authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2016–96 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than January 25, 2016. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2016–96 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than January 25, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2016–01180 Filed 1–21–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2016–97; Order No. 3035]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional Global Reseller Expedited Package Services 2 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 26, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On January 15, 2016, the Postal Service filed notice that it has entered into an additional Global Reseller Expedited Package Services 2 (GREPS 2) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2016–97 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than January 26, 2016. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Christopher C. Mohr to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2016–97 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Christopher C. Mohr is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than January 26, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–01280 Filed 1–21–16; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement, January 15, 2016 (Notice).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76923; File No. SR–CBOE–2016–002)

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

January 15, 2016.

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 4, 2016, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 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

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

[2] 17 CFR 240.19b–4.

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 make a number of changes to its Fees Schedule, effective January 4, 2016.

Market-Maker Affiliate Volume Plan

The Exchange proposes to adopt the Market-Maker Affiliate Volume Plan (''AVP''). Specifically, under AVP, if a Trading Permit Holder (''TPH'') Affiliate [3] of a Market-Maker (including a Designated Primary Market-Maker (''DPM'') or Lead Market-Maker (''LMM'')) qualifies under the Volume Incentive Program (''VIP''), that Market-Maker will also qualify for a discount on that Market-Maker's Liquidity Provider Sliding Scale (''Sliding Scale'') transaction fees. By way background [sic], under VIP, the Exchange credits each Trading Permit Holder the per contract amount set forth in the VIP table resulting from each public customer (''C'' origin code) order transmitted by that TPH (with certain exceptions) which is executed electronically on the Exchange in all underlying symbols excluding Underlying Symbol List A, DJX, XSP, XSPAM, credit default options, credit default basket options and mini-options, provided the TPH meets certain volume thresholds in a month.[4] Currently, VIP consists of four (4) tiers with the following thresholds; 0%–0.75%, above 0.75%–1.50%, above 1.50%–3.00% and above 3%. The Exchange proposes to provide that if a Market-Maker's Affiliate reaches Tier 2, Tier 3 or Tier 4 of VIP, that Market-Maker will receive a discount on their Sliding Scale Market-Maker transaction fees of 10%, 15% or 20%, respectively.[5] Below is a table demonstrating the proposed program.

Tier	VIP Thresholds	AVP Transaction fee discount (%)
1	0.00%–0.75%	0
2	Above 0.75%–1.50%.	10
3	Above 1.50%–3.00%.	15
4	Above 3.00%	20

The Exchange believes AVP will incentivize the routing of orders to CBOE by TPHs that have both Market-Maker and agency operations, as well as incent Market-Makers to tighten market widths due to the reduced costs the incentives will provide. The Exchange notes that in the options industry, many options orders are routed by consolidators, which are firms that have both order router and Market-Maker operations. The Exchange is aware not only of the importance of providing credits on the order routing side in order to encourage the submission of orders, but also of the operations costs on the Market-Maker side. The Exchange believes AVP allows the Exchange to provide further relief to the Market-Maker side via the discount. Additionally, the Exchange believes AVP will attract more volume and liquidity to the Exchange, which will benefit all Exchange participants through increased opportunities to trade as well as enhancing price discovery.

Market-Maker Trading Permit Credits

Currently, Footnote 24 provides that if a Market-Maker or its affiliate receive a credit under VIP, that Market-Maker will receive a credit on its Market-Maker Trading Permit fees corresponding to the VIP tier reached (10% Market-Maker Trading Permit fee credit for reaching Tier 2 of the VIP, 20% Market-Maker Trading Permit fee credit for reaching Tier 3 of the VIP, and 30% Market-Maker Trading Permit fee credit for reaching Tier 4 of the VIP) (''Access Credit''). This credit does not apply to Market-Maker Trading Permits used for appointments in SPX, SPXpm, VIX, OEX and XEO. The Exchange proposes to make certain amendments to Footnote 24.

