

when the trade is executed.<sup>10</sup> Because of this, Members will not know the identity of the party to whom they sold securities or from whom they purchased securities. Without this information, Members would not be able to comply with the Contra-Party Identity Requirement of Rule 10b-10. To permit IEX Members to utilize the Exchange without violating Rule 10b-10 under the Exchange Act, on behalf of its Members, is seeking an exemption under Rule 10b-10(f) from the Contra-Party Identity Requirement of Rule 10b-10 when Members execute transactions at IEX, as described in the Application.

**IV. Conclusion**

Based on the facts and representations contained in the Application, we find that it is appropriate and in the public interest and consistent with the protection of investors to grant the Exchange, on behalf of its Members, a limited exemption from the Contra-Party Identity Requirement in Rule 10b-10(a)(2)(i)(A).

IT IS HEREBY ORDERED, pursuant to Rule 10b-10(f) of the Exchange Act, that IEX Members, based on the representations and facts contained in the Application, are exempt from the requirements of Rule 10b-10(a)(2)(i)(A) of the Exchange Act, to the extent that Members execute trades for their customers on the Exchange using the IEX Trading System. This exemption is limited to trades that Members execute on IEX using the post trade anonymity feature described in the Application.<sup>11</sup>

The foregoing exemption is subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2016-18020 Filed 7-28-16; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>10</sup> Except for the conditions set forth in IEX Rule 11.250(d)(2). See *supra* note 3.

<sup>11</sup> This exemption does not apply: (a) To orders routed to an away trading center for execution; (b) under the circumstances described in note 3 *supra*; or (c) if the functionality of IEX's order book were to be changed to allow a broker-dealer to select or influence against whom its orders will be executed as described in the Application on page 5 and note 10.

<sup>12</sup> 17 CFR 200.30-3(32).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-78407; File No. SR-CBOE-2016-057]

**Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Tied to Stock Orders**

July 25, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 21, 2016, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 proposed rule change deletes Rules 6.53(y), 6.77(e) and 15.2A. The text of the proposed rule change is provided below. (additions are *underlined*; deletions are [bracketed])

\* \* \* \* \*

Chicago Board Options Exchange, Incorporated Rules

\* \* \* \* \*

**Rule 6.53. Certain Types of Orders Defined**

One or more of the following order types may be made available on a class-by-class basis. Certain order types may not be made available for all Exchange systems. The classes and/or systems for which the order types shall be available will be as provided in the Rules, as the context may indicate, or as otherwise specified via Regulatory Circular.

- (a)-(x) No change.
- [(y) Tied to Stock Order. An order is "tied to stock" if, at the time the Trading Permit Holder representing the order on the Exchange receives or

<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).

initiates the order, the Trading Permit Holder has knowledge that the order is coupled with an order(s) for the underlying stock or a security convertible into the underlying stock ("convertible security"). The representing Trading Permit Holder must include an indicator on each tied to stock order upon systemization, unless:

- (i) The order is submitted to the Exchange as part of a qualified contingent cross order (as defined in this Rule 6.53) through an Exchange-approved device;
- (ii) the order is submitted to the Exchange for electronic processing as a stock-option order (as defined in Rule 6.53C); or
- (iii) all of the component orders are systematized on a single order ticket.

An order is not "tied to stock" if it is not coupled with an order(s) for the underlying stock or convertible security at the time of receipt or initiation (e.g., an option order that is received or initiated to hedge a previously executed stock transaction, an option transaction or position that is hedged with a subsequently received or initiated stock order.)

. . . Interpretations and Policies:  
.01-.02 No change.

\* \* \* \* \*

**Rule 6.77. Order Service Firms**

- (a)-(d) No change.
- [(e) Order service firms must submit reports pursuant to Rule 15.2A with respect to the stock transactions it executes on behalf of market-makers pursuant to this Rule 6.77.]

