A trading platform cannot generate market information unless it receives trade orders. As a result, the competition for order flow constrains the prices that platforms can charge for proprietary data products. Firms make decisions on how much and what types of data to consume based on the total cost of interacting with Nasdaq and other exchanges. Data fees are but one factor in a total platform analysis. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it. A supracompetitive increase in the fees charged for either transactions or proprietary data has the potential to impair revenues from both products. In this manner, the competition for order flow constrains prices for proprietary data products.

Substitute Products

The price of the data contained in the Daily List and Fundamental Data product is constrained by the ability of a data vendor to obtain the information necessary to create and sell competing products. Nasdaq does not have unique access to the information that is provided through the product, and market participants do not have an unqualified need for the information provided. Therefore, the price that Nasdaq can charge for the product is constrained by the ability of market participants to reduce their demand for the product and the ability of competitors to enter the market and profitably undercut any supracompetitive price increase.

Competition Among Distributors

Distributors provide another form of price discipline for proprietary data products. Distributors are in competition for users, and can simply refuse to purchase any proprietary data product that fails to provide sufficient value for the price. If the price of this product were set above competitive levels, Distributors could determine whether the product was sufficiently attractive to their own customers to warrant incurring the costs associated with purchasing it for distribution. Since distributors are in competition with one another to attract customers, they must continually evaluate their cost base and the value of their product offering to customers to determine whether they allow them to maximize profitability. This competition for customers provides another check on the price for proprietary data products such as the Daily List and Fundamental Data.

In summary, market forces constrain the price of the product through competition for order flow, competition from substitute products, and in the competition among distributors for customers. For these reasons, the Exchange has provided a substantial basis demonstrating that the fee is equitable, fair, reasonable, and not unreasonably discriminatory, and therefore consistent with and in furtherance of the purposes of the Exchange Act.

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

No written comments were either solicited or received.

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[12]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–NASDAQ–2016–175 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–NASDAQ–2016–175. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–175, and should be submitted on or before January 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–31936 Filed 1–4–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79712; File No. SR–CBOE–2016–091]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Related to a Change to the Trading Symbol for P.M.-Settled Options on the Standard & Poor's 500 Index

December 29, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 16, 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, II, and

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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 seeks to amend Exchange rules related to P.M.-settled options on the Standard & Poor's 500 Index.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The Exchange seeks to amend Exchange rules related to P.M.-settled options on the Standard & Poor's 500 Index (''S&P 500 Index''). Specifically, the Exchange seeks to move third-Friday P.M.-settled options into the Hybrid 3.0 S&P 500 Index options class. This proposed rule change will facilitate a change to the trading symbol for P.M.-settled S&P 500 Index options that have standard third Friday-of-the-month (''third-Friday'') expirations from ''SPXPM'' to ''SPXW.''

The Exchange lists A.M.-settled S&P 500 Index options that have standard third-Friday expirations.[3] The Exchange also lists P.M.-settled S&P 500 Index options that have standard third-Friday expirations.[4] Currently, third-Friday A.M.-settled S&P 500 Index options trading under the symbol ''SPX'' are included in the Hybrid 3.0 options class.[5] Also included in the Hybrid 3.0 options class are nonstandard P.M.-settled S&P 500 Index options trading under the symbol ''SPXW,'' which may expire on Mondays, Wednesdays, Fridays (other than third-Friday-of-the-month), and the last trading day of the month.[6] While included in the Hybrid 3.0 class, the group of options trading under the symbol ''SPXW'' trade on the Hybrid Trading System.[7] Currently, third-Friday P.M.-settled S&P 500 Index options form a separate options class and trade under the symbol ''SPXPM'' on the Hybrid Trading System.[8]

