

5. Do commenters have any concerns about how an option class might trade between the time notice has been given that the option class will be removed from the proposed permanent penny program and the time options in that class begin trading in standard increments? Please explain.

6. What are commenters' views on NYSE Arca's proposal to conduct a review on an annual basis? Please explain. Should such a review interval be more or less frequent? Please explain.

7. Do commenters believe that the use of the two proposed market activity levels (150 most actively traded listed options classes and 200 most actively traded issues) would cause confusion among market participants? Why or why not? Do you believe the use of the two proposed market activity levels would provide an appropriate mechanism to transition options classes in and out of the proposed permanent penny program? Why or why not?

8. NYSE Arca proposes to replace any options classes participating in the Program that have been delisted, or are identified by OCC as ineligible for opening Customer transactions, with the next most actively traded multiply listed options classes that are not yet included in the Program, based on trading activity in the previous six full calendar months. NYSE Arca proposes that any series in a class overlying the issues that are being replaced would continue to trade under the proposed permanent penny program until they expire. The replacement issue would be added to the proposed permanent penny program at the beginning of the next quarter. What are commenters' views on NYSE Arca's process to replace options classes that have been delisted or are identified by OCC as ineligible for opening Customer transactions? Please explain.

9. What are commenters' views on whether the minimum quoting increment should be the same or different across all exchanges trading the same option? What are the advantages and disadvantages to adopting a uniform permanent penny program as compared to exchange specific permanent penny programs? Please be specific.

10. Commenters are requested to provide empirical data and other factual support for their views, if possible.

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-NYSEArca-2013-42 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-NYSEArca-2013-42*. 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-NYSEArca-2013-42 and should be submitted on or before October 1, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-21928 Filed 9-9-13; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-70314; File No. SR-CBOE-2013-084]

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

September 4, 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 August 22, 2013, 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, 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 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 Footnote 10 of the Fees Schedule to

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

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

<sup>16</sup> 17 CFR 200.30-3(a)(12).

state that contract volume resulting from any of the strategies defined in Footnote 13 will apply towards reaching the Liquidity Provider Sliding Scale (the "LP Sliding Scale") volume thresholds.<sup>3</sup> This will put the strategy executions on the same footing as other transactions that count towards the LP Sliding Scale. Further, the Exchange believes this change will encourage the transaction of strategy executions. This would result in increased volume and provide greater liquidity, which would benefit all market participants (who could trade on the other side of these orders). While CBOE's previous practice had been to not apply contract volume resulting from any of the strategies defined in Footnote 13 towards the LP Sliding Scale (as such transactions apply towards fee caps on strategy executions as described in Footnote 13), the Exchange now believes that the incentive that such application would provide to Market-Makers to transact strategy executions outweighs any countervailing reasoning, as the Exchange recognizes that such transactions would provide greater liquidity for all market participants.

## 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>4</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>5</sup> which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities. The Exchange believes that the proposed change to include contract volume resulting from strategy executions in the calculation of the LP Sliding Scale is reasonable because it will allow qualifying market participants who execute strategy transactions to benefit from the LP Sliding Scale for doing so. The Exchange believes that this is equitable and not unfairly discriminatory because it will apply to all market participants who qualify for the LP Sliding Scale. While the LP Sliding Scale only applies to Market-Makers, those market participants take on obligations, such as quoting obligations, that some other

market participants do not take on. Further, the Exchange believes that this will incentivize qualifying market participants to engage in such strategy executions, and the resulting increase in volume will benefit all market participants. Finally, this will put the strategy executions on the same footing as other transactions that count towards the LP Sliding Scale.

### *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. The Exchange does not believe that the proposed changes to include contract volume resulting from strategy executions in the calculation of the LP Sliding Scale will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because they will apply to all market participants who qualify for the LP Sliding Scale. While the LP Sliding Scale only applies to Market-Makers, those market participants take on obligations, such as quoting obligations, that some other market participants do not take on. Further, the Exchange believes that this will incentivize qualifying market participants to engage in such strategy executions, and the resulting increase in volume will benefit all market participants. The Exchange does not believe that this will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it only affects trading on CBOE. Further, to the extent that these changes may make CBOE a more attractive trading venue for market participants on other exchanges, such market participants may elect to become CBOE 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>6</sup> and paragraph (f) of Rule 19-4<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. 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-2013-084 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-2013-084. 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 such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change;

<sup>3</sup> The strategies defined in Footnote 13 of the Fees Schedule are merger strategies, short stock interest strategies, reversals, conversions and jelly roll strategies. See Footnote 13 for definitions of each strategy.