\* \* \* \* \*

**[Rule 15.2A. Reports of Execution of Stock Transactions**

In a manner and form prescribed by the Exchange, each Trading Permit Holder must, on the business day following the order execution date, report to the Exchange the following information for the executed stock or convertible security legs of QCC orders, stock-option orders and other tied to stock orders that the Trading Permit Holder executed on the Exchange that trading day: (a) Time of execution, (b) execution quantity, (c) execution price, (d) venue of execution, and (e) any other information requested by the Exchange. A Trading Permit Holder may arrange for its clearing firm to submit these reports on its behalf; provided that if the clearing firm does not report an executed stock order, the Trading Permit Holder will be responsible for reporting the information.

. . . Interpretation and Policies:

.01 The Exchange will announce by Regulatory Circular any determinations, including the manner and form of the report, that it makes pursuant to Rule 15.2A.

.02 A Trading Permit Holder (or its clearing firm) does not need to report information pursuant to Rule 15.2A with respect to (a) stock-option orders (as defined in Rule 6.53C) submitted to the Exchange for electronic processing or (b) stock or convertible security orders entered into an Exchange-approved device.

.03 A Market-Maker (or its clearing firm) may include the information required by Rule 15.2A in the equity reports submitted to the Exchange pursuant to Rule 8.9(b).

.04 If a tied to stock order executed at multiple options exchanges, a Trading Permit Holder (or its clearing firm) may report to the Exchange the information pursuant to Rule 15.2A for the entire stock or convertible security component(s) rather than the portion of the stock or convertible security component(s) applicable to the portion of the order that executed at the Exchange.

.05 In lieu of the time of execution pursuant to Rule 15.2A(a), the Exchange may accept the time of the trade report if that time is generally within 90 seconds of the time of execution.]

\* \* \* \* \*

The text of the proposed rule change is also 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

On August 13, 2014, the Securities and Exchange Commission (the

"Commission") approved CBOE Rules 6.53(y), 6.77(e) and 15.2A.<sup>5</sup> Rule 6.53(y) defines a tied to stock order<sup>6</sup> and requires the representing Trading Permit Holder to include an indicator on each tied to stock order upon systemization, subject to certain exceptions. Rule 15.2A requires, in a manner and form prescribed by the Exchange, each Trading Permit Holder ("TPH"), on the business day following the order execution date, to report to the Exchange certain information regarding the executed stock or convertible security legs of qualified contingent cross ("QCC") orders,<sup>7</sup> stock-option orders and other tied to stock orders that the TPH executed on the Exchange that trading day. Rule 6.77(e) subjects order service firms<sup>8</sup> to the reporting requirements set forth in Rule 15.2A with respect to stock transactions they

<sup>5</sup> Securities Exchange Act release No. 34-72839 (August 13, 2014), 79 FR 49123 (August 19, 2014) (SR-CBOE-2014-040).

<sup>6</sup> Rule 6.53(y) provides that an order is "tied to stock" if, at the time the Trading Permit Holder representing the order on the Exchange receives the order (if the order is a customer order) or initiates the order (if the order is a proprietary order), has knowledge that the order is coupled with an order(s) for the underlying stock or a security convertible into the underlying stock ("convertible security" and, together with underlying stock, "non-option").

<sup>7</sup> A QCC order is an order to buy (sell) at least 1,000 standard option contracts or 10,000 mini-option contracts that is identified as being part of a qualified contingent trade coupled with a contra-side order to sell (buy) an equal number of contracts. These orders may only be entered in the standard increments applicable to simple orders in the options class under Rule 6.42. For purposes of this order type, a "qualified contingent trade" is a transaction consisting of two or more component orders, executed as agent or principal, where: (a) At least one component is an NMS stock, as defined in Rule 600 of Regulation NMS under the Act; (b) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (c) the execution of one component is contingent upon the execution of all other components at or near the same time; (d) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined by the time the contingent order is placed; (e) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (f) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade. QCC orders may execute without exposure provided the execution is not at the same price as a public customer order resting in the electronic book and is at or between the national best bid or offer. A QCC order will be cancelled if it cannot be executed. See Rule 6.53(u).