The Exchange believes moving SPXPM into the SPX options class to trade under the SPXW symbol will have no adverse impact on the marketplace. In fact, the Exchange believes moving SPXPM into the SPX options class to trade under the SPXW symbol will have a positive impact on the marketplace and retail customers in particular. As previously noted, in addition to end-of-the-month expirations, SPXW options are P.M.-settled S&P 500 Index options that may expire on Mondays, Wednesdays, and Fridays (other than third-Friday-of-the-month) (*i.e.,* nonstandard weekly expirations pursuant to Rule 24.9(e)). Trading P.M.-settled third-Friday expirations under the SPXW symbol will ensure market participants, particularly retail customers, have seamless access to P.M.-settled S&P 500 Index options expiring every Friday of the month. Currently, a user of SPXW options cannot roll an existing SPXW position that expires on a first or second Friday of a month into a SPXW position that expires on a third-Friday. Thus, for SPXW users, there is a gap in Friday expirations. Changing the SPXPM symbol to SPXW will remove the gap in Friday SPXW expirations and allow market participants, especially retail customers that are less likely to utilize both SPXPM and SPXW options to maintain exposure to Friday expirations, to have seamless access to P.M.-settled S&P 500 Index options expiring every Friday of the month.

In addition, offering seamless access to P.M.-settled S&P 500 Index options that expire every Friday of the month will allow market participants to submit complex orders with options series that expire on third-Fridays and other Friday expirations. Market participants may not submit complex orders that consist of SPXPM options series and SPXW options series because they are currently in separate classes.[9] Although market participants have the ability to submit separate orders to leg into a position with third-Friday and other Friday exposure, retail customers are less likely to leg into a position. Thus, changing the SPXPM symbol to SPXW will allow market participants, especially retail customers, to submit complex orders with options series that expire on third-Fridays and other Fridays.

As previously noted, the Exchange does not believe moving SPXPM into the SPX options class and changing the SPXPM symbol to SPXW will have any adverse impact on market participants. Because SPXPM and SPXW options both trade on the Hybrid Trading System,[10] and Exchange Rules and systems treat SPXPM and SPXW the same in most respects, the Exchange expects a smooth transition of SPXPM series to the SPXW symbol. For example, the minimum increment applicable to both SPXPM and SPXW orders is the same.[11] Additionally, the allocation algorithm for both SPXPM and SPXW is currently price-time during Regular Trading Hours (''RTH''),[12] there is no Lead Market-Maker (''LMM'') [13] appointed in SPXPM or SPXW during RTH, and the only firm appointed as the LMM in SPXPM during Extended Trading Hours (''ETH'') is also an appointed LMM in SPXW (via the SPX options class appointment) during ETH.[14] The few differences between SPXPM and SPXW trading parameters are as follows:

- The allocation algorithm for opening rotations is pro-rata in SPXW and price-time in SPXPM; [15]

[3] *See* Rule 24.9(a)(4)(i) (identifying A.M.-settled S&P 500 Index options as being approved for trading on the Exchange).

[4] *See* Rule 24.9.14 (authorizing the Exchange to list P.M.-settled S&P 500 options).

[5] *See* Rule 8.3(c)(iii).

[6] *See* Rule 24.9(e).

[7] *See* Rule 8.14.01.

[8] *See* Rule 8.3(c)(i) (identifying P.M.-settled third-Friday S&P options as a Tier AA Hybrid Options Class).

[9] The Exchange notes that Rule 24.19 provides a limited exception for the trading of Multi-Class Broad-Based Index Option Spread Orders in open outcry. *See also* Regulatory Circular RG15–152.

[10] *See* Rules 8.3(c)(i) (identifying P.M.-settled third-Friday S&P Index options as a Tier AA Hybrid Options Class) and 8.14.01 (allowing the Exchange to authorize a group of series of a class for trading on the Hybrid Trading System).

[11] *See* Rule 6.42(1)–(4).

[12] *See* Rule 6.45B(a)(i).

[13] *See* Rule 8.15 (giving the Exchange the ability to appoint LMMs).

[14] *See* CBOE Regulatory Circulars RG 14–134 and RG15–131.