First, the Exchange proposes to clarify that a Market-Maker will receive an Access Credit if its Affiliate, not the Market-Maker itself, reaches certain VIP tiers (*i.e.,* eliminate ''or its'' from ''If a Market-Maker or its Affiliate . . .'' [sic] As noted above, VIP credits are limited to TPHs executing customer orders. As such, Market-Maker orders would not be eligible to count towards the qualifying tiers or receive VIP credits. The Exchange believes the proposed change clarifies this point and alleviates potential confusion. The Exchange notes no substantive changes are being made by this clarification.

Next, the Exchange proposes to exclude from the Access Credit, Market-Maker Trading Permits used for appointments in the Russell 2000 Index (''RUT''). The Exchange notes that the proposed exclusion is similar to the exclusion of other proprietary and exclusive products. The Exchange notes the Exchange's proprietary, exclusively-listed products are often collectively excluded from certain programs, including the Access Credit, because the Exchange has expended considerable resources developing and maintaining those products and therefore desires not to give a credit related to those products in order to recoup those expenditures. Similar to the products currently excluded from the Access Credit, RUT is no longer listed on any other exchange (other than C2). As such, the Exchange proposes to exclude Market-Maker Trading Permits used for RUT appointments from the Access Credit.

The Exchange also proposes to incorporate the description of the Access Credit within a single Affiliate Volume Plan table, as both the Access Credit and discount on Market-Maker fees under AVP are based upon a Market-Maker Affiliate reaching certain tiers within VIP. The Exchange believes the proposed table alleviates potential confusion and makes the Fees Schedule easier to read.

Floor Broker Trading Permit Rebates

Footnote 25, which governs rebates on Floor Broker Trading Permits, currently provides that any Floor Broker that executes a certain average of customer open-outcry contracts per day over the course of a calendar month in all underlying symbols excluding Underlying Symbol List A (except RUT), DJX, XSP, XSPAM, mini-options and subcabinet trades, will receive a rebate on that Floor Broker's Trading Permit Holder's Floor Broker Trading Permit Fees. The Exchange notes that although RUT had previously been added to ''Underlying Symbol List A'', it had continued to include RUT in the calculation of the qualifying volume for the rebate of Floor Broker Trading Permit fees. The Exchange now seeks to exclude RUT volume from the calculation, similar to the exclusion of all other products in Underlying Symbol List A. As discussed above, the Exchange's proprietary, exclusively-listed products are often collectively excluded from certain programs because the Exchange has expended considerable resources developing and

[3] ''Affiliate'' is defined as having at least 75% common ownership between the two entities as reflected on each entity's Form BD, Schedule A.

[4] Currently, excluded from the VIP credit are options in Underlying Symbol List A, DJX, XSP, XSPAM, credit default options, credit default basket options, mini-options, QCC trades, public customer to public customer electronic complex order executions, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Rule 6.80 (*see* CBOE Fees Schedule, Volume Incentive Program).

[5] The discount will be on transaction fees only (*i.e.,* the rates charged pursuant to the Liquidity Provider Sliding Scale). Other fees, such as the Index License Surcharge, will not be discounted.

maintaining these products. Similar to the products currently excluded from the calculation of qualifying volume for the Floor Broker Trading Permit rebates, RUT is no longer listed on any other exchange (other than C2) and the Exchange therefore proposes to exclude it from the qualifying calculation.

NDX and MNX Fees

The Exchange next proposes to increase the Nasdaq-100 Index (''NDX'') and mini-NDX Index (''MNX'') Index License Surcharge. Currently, the Exchange assesses an Index License Surcharge for NDX and MNX of $0.15 per contract for all non-customer orders. The Exchange now proposes to increase the NDX and MNX Surcharge from $0.15 to 0.25 per contract in order to recoup the increased costs associated with the NDX and MNX license. The Exchange will still be subsidizing the costs of the NDX and MNX license. Additionally, like other proprietary index products, the Exchange proposes to except NDX and MNX from VIP and from the Marketing Fee.