<sup>8</sup> Order service firms are TPH organizations that are registered with the Exchange for the purpose of taking orders for the purchase or sale of stocks or commodity futures contracts (and options thereon) from market-makers on the floor of the Exchange and forwarding such orders for execution. Rule 6.77(a).

execute on behalf of market-makers on the floor of the Exchange. The Exchange stated in rule filing SR-CBOE-2014-040 that it would issue a circular announcing the implementation date for these rules within 90 days of the date of filing, which implementation date would be within 180 days of the date of filing.

On January 7, 2015, CBOE submitted a rule filing to delay the implementation of these rules based on feedback it received from TPHs.<sup>9</sup> The Exchange stated in that rule filing that it would issue a circular announcing the implementation date for the rules within 90 days of the date of the rule filing, which implementation date would be within 180 days of the date of filing. In accordance with that filing, the Exchange issued a regulatory circular on April 7, 2015, which announced a July 1, 2015 implementation date for the tied to stock marking and reporting requirements.<sup>10</sup> On May 20, 2015, the Exchange submitted a rule filing to further delay implementation of the reporting requirement set forth in Rule 15.2A<sup>11</sup> for 12 to 18 months in order to evaluate the format of the reports in light of its entry into a Regulatory Services Agreement with the Financial Industry Regulatory Authority, Inc. ("FINRA")<sup>12</sup> to ensure information in the reports could be incorporated into surveillances in an efficient and effective manner. In that filing, CBOE announced its intention to proceed with the implementation of the marking requirements set forth in Rule 6.53(y) on July 1, 2015. On July 1, 2015, the Exchange submitted a rule filing to further delay implementation of the marking requirement set forth in Rule 6.53(y) with respect to orders submitted to the Exchange for electronic processing for six to 18 months (the filing confirmed implementation of the marking requirement with respect to orders submitted to the Exchange for

<sup>9</sup> Securities Exchange Act Release No. 34-74067 (January 15, 2015), 80 FR 3267 (January 22, 2015) (SR-CBOE-2015-004).

<sup>10</sup> CBOE Regulatory Circular RG15-056 (April 7, 2015).

<sup>11</sup> Pursuant to CBOE Regulatory Circular RG13-102 (July 19, 2013), CBOE imposed a reporting requirement with respect to QCC orders prior to the adoption of Rule 15.2A. As stated in that circular, as long as the QCC functionality remains active, the reporting requirement for QCC orders described in Regulatory Circular RG13-102 would continue to be in effect until the implementation of Rule 15.2A. Once implemented, the reporting requirement in Rule 15.2A would supersede the QCC order reporting requirement described in that circular. See also CBOE Regulatory Circular RG15-087 (May 29, 2015).

<sup>12</sup> Securities Exchange Act Release No. 34-75029 (May 21, 2015), 80 FR 30506 (May 28, 2015) (SR-CBOE-2015-051) (notice of filing and immediate effectiveness of proposed rule change).

nonelectronic processing).<sup>13</sup> In addition to the evaluation of the proposed report format, CBOE indicated it intended to review the number of tied to stock orders received and evaluate the number of reports it could expect to receive with respect to those orders and the potential impact of the reports on CBOE surveillances.

Based on this evaluation, the Exchange does not believe it is necessary to maintain or fully implement the marking requirement or implement the reporting requirement; therefore, the Exchange proposes to delete these requirements in their entirety from its rules.<sup>14</sup> Because the definition of tied to stock orders is only used in the rules for the marking and reporting requirements, the proposed rule change also deletes the definition of tied to stock orders. While CBOE continues to believe this type of information would benefit its cross-market activity surveillances, based on our evaluation, CBOE believes the requirements would apply to only a small number of orders.<sup>15</sup> During the evaluation period discussed above (during which the tied to stock marking requirement was in effect for orders submitted to the Exchange for nonelectronic processing), fewer than 0.25% of orders submitted to the Exchange for nonelectronic processing included the tied to stock indicator.<sup>16</sup> If

<sup>13</sup> Securities Exchange Act Release No. 34-75378 (July 7, 2016), 80 FR 40116 (July 13, 2015) (SR-CBOE-2015-067) (notice of filing and immediate effectiveness of proposed rule change); *see also* CBOE Regulatory Circular RG15-093 (June 19, 2015). CBOE notes that it performed the systems work necessary for Exchange-approved devices the Exchange makes available to floor brokers to have the functionality to allow floor brokers to mark orders as tied to stock at the time of systemization of the order.