[15] *See* Rule 6.2B.04 (allowing the Exchange to determine the allocation algorithm for opening rotations on a class-by-class basis); *see also* Regulatory Circulars RG14–016 (setting forth the allocation method for SPXW, which, at the time, only applied to Regular Trading Hours as the Exchange did not yet offer Extended Trading Hours); RG13–012 (setting forth the allocation method for SPXPM, which, at the time, only applied to Regular Trading Hours as the Exchange did not yet offer Extended Trading Hours); RG15–

• The Exchange has activated the Automated Improvement Mechanism (''AIM'') for SPXPM during RTH but not SPXW.[16] AIM is available for SPXPM and SPXW during ETH;[17]

• During RTH the appointment cost for the SPXPM options class is .50, and the appointment cost for the SPX class is 1.0. However, all Market-Makers currently appointed in SPXPM during RTH are also appointed in SPX during RTH, which SPX appointment confers the right to trade A.M.-settled SPX options as well as P.M.-settled SPXW options.[18]

• During ETH the appointment cost for the SPXPM options class is .1, and the appointment cost for the SPX class is .4. However, all Market-Makers currently appointed in SPXPM during ETH are also appointed in SPX during ETH.

• Market-Makers are not allowed to enter orders to rest in the complex order book (''COB'') for SPXW during RTH but are allowed during ETH whereas Market-Makers are allowed to enter orders to rest in the COB for SPXPM in both Regular and Extended Trading Hours.[19]

Position Limits/Reporting Requirements

In addition, since third-Friday P.M.-settled options trading under the SPXW symbol will be a new type of series under the SPX options class and not a new options class, all third-Friday P.M.-settled SPXW options will be aggregated together with all other standard expirations for applicable reporting and other requirements.[20]

Pilot Reports

Third-Friday P.M.-Settled S&P 500 Index options are listed on a pilot basis.[21] The pilot will continue under the same terms that established the pilot. As part of the pilot, the Exchange submits quarterly reports and annual reports that analyze the market impact and trading patterns of third-Friday P.M.-settled S&P 500 options. The reports will be modified to provide the same data and analysis for third-Friday P.M.-settled S&P 500 Index options trading under symbol SPXW that is currently submitted for third-Friday P.M.-settled S&P 500 Index options trading under symbol SPXPM.

2013 SPXPM Approval Order

The Exchange also proposes to correct the record with respect to the original approval to list SPXPM options on CBOE.[22] The Exchange's initial filing to list SPXPM on CBOE proposed ''to move all P.M.-settled S&P 500 Index options series that are part of the SPXPM [*sic*] options class and that have an expiration on any day other than the third Friday of every month (*e.g.,* Quarterly Index Options (''QIX''), End-of-Week (''EOW'') series, etc.) to the SPXPM class.''[23] First, noted in the previous sentence, the initial filing mistakenly proposed to move options series that were part of the SPXPM options class to the SPXPM options class, which has no meaning because if series are part of an options class they can't be moved to the same options class. Second, the Exchange's Amendment No. 3 to the rule filing sought to replace the above-quoted sentence with the following sentence:

The Exchange does *not* propose to move any P.M.-settled S&P 500 Index options series that are part of the SPX options class and that have an expiration on any day other than the third Friday of every month (*e.g.,* Quarterly Index Options (''QIX''), End-of-Week (''EOW'') series, etc.) to the SPXPM class.

However, Footnote 5 of the Approval Order mistakenly indicated that pursuant to the Exchange's Amendment No. 3, any P.M.-settled S&P 500 Index options series that are part of the SPX options class and that have an expiration on any day other than the third Friday of every month will remain under the SPXPM class to avoid investor confusion. The Approval Order should have indicated that P.M.-settled S&P 500 Index options series that are part of the SPX options class and that have an expiration on any day other than the third Friday of every month will remain under the *SPX* class, not the SPXPM class. Notwithstanding the mistake in the Approval Order P.M.-settled S&P 500 Index options series that have an expiration on any day other than the third Friday of every month have been included in the SPX class; thus, this proposal simply corrects the record.