VIX License Index Surcharge

The Exchange proposes to waive through March 2016 the VIX Index License Surcharge of $0.10 per contract for Clearing Trading Permit Holder Proprietary (''Firm'') (origin codes ''F'' or ''L'') VIX orders that have a premium of $0.10 or lower and have series with an expiration of less than seven (7) calendar days. Particularly, the Exchange is attempting to reduce transaction costs on expiring, low-priced VIX options in order to encourage Firms to seek to close and/or roll over such positions close to expiration at low premium levels, including facilitating customers to do so, in order to free up capital and encourage additional trading. Currently, Firms are less likely to engage in such activity because the transaction fees are often equivalent [sic] or even exceed the premium level, making such transactions economically unattractive. The Exchange believes that the [sic] lowering costs for VIX options trading with a premium of $0.00–$0.10 and for series with an expiration of less than 7 days will encourage the closing, rolling and trading of such options and new series, as well. The Exchange proposes to waive the surcharge through March 2016, at which time the Exchange will evaluate whether the wavier [sic] has in fact prompted Firms to close and roll over positions close to expiration at low premium levels.

VIX Customer Transaction Fees

The Exchange proposes to reduce the amount of VIX customer (origin code ''C'') transactions [sic] fees [sic] orders with a premium of $0.11 to $0.99 from $0.27 per contract to $0.25 per contract and orders with a premium of above $1.00 from $.048 per contract to $0.45 per contract. The Exchange believes that the lowered costs for VIX options will encourage the trading of such options.

Hybrid 3.0 Surcharge

The Exchange assesses a Hybrid 3.0 Execution Fee of $0.20 per contract for all electronic executions in Hybrid 3.0 classes (with some exceptions).[6] The Exchange proposes to increase this fee to $0.21 per contract. The Exchange notes that it continually invests in the Hybrid 3.0 system and the proposed increase will help the Exchange recoup such expenditures.

RUI, RLV and RLG Fees

On October 20, 2015, the Exchange began trading options on three FTSE Russell Indexes (*i.e.,* Russell 1000 Index (''RUI''), Russell 1000 Value Index (''RLV'') and Russell 1000 Growth Index (''RLG'')). In order to promote and encourage trading of RUI, RLV and RLG, the Exchange had waived all transaction fees (including the Floor Brokerage Fee, Index License Surcharge and CFLEX Surcharge Fee) for RUI, RLV and RLG transactions through December 31, 2015. In order to continue to promote trading of these new options classes, the Exchange proposes to extend the fee waiver of RUI, RLV and RLG through March 31, 2016.

Large Customer Trade Discount

The Customer Large Trade Discount program (the ''Discount'') provides a discount in the form of a cap on the quantity of customer (''C'' origin code'' [sic]) contracts that are assessed transactions fees in certain options classes. The Discount table in the Fees Schedule sets forth the quantity of contracts necessary for a large customer trade to qualify for the Discount, which varies by product. Currently, under the ''Products'' section in the Discount table, the following S&P products for which the Discount is in effect are listed: ''SPX, SPXw, SPXpm, SRO.'' Customer transaction fees for each of these products are currently only charged up to the first 15,000 contracts. The Exchange proposes to raise the quantity of SPX, SPXw, SPXpm, and SRO contracts necessary for a large customer trade to qualify for the Discount from 15,000 contracts per order to 20,000 contracts per order. The purpose of the proposed rule change is to moderate the discount level for customer (C) orders in the SPX product group in view of its mature and established position in the industry. The Exchange additionally proposes to raise the quantity of VIX contracts necessary for a large customer trade to qualify for the Discount. Specially [sic], the Exchange proposes to raise the threshold from 10,000 contracts per order to 15,000 contracts per order. The purpose of the proposed change is to moderate the discount level for customer (C) orders in VIX in light of the increased sizes of qualifying Discount VIX orders.