<sup>14</sup> As discussed above, prior to the adoption of Rule 15.2A, the Exchange required TPHs to submit reports of stock trades related to QCC transactions. This QCC stock leg reporting requirement continued to apply during the delay to implementation of Rule 15.2A and will continue to apply after deletion of the tied to stock reporting requirement from the Rules. *See supra* note 11.

<sup>15</sup> As set forth in Rule 6.53(y), orders coupled with an order for stock are defined as tied to stock orders; however, various tied to stock orders are exempt from the marking requirement, including QCC orders, stock-option orders submitted for electronic processing, and orders for which all components are systematized on a single order ticket. Similarly, as set forth in Rule 15.2A, Interpretation and Policy .02, TPHs do not need to submit reports for stock-option orders submitted to the Exchange for electronic processing or stock or convertible security orders entered into an Exchange-approved device. As a result, only a subset of tied to stock orders would be subject to the marking and reporting requirements.

<sup>16</sup> Specifically, during the third quarter of 2015, the fourth quarter of 2015 and the first quarter of 2016, the percentage of orders submitted to the Exchange for nonelectronic processing that included the tied to stock indicator was

the marking and reporting requirements were fully implemented, the number of orders to which they would apply would be limited given the exceptions that currently exist in the rules and other changes that CBOE has implemented. For example, subsequent to the approval of SR-CBOE-2015-040, the Exchange amended CBOE Rule 6.53 to require complex orders of twelve (12) legs or less—one leg of which may be for an underlying security or security future, as applicable—to be entered on a single order ticket at time of systemization (referred to herein as the “single order ticket rule change”).<sup>17</sup> These orders are excepted from the tied to stock marking requirement under Rule 6.53(y)(iii) (which provides an exception if all the component orders of a tied to stock order are systemized on a single order ticket) and would often qualify for an exception from the reporting requirement under Rule 15.2A (e.g., the exceptions under Interpretation and Policy .02 which apply to (1) stock-option orders (as defined in Rule 6.53C) submitted to the Exchange for electronic processing or (2) stock or convertible securities orders entered onto an Exchange-approved device). The single order ticket rule change—as well as provisions in the rules exempting certain orders from the tied to stock marking and reporting requirements—result in a number of orders qualifying for an exemption from the tied to stock marking and reporting requirements. This, in turn, reduces the number of orders to which the tied to stock marking and reporting requirements would apply once implemented. As a result, at this time, CBOE believes the benefits to its surveillances for so few orders are outweighed by the additional costs to TPHs to implement the marking requirement (for orders submitted for electronic processing) and the reporting requirement.

CBOE acknowledged in the initial filing to adopt the tied to stock marking and reporting requirements relevant stock information would be captured by the Consolidated Audit Trail (“CAT”),

approximately 0.17%, 0.16% and 0.21%, respectively.

<sup>17</sup> *See* Rule 6.53, Interpretation and Policy 02. In addition, orders of more than twelve (12) legs (one leg of which may be for an underlying security or security future, as applicable) may be split across multiple order tickets subject to certain requirements. *See* Securities Exchange Act Release Nos. 34-74389 (February 26, 2015), 80 FR 11717 (March 4, 2015) (SR-CBOE-2015-011) and 34-75026 (May 21, 2015), 80 FR 30514 (May 28, 2015) (SR-CBOE-2015-048). Mandatory compliance with this requirement went into effect June 1, 2015. *See* CBOE Regulatory Circulars RG15-067 (April 22, 2015) and RG15-092 (June 17, 2015).

