

to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its Rule 7.31 Relating to Discretionary Orders, Auction-Only Orders, Discretionary Modifier, and Yielding Modifier and to make related amendments to Rules 7.16, 7.34, 7.36, and 7.37. The proposed rule change was published for comment in the **Federal Register** on December 18, 2018.<sup>3</sup> The Commission has not received any comments on the proposal.

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is February 1, 2019. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates March 18, 2019, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NYSE-2018-52).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85015; File No. SR-CBOE-2019-003]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Its Fees Schedule

January 31, 2019.

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 January 29, 2019, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend its fees schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

The Exchange proposes to amend its Fees Schedule, effective February 1, 2019 to amend its fee incentive program for Lead Market-Makers (“LMM”) in SPX during Global Trading Hours (“GTH”). By way of background, pursuant to Footnote 38 of the Fees Schedule, a GTH LMM in SPX will receive a rebate for that month in the amount of a pro-rata share of a compensation pool equal to \$30,000 times the number of LMMs in that class (or pro-rated amount if an appointment begins after the first trading day of the month or ends prior to the last trading day of the month) if the LMM: (1) Provides continuous electronic quotes in at least the lesser of 99% of the non-adjusted series or 100% of the non-adjusted series minus one call-put pair in an GTH allocated class (excluding intraday add-on series on the day during which such series are added for trading) during GTH in a given month; (2) enters opening quotes within five minutes of the initiation of an opening rotation in any series that is not open due to the lack of a quote, provided that the LMM will not be required to enter opening quotes in more than the same percentage of series set forth in clause (1) for at least 90% of the trading days during GTH in a given month; and (3) satisfies the following time-weighted average quote widths and bid/ask sizes for each moneyness category: (A) Out of the money options (“OTM”), average quote width of \$0.75 or less and average bid/ask size of 15 contracts or greater; (B) at the money options (“ATM”), average quote width of \$3.00 or less and bid/ask size of 10 contracts or greater; and (C) in the money options (“ITM”), average quote width of \$10.00 or less and bid/ask size of 5 contracts or greater.<sup>3</sup> GTH LMMs in SPX are not obligated to satisfy the heightened quoting standards described above or in Rule 8.15 during GTH. Rather, GTH LMMs in SPX are eligible to receive a rebate if they satisfy the heightened standards described in the Fees Schedule, which the Exchange believes will encourage SPX LMMs to provide liquidity during GTH.

The Exchange proposes to amend Footnote 38 to modify the quoting standard a GTH LMM in SPX will need to satisfy in order to receive a rebate for its SPX GTH activity. Particularly, the Exchange proposes to modify prong

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

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

<sup>3</sup> See Securities Exchange Act Release No. 84806 (Dec. 12, 2018), 83 FR 64913 (Dec. 18, 2018).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> *Id.*

<sup>6</sup> 17 CFR 200.30-3(a)(31).

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

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

<sup>3</sup> See Cboe Options Fees Schedule, Footnote 38.

3(A) of the quoting standard with respect to the required average quote width for OTM options. As noted, above, a GTH LMM in SPX must, among other things, provide an average quote width of \$0.75 or less and average bid/ask size of 15 contracts or greater for OTM options. The Exchange proposes to modify the OTM options average quote width requirement. Specifically the Exchange proposes to require that a GTH LMM in SPX provide an average quote width for OTM options of \$0.90 or less instead of \$0.75 or less. The Exchange proposes to widen the average quote width required as the current market has made it more difficult for a GTH LMM in SPX to maintain the same quality of markets as compared to previous market conditions that were less volatile. The Exchange continues to believe that time-weighted averages are a good way to assess the overall quality of the market.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>4</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>5</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 facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>6</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes amending the third prong in Footnote 38 is reasonable as it does not change the financial benefit offered. Additionally, the Exchange believes the proposed amendment is reasonable, equitable and not unfairly discriminatory because it applies to any appointed GTH LMM in SPX uniformly and because if the third prong, as amended, is not met, a GTH

SPX LMM merely will not receive the offered financial benefit. The Exchange also believes the requirement under the amended third prong is commensurate with the financial benefit offered. Additionally, the Exchange notes that current market conditions have made the current OTM average quote widths requirement more difficult to attain and the Exchange believes the amended averaged width quote is more appropriate given current market conditions. The Exchange believes that its proposed rule change removes impediments to and perfects the mechanism of a free and open national market system as it continues to incentivize any GTH LMMs in SPX to provide liquidity in SPX during GTH and meet the prescribed quoting standard.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it applies uniformly to all SPX GTH LMMs. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because SPX options are proprietary products that will only be traded on Cboe Options. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and paragraph (f) of Rule 19b-4<sup>8</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. If the Commission takes such action, the Commission shall 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-2019-003 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-CBOE-2019-003. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from

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

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

<sup>6</sup> *Id.*

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

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

comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2019-003 and should be submitted on or before February 27, 2019.