RUT Tier Appointment Surcharge

CBOE Rule 8.3(e) provides that the Exchange may establish one or more types of tier appointments. In accordance with CBOE Rule 8.3(e), a tier appointment is an appointment to trade one or more options classes that must be held by a Market-Maker to be eligible to act as a Market-Maker in the options class or options classes subject to that appointment. CBOE currently maintains a tier appointment for Market-Maker Trading Permit Holders trading in RUT, as it does for SPX and VIX. Currently, the Exchange has a Tier Appointment Surcharge for SPX and VIX, but not RUT. The Exchange notes that it has expended considerable resources developing and maintaining its proprietary, exclusively-listed products. To help recoup costs of the license and for further development and maintenance of RUT options, the Exchange is now proposing to also establish a RUT Tier Appointment fee. Specifically, the Exchange proposes to adopt a RUT Tier Appointment fee of $1,000 per month, which will be assessed to any Market-Maker Trading Permit Holder that either (a) has a RUT Tier Appointment at any time during a calendar month and trades at least 100 RUT options contracts electronically while that appointment is active; or (b) trades at least 1,000 RUT options contracts in open outcry during a calendar month. The Exchange notes

[6] *See* CBOE Fees Schedule. Particularly, all electronic executions in Hybrid 3.0 classes shall be assessed the Hybrid 3.0 Execution Surcharge, except to [sic]: (i) Orders in SPX options in the SPX electronic book for those SPX options that are executed during opening rotation on the final settlement date of VIX options and futures which have the expiration [sic] that contribute to the VIX settlement calculation, (ii) executions by market-makers against orders in the complex order auction (COA) and Simple Auction Liaison (SAL) systems in their appointed classes, (iii) executions by market-makers against orders in the electronic book, Hybrid Agency Liaison (HAL) and the complex order book in their appointed classes, and (iv) orders executed by a floor broker using a PAR terminal.

that the proposed criteria is the same as it is for the VIX Tier Appointment fee. Additionally, similar to what's provided in the Fees Schedule for the SPX and VIX Tier Appointment fees, the Exchange proposes to state, consistent with Rule 8.3(e), that each RUT Tier Appointment may only be used with one designated Market-Maker Trading Permit. Additionally, the Exchange proposes to state that in order for a Market-Maker Trading Permit to be used to act as an electronic Market-Maker in RUT, the Trading Permit Holder must obtain a RUT Tier Appointment for that Market-Maker Trading Permit.

Extended Trading Hour Fees

In order to promote and encourage trading during the Extended Trading Hours (''ETH'') session, the Exchange currently waives ETH Trading Permit and Bandwidth Packet fees for one (1) of each initial Trading Permits and one (1) of each initial Bandwidth Packet, per affiliated TPH. The Exchange notes that waiver is set to expire December 31, 2015. The Exchange also waives fees through December 31, 2015 for a CMI and FIX login ID if the CMI and/or FIX login ID is related to a waived ETH Trading Permit and/or waived Bandwidth packet. In order to continue to promote trading during ETH, the Exchange wishes to extend these waivers through July 2016.

Floor Broker Workstation

The Exchange proposes raising the Floor Broker Workstation (''FBW'') and FBW2 fee from $400 per month (per login ID) to $450 per month (per login ID). The total amount charged by the Exchange's vendor that provides the FBW (and FBW2) is more than $450 per month (per login ID) for FBW and FBW2 and the Exchange has been subsidizing those costs for FBW and FBW2 users. As such, the Exchange proposes increasing the FBW fee to $450 per month (per login ID), which still includes a subsidy for FBW users (though smaller).

Additionally, the Exchange notes that for every FBW login a TPH has, the FBW2 monthly fee is currently waived through December 2015 on a one-to-one basis. The Exchange waived the FBW2 fee on a one-to-one basis because it had anticipated new features being launched on FBW2 by the end of the year and the Exchange wanted to encourage FBW users to begin (or continue) transitioning to FBW2 logins while waiting for the new features. Additionally, the Exchange wanted to provide additional time to become acclimated to FBW2 while at the same time being able to use FBW login IDs. The Exchange notes that certain new features on FBW2 have still not launched. As such, the Exchange wishes to extend the FBW2 monthly fee waiver on a one-to-one basis through March 31, 2016. The Exchange therefore proposes to delete now outdated language in the Fees Schedule and provide that for every FBW login a TPH has, the FBW2 fee will be waived for the months of January 2016 through March 2016 on a one-to-one basis.