once the relevant CAT provisions have been approved and implemented. Specifically, once approved and implemented, Section 6.3 of the National Market System Plan Governing the Consolidated Audit Trail would require each national securities exchange to record and report to the CAT central repository specified information for each order and execution, among other things, on its exchange for eligible securities, which include stock and listed options.<sup>18</sup> Additionally, once approved and implemented, Section 6.4 of the Plan would require each national securities exchange to require its members to report certain data to the central repository specified information for each order and execution for eligible securities, among other things.<sup>19</sup> Under the Plan, as proposed, the central repository would be responsible for the receipt, consolidation and retention of all information reported to CAT pursuant to Rule 613 under Regulation NMS.<sup>20</sup> Exchanges would have access to the central repository, including access to and use of the CAT data stored in the central repository, for the purpose of performing their respective regulatory and oversight responsibilities pursuant to federal securities laws, rules and regulations.<sup>21</sup>

At the time of that initial tied to stock filing, the Exchange expected implementation of CAT would not occur for several years. However, since that time, an amended and restated version of the Plan has been submitted by the self-regulatory organizations to the Commission and published by the Commission for comment and approval.<sup>22</sup> As a result, the Exchange believes the implementation of CAT may occur in the near future. The order and execution information described above that would be reported to CAT is the same information that the tied to stock reporting requirement was designed to capture from TPHs. Because the Exchange would have access to this information from the CAT central repository once implemented, CBOE no longer believes the short-term benefits it may obtain from the tied to stock marking and reporting requirements prior to the implementation of CAT outweigh the costs to be undertaken by

<sup>18</sup> *See* Securities Exchange Act Release No. 34-77724 (April 27, 2016), 81 FR 30614 (May 17, 2016) (notice of filing of the National Market System Plan Governing the Consolidated Audit Trail (the “Plan”)), at Section 6.3(d); *see also* 17 CFR 242.600(b)(46) (definition of NMS security).

<sup>19</sup> *See id.* at Section 6.4(d).

<sup>20</sup> *See id.* at Section 1.1.

<sup>21</sup> *See id.* at Section 6.5(c).

<sup>22</sup> *See id.*

CBOE and TPHs in connection with efforts related to CAT's implementation, especially in light of the small number of orders expected to be impacted by the tied to stock requirements, as discussed above.<sup>23</sup> The Exchange also notes it may continue to request from TPHs information regarding stock executions when necessary to perform cross-market surveillances in connection with its regulatory duties.<sup>24</sup> The marking and reporting requirements were intended to reduce TPHs' and the Exchange's administrative burden of manually gathering cross-market information to tie non-option legs to option orders. Because the Exchange has not yet implemented the reporting requirement, since approval of the initial tied to stock rule filing, the Exchange has continued, and will continue, to maintain the ability with this manual process of requesting information, as necessary or appropriate. The Exchange has, and expects to continue to have, sufficient resources to perform these ad hoc reviews in connection with its surveillances, particularly given the reduced number of orders with a stock component for which CBOE may need this information and the implementation of the single order ticket rule change.

## 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>25</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>26</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>27</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, CBOE believes it efficiently and effectively conducts its regulatory surveillances of CBOE trading activity and cross-market trading activity. While the information that would be provided to CBOE from the tied to stock marking and reporting requirements would enhance these surveillances, based on an evaluation of the factors described above, CBOE has determined these enhancements would apply to a small number of orders. The single order ticket rule change—as well as provisions in the rules exempting certain orders from the tied to stock marking and reporting requirements—result in a number of orders qualifying for an exemption from the tied to stock marking and reporting requirements. This, in turn, further reduces the number of orders to which the tied to stock marking and reporting requirements would apply once implemented. As a result, CBOE no longer believes the benefits to its surveillances for a smaller number of orders that may be obtained from implementation of these requirements outweigh the additional costs to TPHs to implement the marking requirement for orders submitted for electronic processing and the reporting requirement. As discussed above, during an evaluation period when the marking requirement for orders submitted for nonelectronic processing was effective, fewer than 0.25% of orders submitted for nonelectronic processing included the tied to stock indicator. Additionally, as discussed above, CAT will capture this information, at which time CBOE will be able to realize these potential benefits. CBOE may continue to request from TPHs information regarding stock executions when necessary so that it can continue to effectively conduct its regulatory surveillances of CBOE trading activity and cross-market activity.