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

**Eduardo A. Aleman,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85023; File No. SR-NYSEAMER-2018-58]

### Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Modify the NYSE American Options Fee Schedule

January 31, 2019.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on December 21, 2018, NYSE American LLC (the “Exchange” or “NYSE American”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 Exchange proposes to modify the NYSE American Options Fee Schedule (“Fee Schedule”). The Exchange proposes to implement the fee change effective January 1, 2019. The proposed change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, 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 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.

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

##### 1. Purpose

The purpose of this filing is to modify the Fee Schedule, effective January 1, 2019, to provide an incentive for Market Makers to provide more competitive prices and deeper liquidity in the NYSE FANG+ Index (“NYSE FANG+”), which trades under the symbol FAANG. The Exchange also proposes to eliminate the FAANG Rebate that it currently offers Floor Brokers as it failed to achieve its intended goal of encouraging Floor Brokers to bring FAANG business to the Trading Floor.

The Exchange introduced fees and rebates for transactions in FAANG in June 2018.<sup>4</sup> Currently, the Exchange charges \$0.35 per contract, per side for non-Customer and Professional Customer FAANG transactions, whether executed manually or electronically.<sup>5</sup> However, the Exchange does not charge a fee for any FAANG transactions (i) on behalf of Customers or (ii) by Market Makers with an appointment in NYSE FANG+.<sup>6</sup> Thus, Market Makers that do not have an appointment in NYSE FANG+ are currently subject to the same fee of \$0.35 per contract, per side for non-Customer and Professional Customer FAANG transactions. The Exchange proposes to remove the requirement that a Market Maker have an appointment in FAANG to be able to transact in FAANG for free. The Exchange believes that removing this limitation would encourage Market Makers to trade in FAANG.

Concurrent with this change, the Exchange proposes to introduce credits for Market Maker organizations—

specifically, NYSE American Options Market Makers, Specialists, e-Specialists or DOMMs—that execute at least 500 total monthly contract sides that open a position on the Exchange (the “MM FAANG Credit” or “Credit”).<sup>7</sup> Only those FAANG transactions marked as “open” would be eligible to be counted towards the MM FAANG Credit. As proposed, firms that meet the minimum volume threshold would receive a MM FAANG Credit of \$5,000; provided, however, that if more than ten firms qualify for a MM FAANG Credit in a calendar month, the Credit for each qualifying firm would be a pro rata share of \$50,000. The Exchange believes the proposed MM FAANG Credit would further the Exchange’s goal of encouraging trading in this new index product. In particular, the Exchange seeks to spur Market Makers to provide increased liquidity in tighter markets, which would create greater trading opportunities for all market participants.

Finally, the Exchange proposes to eliminate the FAANG Rebate that it currently offers Floor Brokers as it failed to achieve its intended goal of encouraging Floor Brokers to bring FAANG business to the Trading Floor.<sup>8</sup>

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act, in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes the proposal to remove the restriction that Market Makers must have an appointment in FAANG to avoid transactions fees in this product is reasonable, equitable and not unfairly discriminatory because this proposal would encourage Market Makers to provide liquidity in FAANG, a product that was only introduced in June 2018. In addition, the proposed FAANG transaction fee change would

<sup>4</sup> See Securities Exchange Act Release No. 83553 (June 28, 2018), 83 FR 31431 (July 5, 2018) (SR-NYSEAMER-2018-34).

<sup>5</sup> See Fee Schedule, Section I.A., Options Transaction Fees and Credits, Rates for Options Transactions, note 7 (Options on NYSE FANG+ Index (“FAANG”) transactions), available here: [https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE\\_American\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf).

<sup>6</sup> See *id.* The term Market Maker, as used herein, includes NYSE American Options Market Makers, Specialists, e-Specialists and Directed Order Market Makers (or DOMMs).

<sup>7</sup> See proposed Fee Schedule, Section I.A., Options Transaction Fees and Credits, Rates for Options Transactions, note 7 (Options on NYSE FANG+ Index (“FAANG”) transactions).

<sup>8</sup> See Securities Exchange Act Release No. 83617 (July 10, 2018), 83 FR 32930, 32930 (July 16, 2018) (SR-NYSEAMER-2018-36) (adopting the FAANG Rebate for Floor Brokers to “encourage[e] Floor Brokers to bring business to the Trading Floor, which would in turn, benefit all market participants through increased liquidity and more opportunities to trade”).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.