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

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

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

<sup>7</sup> 17 CFR 240.19b-4(f).

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-2013-084, and should be submitted on or before October 1, 2013.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-21932 Filed 9-9-13; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70311; File No. SR-BX-2013-049]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 1120 and Adopt a Corresponding Fee

September 4, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on August 22, 2013, NASDAQ OMX BX, Inc. ("Exchange" or "BX") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. BX has designated the proposed rule change as constituting a non-controversial rule change under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

BX is filing with the Commission a proposed rule change to amend Rule 1120 as described below, and to adopt a corresponding fee.

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

\* \* \* \* \*

#### 1120. Continuing Education Requirements

This Rule prescribes requirements regarding the continuing education of certain registered persons subsequent to their initial qualification and registration with the Exchange. The requirements shall consist of a Regulatory Element and a Firm Element as set forth below.

##### (a) Regulatory Element

##### (1) Requirements

No member shall permit any registered person to continue to, and no registered person shall continue to, perform duties as a registered person unless such person has complied with the requirements of paragraph (a) hereof.

Each registered person shall complete the Regulatory Element on the occurrence of their second registration anniversary date and every three years thereafter, or as otherwise prescribed by the Exchange. On each occasion, the Regulatory Element must be completed within 120 days after the person's registration anniversary date. A person's initial registration date, also known as the "base date," shall establish the cycle of anniversary dates for purposes of this Rule. The content of the Regulatory Element shall be determined by the Exchange and shall be appropriate to either the registered representative or principal status of the person subject to the Rule. *The following Regulatory Elements administered by FINRA shall be required:*

*Persons registered solely as Proprietary Traders pursuant to Rule 1032(b) must complete the S501.*

*Persons registered as General Securities Representatives pursuant to Rule 1032(a) must complete the S101.*

*Persons registered in a supervisory capacity pursuant to Rules 1021 and 1022 must complete the S201.*

\* \* \* \* \*

#### 7003. Regulatory, Registration and Processing Fees

(a) The following fees will be collected and retained by FINRA via the Web CRD registration system for the registration of associated persons of Exchange members that are not also FINRA members:

(1)–(6) No change.

(7) a \$[75]100 session fee for each individual who is required to complete the Regulatory Element of the Continuing Education Requirements pursuant to Exchange Rule 1120 (*S101 and S201*) and a \$60 session fee for each individual who is required to complete

*the Proprietary Trader Regulatory Element (S501); and*

\* \* \* \* \*

#### 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 proposed rule change is to codify in Rule 1120 the specific continuing education requirements that currently apply and to adopt a continuing education requirement for persons registered as Proprietary Traders. BX also proposes to adopt a fee in Rule 7003 for the new continuing education program applicable to Proprietary Traders.

BX adopted the Proprietary Trader<sup>5</sup> registration in 2011,<sup>6</sup> working with various other exchanges and Financial Industry Regulatory Authority ("FINRA"). At that time, BX stated that persons registered in the new category would be subject to its continuing education requirements in Rule 1120.

At this time, the new continuing education program for Proprietary Traders will soon become available and will be administered by FINRA. The new program, the S501, is intended to address the specific continuing education of Proprietary Traders, based on the content outline for the Series 56 exam, which covers the main categories of rules and regulations generally applicable to such persons.<sup>7</sup> The Continuing Education Regulatory

<sup>5</sup> A Proprietary Trader is a person whose activities in the investment banking and securities business are limited solely to proprietary trading. BX Rule 1032(b).

<sup>6</sup> See Securities Exchange Act Release No. 65042 (August 5, 2011), 76 FR 49807 (August 11, 2011) (SR-BX-2011-051).

<sup>7</sup> These generally include recordkeeping and recording requirements, types and characteristics of securities and investments, trading practices and display execution and trading systems. See Securities Exchange Act Release No. 65039 (August 5, 2011), 76 FR 49805 (August 11, 2011) (SR-BX-2011-052).

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

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

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

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

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