The proposed rule change has minimal impact on TPHs. With respect to orders submitted to the Exchange for electronic processing, there will be no change for TPHs, as they are currently not required, and no longer will be in the future, to mark tied to stock orders (or perform the system development work to comply with this marking requirement). Additionally, TPHs

currently are not required, and no longer will be in the future, to submit reports related to tied to stock orders.<sup>28</sup> With respect to orders submitted to the Exchange for nonelectronic processing, floor brokers will no longer be required to mark those orders upon systemization, which was a small number of orders as noted above. The marking and reporting requirements were intended to reduce TPHs' and the Exchange's administrative burden of manually gathering cross-market information to tie non-option legs to option orders. Because the Exchange has not yet implemented the reporting requirement, since approval of the initial tied to stock rule filing, the Exchange has continued, and will continue, to maintain the ability with this manual process of requesting information, as necessary or appropriate. Deletion of these requirements merely changes the timing when TPHs may need to submit information regarding tied to stock orders (within one business day of execution of a tied to stock order v. in response to a regulatory request). The Exchange has, and expects to continue to have, sufficient resources to perform these ad hoc reviews in connection with its surveillances, particularly given the reduced number of orders with a stock component for which CBOE may need this information and the implementation of the single order ticket rule change.

The term tied to stock order is used only in the rules for the tied to stock marking and reporting requirements, which this filing proposes to delete. Therefore, the Exchange believes deleting the definition is consistent with the Act, as continued inclusion of the definition of a term not used elsewhere in the rules would otherwise confuse investors.

## 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 proposed rule change deletes rules the Exchange only partially implemented. With respect to orders submitted to the Exchange for electronic processing, there will be no change for TPHs, as

<sup>28</sup> As discussed above, prior to the adoption of Rule 15.2A, the Exchange required TPHs to submit reports of stock trades related to QCC transactions. This QCC stock leg reporting requirement continued to apply during the delay to implementation of Rule 15.2A and will continue to apply after deletion of the tied to stock reporting requirement from the Rules. See *supra* note 11.

<sup>23</sup> While the Plan does not require orders to be marked as tied to stock, because the Exchange will have access to all order and execution information for stock and options through the central depository, including timing information, the Exchange would not need those orders to be marked. The purpose of the marking requirement was to notify the Exchange the TPH that submitted a tied to stock option order on CBOE would separately be submitting execution information for a stock trade related to that marked option order.

<sup>24</sup> See SR-CBOE-2014-040.

<sup>25</sup> 15 U.S.C. 78f(b).

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> *Id.*

they are currently not required, and no longer will be in the future, to mark tied to stock orders (or perform the system development work to comply with this marking requirement). Additionally, TPHs currently are not required, and no longer will be in the future, to submit reports related to tied to stock orders.<sup>29</sup> With respect to orders submitted to the Exchange for nonelectronic processing, floor brokers will no longer be required to mark those orders upon systemization. The Exchange notes that floor brokers were not burdened with any costs upon implementation of that limited marking requirements, as CBOE was responsible for that development work for devices that floor brokers may use to systematize orders represented in open outcry. Therefore, deletion of these rules has no impact on TPHs with respect to orders submitted for electronic processing and eliminates a requirement for floor brokers to include an indicator on a small number of orders. As the Exchange never implement the reporting requirement for any orders, deletion of that rule will have no impact on TPHs.

