December 31, 2012. The Exchange hereby proposes continuing that waiver through March 31, 2013. The purpose of this waiver extension is to allow more time for the SPXPM market to develop and allow and encourage Market-Makers to join in and elect for an SPXPM Tier Appointment.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act,15 in general, and further the objectives of Section 6(b)(4)11 of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among C2 Trading Permit Holders and other persons using Exchange facilities. Continuing the waiver of the SPXPM Tier Appointment Fee is reasonable because it will allow Market-Makers with an SPXPM Tier Appointment to avoid paying the Tier Appointment Fee for a further 3-month period, and is equitable and not unfairly discriminatory because all Market-Makers with an SPXPM Tier Appointment will be able to avoid paying the SPXPM Tier Appointment Fee through March 31, 2013.

B. Self-Regulatory Organization’s Statement on Burden on Competition

C2 does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

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)(2) of the Act 4 provides the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) 1 and Rule 19b–4 thereunder,2 a proposed rule change to establish fees for new optional wireless connectivity for co-located clients.

All submissions should refer to File Number SR-C2–2012–041. 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 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 publicly available. All submissions should refer to File Number SR–C2–2012–041 and should be submitted on or before January 9, 2013.

The Commission, by the Division of Trading and Markets, pursuant to delegated authority.14

Kevin M. O’Neill,
Deputy Secretary.
Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act, designates January 25, 2013 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NASDAQ–2012–119).

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

Kevin M. O’Neill, Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations;
Chicago Board Options Exchange, Incorporated; Notice of Proposed Rule Change Related to Bylaw and Other Changes

December 13, 2012.

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 November 30, 2012, 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 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

CBOE proposes to: (i) Amend CBOE’s Bylaws and Certificate of Incorporation to, among other things: (i) Eliminate the requirement that its Board of Directors be composed of at least 30% Industry Directors, and (ii) eliminate the requirement in Section 3.2 of the Bylaws that the Representative Directors must be Industry Directors.3 In its rule filing, CBOE noted that the changes would provide it with appropriate flexibility as it evaluates the structure and composition of its Board in the future.4 Additionally, CBOE stated that no matter what the composition of its Board is, the Exchange intends to maintain the fair representation of its Trading Permit Holders in the selection of its directors and administration of its affairs consistent with Section 6(b)(3) of the Securities Exchange Act of 1934, as amended (“Act”). In approving CBOE’s rule filing, the SEC noted that it has previously approved proposals in which an exchange’s board of directors was composed of all or nearly all non-industry directors where the process was nevertheless designed to comply with the “fair representation” requirement in the selection and election of directors.5

In connection with these changes, CBOE also amended Section 3.1 of the Bylaws to provide that: “[T]he Board shall determine from time to time pursuant to resolution adopted by the Board the total number of directors, the number of Non-Industry Directors and Industry Directors (if any), and the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any).” CBOE now proposes to amend the Bylaws to expressly provide that any person nominated by the Representative Director Nominating Body and any petition candidate nominated pursuant to the Section 3.2 of the Bylaws shall satisfy the compositional requirements determined by the Board pursuant to a resolution adopted by the Board in accordance with Section 3.1 designating the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any). CBOE also proposes to amend Section 3.5 of the Bylaws relating to the filling of vacancies on the Board to provide that the Representative Director Nominating Body shall only recommend individuals to fill a vacancy in a Representative Director position who satisfy the compositional requirements designated by the Board pursuant to resolution adopted by the Board in accordance with Section 3.1, designating the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any). CBOE believes that these changes are consistent with the changes to the Bylaws that were made last year and simply makes those changes more explicit.


The Exchange notes that at all times at least 20% of the directors serving on the Board shall be Representatives Directors nominated by the Representative Director Nominating Body as provided in Section 3.2 of the Bylaws (or otherwise selected through the petition process). Under Section 3.2, the Representative Director Nominating Body provides a mechanism for Trading Permit Holders to provide input with respect to the nominees for Representative Directors and Trading Permit Holders are also allowed to nominate alternative candidates by petition.