QCC Cleanup

The Exchange proposes to correct an inadvertent omission to the Fees Schedule with respect to a recent change to Qualified Contingent Cross (''QCC'')[7] order fees. On November 16, 2015, the Exchange proposed to increase the transaction fee for all non-customer QCC orders from $0.15 per contract to $0.17 per contract.[8] The Exchange notes that the QCC transaction fee rate is located in two tables in the Fees Schedule (*i.e.,* the QCC Rate Table and the Clearing Trading Permit Holder Fee Cap Table (''Fee Cap Table'')). While the Exhibit 5 to SR–CBOE–2015–105 reflected the QCC fee increase in the QCC Rate Table, the Exchange inadvertently omitted to make the corresponding increase to the rate listed in the Fee Cap table. Accordingly, the Exchange proposes to update the rate listed for QCC orders from $0.15 per contract to $0.17 per contract in the Fee Cap Table to avoid potential confusion and maintain a clear and consistent Fees Schedule.

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.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] 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 [sic] 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 Section 6(b)(4) of the Act,[11] which requires that Exchange rules 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 that adopting the Affiliate Volume Plan is reasonable because it will allow qualifying Market-Makers to receive a credit on their Market-Maker Sliding Scale transaction fees. The Exchange believes that this proposed change is equitable and not unfairly discriminatory because Market-Makers are valuable market participants that provide liquidity in the marketplace and incur costs that other market participants do not incur. For example, Market-Makers have a number of obligations, including quoting obligations that other market participants do not have. Additionally, the Exchange notes that incentivizing a Market-Maker Affiliate to achieve higher tiers on the VIP, can result in greater customer liquidity, and the resulting increased volume benefits all market participants (including Market-Makers or their affiliates who do not achieve the higher tiers on the VIP; indeed, this increased volume may allow them to reach these tiers). Further, other options exchanges also provide credits to Market-Makers if a Market-Maker's affiliate adds a certain amount of customer liquidity to that exchange.[12] The Exchange also notes that the credits under AVP are available to all Market-Makers who qualify.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to exclude Market-Maker Trading Permits used for appointments in RUT from the Access Credit because the Exchange has expended considerable resources maintaining RUT as a proprietary and exclusively-listed product and therefore desires not to give a credit related in order to recoup those expenditures. Additionally, the Exchange notes that Trading Permits used for appointments in other proprietary and exclusively listed products are excluded from receiving credits under the Access Credit program

[7] A QCC order is comprised of an order to buy or sell at least 1,000 contracts (or 10,000 mini-option contracts) that is identified as being part of a qualified contingent trade, coupled with a contra-side order or orders totaling an equal number of contracts.

[8] *See* Securities Exchange Act Release No. 76498 (November 20, 2015), 80 FR 228 (November 27, 2015) (SR–CBOE–2015–105).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b)(4).

[12] *See e.g.,* NYSE Arca, Inc. (''Arca'') Options Fees and Charges, specifically the table describing the Market Maker Monthly Posting Credit Super Tier, under which transaction volume from a Market Maker's affiliates count towards the Market Maker's ability to qualify for higher credit tiers.

as well. Similarly, the Exchange believes it's reasonable to exclude RUT from the qualifying calculation for the Floor Broker Trading Permit rebates because other Underlying Symbol List A products are also excepted from counting towards the qualifying threshold volumes.

The Exchange believes clarifying in Footnote 24 that only a Market-Maker Affiliate (as opposed to the Market-Maker itself) can receive an Access Credit alleviates potential confusion. The Exchange also believes incorporating into a single table both details of the Access Credit and credits available to Market-Makers under AVP alleviates potential confusion and maintains clarity in the Fees Schedule. The alleviation of potential confusion serves 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.