*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**

Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>30</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>31</sup> normally does not become operative prior to 30 days after the date of the filing. However, Rule

19b-4(f)(6)(iii)<sup>32</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange requests a waiver because of the minimal impact this proposed rule change will have on TPHs, the small number of orders to which the tied to stock marking and reporting requirements would apply, and the Exchange's continued ability to access to information regarding stock executions by requesting it from TPHs when necessary so that it can continue to effectively conduct its regulatory surveillances of CBOE trading activity and cross-market activity. Additionally, the Exchange notes that in the rule filings to delay implementation of the marking requirement set forth in Rule 6.53(y) with respect to orders submitted to the Exchange for electronic processing and the reporting requirement set forth in Rule 15.2A, the Exchange has stated that it would implement these requirements by July 1, 2016.

The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the Exchange notes that: (1) The number of orders to which the tied to stock marking and reporting requirements would apply are low and (2) even without the marking and reporting requirements, the Exchange has, and expects to continue to have, sufficient resources to perform ad hoc reviews in connection with its surveillance. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.<sup>33</sup>

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)<sup>34</sup> of the Act 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-2016-057 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-2016-057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2016-057 and should be submitted on or before August 19, 2016.

<sup>29</sup> *Id.*

<sup>30</sup> In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>31</sup> 17 CFR 240.19b-4(f)(6).

<sup>32</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>33</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>34</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>35</sup> 17 CFR 200.30-3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>35</sup>

**Robert W. Errett,**  
Deputy Secretary.

[FR Doc. 2016-17910 Filed 7-28-16; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-78405; File No. SR-BX-2016-04]

**Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update Public Disclosure of Exchange Usage of Market Data**

July 25, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 12, 2016, NASDAQ BX, Inc. (“BX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to update Exchange Rule 4759 and to amend the public disclosure of the sources of data that the Exchange utilizes when performing (1) order handling and execution; (2) order routing; and (3) related compliance processes.

The text of the proposed rule change is below. Proposed new language is italicized.

\* \* \* \* \*

**4759. Data Feeds Utilized**

The BX System utilizes the below proprietary and network processor feeds for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions. The Secondary Source of data is, where applicable, utilized only in emergency market conditions and only until those emergency conditions are resolved.

Market center	Primary source	Secondary source
A—NYSE MKT (AMEX) .....	NYSE MKT OpenBook Ultra .....	CQS/UQDF.
B—NASDAQ OMX BX .....	BX ITCH 5.0 .....	CQS/UQDF.
C—NSX .....	CQS/UQDF .....	n/a.
D—FINRA ADF .....	CQS/UQDF .....	n/a.
J—DirectEdge A .....	BATS PITCH .....	CQS/UQDF.
K—DirectEdge X .....	BATS PITCH .....	CQS/UQDF.
M—CHX .....	CHX Book Feed .....	CQS/UQDF.
N—NYSE .....	NYSE OpenBook Ultra .....	CQS/UQDF.
P—NYSE Arca .....	NYSE ARCA XDP .....	CQS/UQDF.
T/Q—NASDAQ .....	ITCH 5.0 .....	CQS/UQDF.
V—IEX .....	CQS/UQDF .....	n/a.
X—NASDAQ OMX PSX .....	PSX ITCH 5.0 .....	CQS/UQDF.
Y—BATS Y-Exchange .....	BATS PITCH .....	CQS/UQDF.
Z—BATS Exchange .....	BATS PITCH .....	CQS/UQDF.

\* \* \* \* \*

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqbx.cchwallstreet.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 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 the Statutory Basis for, the Proposed Rule Change*

**1. Purpose**

The Exchange proposes to update and amend the table in Exchange Rule 4759 that sets forth on a market-by-market basis the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions.

Specifically, the table will be amended to include Investors’ Exchange LLC (“IEX”), which has informed the UTP Securities Information Processor (“UTP SIP”) that it is projecting to activate its status as an operating participant for quotation and trading of Nasdaq-listed securities under the Unlisted Trading Privileges (“UTP”)

Plan on or about August 1, 2016. The primary source will be CQS/UQDF and there is no secondary source provided.

**2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>3</sup> in general and with Sections [sic] 6(b)(5) of the Act,<sup>4</sup> in particular in that it is 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.

<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. 78f.

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