate the different CE programs offered by the Exchange including the S501 Series 56 Proprietary Trader Continuing Education Program ("S501").<sup>6</sup> The Exchange is now proposing to outline the necessary fees associated with the Regulatory Element of the S501.

The Exchange has determined that these changes are necessary to administer the Series 56 CE program. Specifically, the \$60 session fee will be used to fund the CE program administered to Proprietary Traders that have a Series 56 registration<sup>7</sup> and are required to complete the S501. The \$60 session fee is less than the \$100 session fee (currently in the Exchange's fee schedule) for the S101 General Program for Series 7 registered persons ("S101") as the Series 7 examination is a more comprehensive examination, and, thus, the CE is more comprehensive as well. Thus, the Exchange believes the \$60 fee is reasonable and proportional fee based upon the programming of the CE. In addition, the \$60 fee will only be used for the administration of the CE versus the S101 which utilizes the \$100 fee for both development and administration. The costs associated with the development costs [sic] of the S501 are included in the examination fee.

Because the CE element is separate and different from the CE already administered, the proposed change would put TPHs and TPH organizations on notice of the associated fees. The proposed fee would allow the Exchange to fund the S501 which is more tailored to the Series 56 registration. Also, the Exchange believes other exchanges will be assessing the same fee for this CE program. The proposed changes are to take effect on August 19, 2013.

<sup>4</sup> See Exchange Rule 3.6A.08.

<sup>5</sup> See Exchange Rule 9.3A(a).

<sup>6</sup> See Securities Exchange Act Release No. 34-70027 (July 23, 2013) (SR-CBOE-2013-076) (immediately effective rule change to specify the different CE requirements for registered persons based upon their registration with the Exchange).

<sup>7</sup> Both individuals that have successfully passed the Series 56 examination and individuals that have had the examination waived by the Exchange are required to take the S501.

<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.

<sup>3</sup> See Exchange Rule 2.20, which authorizes the Exchange, from time to time, to "fix the fee and charges payable by Trading Permit Holders."

## 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.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> 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 facilitation 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 the Section 6(b)(5)<sup>10</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change is equitable and not unfairly discriminatory as it is allocated to all individuals with a Series 56 registration which is required under Exchange Rule 3.6A. In addition, the fee is reasonable as it lower than the previously assessed CE fee because the S501 is more limited than the S101, and the fee is only intended to recoup the costs of the administration of the program. Also, the Exchange believes other exchanges will be assessing the same fee for this CE program. The Exchange believes the proposed rule change will protect investors and the public interest by covering the administration of the program and allow the Exchange to tailor a CE fee for the Series 56. This allows the Exchange to better prevent fraudulent and manipulative acts and practices because the CE will properly educate Proprietary Traders in the topics of securities laws and other rules and help them to comply with those laws and rules.

Finally, the Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,<sup>11</sup> which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the individuals with a series 56 registration with the Act, the rules and regulations

thereunder, and the rules of the Exchange. The proposed rule change is designed to fund the administration of the S501, and, more specifically, to help more closely cover the costs of educating individuals that hold a Series 56 registration. Thus, the proposed changes will help the Exchange to enforce compliance of its TPHs with the Act and Exchange rules.

### *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. In particular, the proposed rule change will not impose any burden on intermarket competition as it will merely serve to aid the Exchange in fulfilling its obligations as a Self-Regulatory Organization by further funding the administration of the new CE. The proposed rule change will not impose any burden on intramarket competition as all TPHs and TPH organizations are required to pass a qualification exam as outline in Rule 3.6A and fulfill a CE requirement as outlined in Rule 9.3A. In addition, the Exchange believes other exchanges will be assessing the same fee for this CE program.

### *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 proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, applicable only to a member, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>12</sup> and subparagraph (f)(2) of Rule 19b-4<sup>13</sup> thereunder.

At any time within 60 days of the filing of this 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2013-078 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-2013-078. 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-2013-078 and should be submitted on or before August 26, 2013.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> *Id.*

<sup>11</sup> 15 U.S.C. 78f(b)(1).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

[FR Doc. 2013-18752 Filed 8-2-13; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-70062; File No. SR-BX-2013-042]

**Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit the Nullification of Trades Involving Catastrophic Errors**

July 30, 2013

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 19, 2013, NASDAQ OMX BX, Inc. (“BX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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 Chapter V, Section 6, Obvious Errors. Specifically, BX proposes to amend Section 6(f)(iii) to permit the nullification of trades involving catastrophic errors in certain situations specified below.