The Exchange believes increasing the NDX and MNX Index License Surcharge Fee from $0.15 to $0.25 per contract is reasonable because the Exchange still pays more for the NDX and MNX license than the amount of the proposed NDX Index License Surcharge Fee (meaning that the Exchange will be subsidizing the costs of the NDX and MNX license). Additionally, the Exchange notes that another Exchange also assesses $0.25 per contract for NDX and MNX transactions.[13] This increase is equitable and not unfairly discriminatory because all non-Customer market participants will be assessed the same increased NDX and MNX Index License Surcharge. Not applying the NDX and MNX Index License Surcharge Fee to customer orders is equitable and not unfairly discriminatory because this is designed to attract customer NDX and MNX orders, which increases liquidity and provides greater trading opportunities to all market participants.

The Exchange believes that excluding NDX and MNX from VIP is reasonable because the VIP is a credit program, and excluding MNX and NDX from the VIP does not impose any extra fee for NDX and MNX trades, it just prevents them from incurring a credit (or counting towards incurring credits). As such, qualifying market participants trading NDX and MNX will merely be required to pay regular transaction fees. The Exchange believes excepting NDX and MNX from VIP is equitable and not unfairly reasonable because other proprietary index products are also excepted from VIP. Similarly, the Exchange believes it's reasonable to except NDX and MNX [sic] the Marketing Fee because other proprietary index products are excepted from those same items. This is equitable and not unfairly discriminatory for the same reason; it seems equitable to except NDX and MNX from items on the Fees Schedule from which other proprietary products are also excepted.

The Exchange believes it's reasonable to waive the VIX Index License Surcharge for Clearing Trading Permit Holder Proprietary VIX orders that have a premium of $0.10 or lower and have series with an expiration of less than 7 calendar days because the Exchange wants to encourage Firms to roll and close over positions close to expiration at low premium levels. The Exchange notes that without the waiver, firms are less likely to engage in these transactions, as opposed to other VIX transactions, due to the associated transaction costs. The Exchange believes it's equitable and not unfairly discriminatory to limit the waiver to Clearing Trading Permit Holder Proprietary orders because they contribute capital to facilitate the execution of VIX customer orders with a premium of $0.10 or lower and series with an expiration of less than 7 days. Finally, the Exchange believes it's reasonable, equitable and not unfairly discriminatory to provide that the surcharge will be waived through March 2016, as it gives the Exchange time to evaluate if the wavier [sic] is in fact having the desired effect of encouraging these transactions and because it applies to all Clearing Trading Permit Holders.

The proposal to reduce VIX customer transactions [sic] is reasonable because it allows customers to pay less for these transactions than they are currently paying. The proposed change to customer VIX options transaction fees is also equitable and not unfairly discriminatory because it applies uniformly to all customers and because this is designed to attract customer VIX orders, which increases liquidity and provides greater trading opportunities to all market participants.

The Exchange believes it's reasonable to increase the Hybrid 3.0 Surcharge because it is merely an increase of $0.01 per contract, and the Exchange uses this fee to cover the costs of operating the Hybrid 3.0 system. The Exchange believes that this proposed increase is also reasonable, equitable and not unfairly discriminatory because it applies to all Hybrid 3.0 executions,[14] and because the increased fee will help cover the costs of operating the Hybrid 3.0 system.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to extend the waiver of all transaction fees for RUI, RLV and RLG transasctions [sic], including the Floor Brokerage fee, the License Index Surcharge and CFLEX Surcharge Fee, because it promotes and encourages trading of these products which are still new and applies to all TPHs.

The Exchange believes that raising the discount threshold for VIX and SPX (including SPXw), SPXPM and SROs is reasonable because customers will still be receiving a discount for large trades that they would not otherwise receive. This change is equitable and not unfairly discriminatory because all customers whose large trades qualify for the Discount will still receive it. The Exchange believes it's equitable and not unfairly discriminatory to raise the threshold higher for the SPX product group because the SPX product group has reached a mature and established level since its introduction while other products, such as VIX, have not.

The Exchange believes that establishing a RUT Tier Appointment fee is reasonable because the Exchange maintains a similar fee for other exclusively-listed proprietary products for which there is a tier appointment.[15] The Exchange notes that the proposed Tier Appointment fee is less than the Tier Appointment fees assessed for SPX and VIX.[16] The Exchange believes it is equitable and not unfairly discriminatory to not assess the fee unless a Market-Maker trades at least 100 RUT contracts electronically while that appointment is active because those that do not regularly trade RUT will not be assessed the fee. Specifically, the RUT Tier Appointment fee is intended to be assessed to Market-Makers who act as Market-Makers in RUT, not those who submit an occasional order electronically in RUT. More specifically, the 100-contract threshold achieves this purpose because it is a sufficiently small number of contracts and yet leaves some small room for accidental or minor RUT trades. Because Market-Maker Trading Permit Holders have an appointment to trade in open outcry in all options classes traded on the Hybrid Trading System (including RUT) pursuant to Exchange Rule 8.3(c)(ii), the Exchange

[13] *See* NASDAQ OMX PHLX LLC (''PHLX'') Pricing Schedule, Section II, Multiply Listed Options Fees, Options Surcharge in MNX and NDX.

[14] With the exception of those listed in Footnote 21 of the Fees Schedule.

[15] *See* CBOE Fees Schedule, SPX and VIX Tier Appointment Fees.

[16] *Id.*

believes it is also equitable and not unfairly discriminatory to not assess the Tier Appointment fee unless a Market-Maker trades at least 1,000 RUT options contracts in open outcry during a calendar month. The Exchange believes this requirement again allows for minimum open outcry activity in RUT without having to pay an additional fee. This proposed change is also equitable and not unfairly discriminatory because it will be assessed uniformly to all Market-Makers that meet either of the above criteria and because it allows the Exchange to recoup expenditures related to the maintenance of a proprietary and exclusively listed product.

The Exchange believes extending the waiver of ETH Trading Permit and Bandwidth Packet fees for one of each type of Trading Permit and Bandwidth Packet, per affiliated TPH through July 31, 2016 is reasonable, equitable and not unfairly discriminatory, because it promotes and encourages trading during the ETH session and applies to all ETH TPHs. The Exchange believes it's also reasonable, equitable and not unfairly discriminatory to waive fees for Login IDs related to waived Trading Permits and/or Bandwidth Packets in order to promote and encourage ongoing participation in ETH and also applies to all ETH TPHs.

Increasing the FBW and FBW2 fee from $400 per month (per login ID) to $450 per month (per login ID) is reasonable because the total amount charged by the Exchange's vendor that provides the FBW (and FBW2) is more than $450 per month (per login ID) for FBW and FBW2 and the Exchange simply wants to reduce the extent to which the Exchange subsidizes such costs. This change is equitable and not unfairly discriminatory because all market participants who desire to use the FBW and FBW2 will be assessed the same fee.

The Exchange believes it is reasonable to extend the waiver of FBW2 fees for each FBW login a TPH has through March 2016 because it encourages users to use and become familiar with the updated FBW2 login IDs while waiting for certain features to be implemented on FBW2. The Exchange believes the proposed changes are equitable and not unfairly discriminatory because it applies to all users of FBW2.

The Exchange believes that correcting an inadvertent failure to update the QCC rate change in the Fee Cap table (in addition to the QCC Rate Table, where it is currently provided for) will alleviate potential confusion and maintain clarity in the Fees Schedule, which serves 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.

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, while different fees and rebates are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances (as described in the ''Statutory Basis'' section above). For example, Clearing TPHs have clearing obligations that other market participants do not have. Market-Makers have quoting obligations that other market participants do not have. There is a history in the options markets of providing preferential treatment to customers, as they often do not have as sophisticated trading operations and systems as other market participants, which often makes other market participants prefer to trade with customers. Further, the Exchange fees and rebates, both current and those proposed to be changed, are intended to encourage market participants to bring increased volume to the Exchange (which benefits all market participants), while still covering Exchange costs (including those associated with the upgrading and maintenance of Exchange systems).