The text of the proposed rule change is below; proposed new language is italicized; proposed deletions are in brackets.

\* \* \* \* \*

**NASDAQ OMX BX Rules**

\* \* \* \* \*

**Options Rules**

\* \* \* \* \*

**Chapter V Regulation of Trading on BX Options**

\* \* \* \* \*

**Sec. 6 Obvious and Catastrophic Errors**

(a)–(e) No change.

(f) *Catastrophic Errors*

(i)–(ii) No change.

(iii) *Adjust or Bust.* A BX Official will determine whether there was a Catastrophic Error as defined above. If it is determined that a Catastrophic Error has occurred, whether or not each party to the transaction is an Options Participant, MarketWatch shall adjust the execution price of the transaction, unless both parties agree to adjust the transaction to a different price, to the theoretical price (i) plus the adjustment value provided below for erroneous buy transactions, and (ii) minus the adjustment value provided for erroneous sell transactions, *pursuant to the following chart; provided that the adjusted price would not exceed the limit price of a Public Customer’s limit order, in which case the Public Customer would have 20 minutes from notification of the proposed adjusted price to accept it or else the trade will be nullified:*

Theoretical price	Minimum amount
Below \$2 .....	\$1
\$2 to \$5 .....	2
Above \$5 to \$10 .....	3
Above \$10 to \$50 .....	5
Above \$50 to \$100 .....	7
Above \$100 .....	10

Upon taking final action, MarketWatch shall promptly notify both parties to the trade electronically or via telephone.

(g) No change.

\* \* \* \* \*

**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 purpose of the proposal is to help market participants better manage their risk by addressing the situation where, under current rules, a trade can be

adjusted to a price outside of a Public Customer’s limit. Specifically, the Exchange proposes to amend Chapter V, Section 6(f) to enable a Public Customer who is the contra-side to a trade that is deemed to be a catastrophic error to have the trade nullified in instances where the adjusted price would violate the Public Customer’s limit price. Only if the Public Customer, or his agent, affirms the customer’s willingness to accept the adjusted price through the customer’s limit price within 20 minutes of notification of the catastrophic error ruling would the trade be adjusted; otherwise it would be nullified. Today, all catastrophic error trades are adjusted, not nullified, on all of the options exchanges, except on NASDAQ OMX PHLX LLC (“PHLX”), on whose provision this proposal is modeled.<sup>3</sup>

**Background**

Currently, Chapter V, Section 6 governs obvious and catastrophic errors. Obvious errors are calculated under the rule by determining a theoretical price and determining, based on objective standards, whether the trade should be nullified or adjusted. The rule also contains a process for requesting an obvious error review. Certain more substantial errors may fall under the category of a catastrophic error, for which a longer time period is permitted to request a review and for which trades can only be adjusted (not nullified). Trades are adjusted pursuant to an adjustment table that, in effect, assesses an adjustment penalty. By adjusting trades above or below the theoretical price plus or minus a certain amount, the rule assesses a “penalty” in that the adjustment price is not as favorable as the amount the party making the error would have received had it not made the error.

**Proposal**

At this time, the Exchange proposes to change the catastrophic error process to permit certain trades to be nullified. The definition and calculation of a catastrophic error would not change.<sup>4</sup> Once a catastrophic error is determined by a BX Official, then if both parties to the trade are not a Public Customer,<sup>5</sup> the

<sup>3</sup> See PHLX Rule 1092(f)(ii). Securities Exchange Act Release No. 69304 (April 4, 2013), 78 FR 21482 (April 10, 2013) (SR-Phlx-2013-05).

<sup>4</sup> Nor is the definition or process for obvious errors changing. However, the Exchange proposes to add reference to “catastrophic” errors to the title of the provision to better reflect its content and match that of other options exchanges.

<sup>5</sup> Chapter I, Section 1(a)(50) defines a Public Customer as person that is not a broker or dealer in securities. Professional Customers are Public

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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