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes are intended to promote competition and better improve the Exchange's competitive position and make CBOE a more attractive marketplace in order to encourage market participants to bring increased volume to the Exchange (while still covering costs as necessary). Further, the proposed changes only affect trading on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome 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 [17] and paragraph (f) of Rule 19b–4 [18] 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*. Please include File Number SR–CBOE–2016–002 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–2016–002. 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

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

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–2016–002 and should be submitted on or before February 12, 2016.

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

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–01200 Filed 1–21–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–31958; File No. 812–14449]

The Guardian Insurance & Annuity Company, Inc., et al; Notice of Application

January 15, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order approving the substitution of certain securities pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''1940 Act'').

APPLICANTS: The Guardian Insurance & Annuity Company (the ''Company''), The Guardian Separate Account K, The Guardian Separate Account M, The Guardian Separate Account N (each, a ''Life Account'') and The Guardian Separate Account R (the ''Annuity Account'' and together with the Life Accounts, the ''Accounts'') (together, the ''Applicants'').

SUMMARY OF APPLICATION: The Applicants seek an order pursuant to Section 26(c) of the 1940 Act approving the substitution of shares issued by certain investment portfolios (the ''Existing Funds'') of registered investment companies with shares of certain investment portfolios (the ''Replacement Funds'') of registered investment companies, under certain variable life insurance policies and variable annuity contracts issued by the Company (the ''Contracts''), each funded through the Accounts.

FILING DATE: The application was filed on April 24, 2015, and amended on September 4, 2015, and November 10, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 9, 2016, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the 1940 Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Richard T. Potter, The Guardian Insurance & Annuity Company, Inc., 7 Hanover Square, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Miller, Senior Counsel, at (202) 551–8707, or Holly L. Hunter-Ceci, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Company is a stock life insurance company incorporated in the State of Delaware. The Company is wholly owned by The Guardian Life Insurance Company of America, a mutual life insurance company organized in the State of New York (''Guardian Life''). Guardian Life does not issue the Contracts and does not guarantee any benefits provided under the Contracts.

2. Each Account is a ''separate account'' as defined in Rule 0–1(e) under the 1940 Act and is registered with the Commission as a unit investment trust under the 1940 Act. The interests in each Account offered through the Contracts have been registered under the Securities Act of 1933 on Form N–4 for the variable annuity Contracts offered under the Annuity Account, and on Form N–6 for the variable life insurance Contracts offered under the Life Accounts. The application sets forth the registration statement file numbers for the Accounts. Each Account was established by the board of directors of the Company under the laws of the State of Delaware as follows:

Separate account	Date established
The Guardian Separate Account K.	November 18, 1993.
The Guardian Separate Account M.	February 27, 1997.
The Guardian Separate Account N.	September 23, 1999.
The Guardian Separate Account R.	March 12, 2003.

3. Each Account supports certain Contracts issued by the Company. Each Account consists of investment divisions, each corresponding to a registered open-end management investment company or series of a registered open-end management investment company in which the Account invests. The assets of each Account equal to its reserves and other liabilities are not chargeable with the Company's obligations except those under Contracts issued through such Account. Income, gains and losses, whether or not realized, of each Account are kept separate from other income, gains or losses of the Company and other separate accounts. The income and capital gains or capital losses of each investment division, whether realized or unrealized, are credited to or charged against the assets held in that division according to the terms of the applicable Contract, without regard to the income, capital gains or capital losses of the other investment divisions of the Company.

4. The Contracts are flexible premium or modified scheduled premium variable life insurance policies and variable annuity contracts. For so long as a variable life insurance Contract remains in force or a variable annuity Contract has not yet been annuitized, a Contract owner may transfer all or part of their accumulation values among the variable investment options under the

[19] 17 CFR 200.30–3(a)(12).