Conforming Changes

In order to move the SPXPM class into the SPX class the Exchange is making conforming changes to CBOE Rules 6.1A, 6.42, 8.3, 24.4, 24.5, 24.6, 24.9, 24A.7, 24A.8, 24B.7, and 24B.8.

Implementation Date

The Exchange intends to change the SPXPM symbol to SPXW at some point in February 2017.[24] However, in the event that the Exchange determines to implement the change at a later date, the proposed rule text provides that current rule text provisions will remain in effect until a date specified by the Exchange in a Regulatory Circular, which date shall be no later than July 31, 2017, and on the date specified by the Exchange in a Regulatory Circular, the rule text provisions amended by this filing will be in effect.

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.[25] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[26] 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

029 (setting forth the allocation method for SPXW during Extended Trading Hours); and RG15–131 (setting forth the allocation method for SPXPM during Extended Trading Hours).

[16] *See* Rule 6.74A(a)(1) (providing that the Exchange determines the options classes that are eligible for AIM); *see also* Regulatory Circular sRG16–024 (providing that AIM will not be available in SPXW options during Regular Trading Hours) and RG13–012 (providing that AIM will be available for SPXPM, which, at the time, only applied to Regular Trading Hours as the Exchange did not yet offer Extended Trading Hours).

[17] *See* Regulatory Circular RG16–049 (providing that AIM will be available in Extended Trading Hours for SPXW and SPXPM).

[18] *See* Rule 8.3(c)(iii).

[19] *See* Rule 6.53C(c)(i) (providing the Exchange with authority to determine which origin codes are eligible to be entered into the COB); *see also* Regulatory Circulars RG15–195 (identifying origin codes that are not allowed to rest in the SPXW COB during Regular and Extended Trading Hours); RG13–012 (identifying origin codes that are allowed for SPXPM, which, at the time, only applied to Regular Trading Hours as the Exchange did not yet offer Extended Trading Hours); and RG15–131 (identifying origin codes that are allowed to rest in the SPXPM COB during Extended Trading Hours).

[20] *See e.g.,* Rule 4.13, *Reports Related to Position Limits,* and Interpretation and Policy .03 to Rule 24.4, which sets forth the reporting requirements for certain broad-based indexes that do not have position limits.

[21] *See* Rule 24.9.14 and Securities Exchange Act Release No. 68457 (December 18, 2012), 77 FR 76135 (December 26, 2012) (SR–CBOE–2012–120).

[22] *See* Securities Exchange Act Release No. 68888 (February 8, 2013), 78 FR 10668 (February 14, 2013) (SR–CBOE–2012–120) (Order approving SPXPM for trading on CBOE) (''Approval Order'').

[23] *See* Securities Exchange Act Release No. 68457 (December 18, 2012), 77 FR 76135 (December 26, 2012) (SR–CBOE–2012–120).

[24] *See* RG16–132.

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

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) [27] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes trading P.M.-settled third-Friday expirations under the SPXW symbol rather than the separate SPXPM symbol will ensure market participants, particularly retail customers, have seamless access to P.M.-settled S&P 500 Index options expiring every Friday of the month, which helps to remove impediments to and perfect the mechanism of a free and open market. The Exchange believes the proposed rule change will help to protect investors and the public interest by allowing market participants to enter options positions with the same underlying in one symbol that spans every Friday expiration in a month, thus providing a more efficient way to gain exposure and hedge risk.

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

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the rule change will impose a burden on intramarket competition because all market participants will continue to have access to P.M.-settled S&P 500 Index options expiring every Friday of the month and will be able to trade them under the SPXW symbol. The proposal will not impose a burden on intermarket competition because the options effected by this proposal are exclusive to CBOE. Additionally, the Exchange does not believe the proposal will impose any burden on intermarket competition as market participants on other exchanges are welcome to become Trading Permit Holders and trade at CBOE if they determine that this proposed rule change has made CBOE more attractive or favorable.

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.

[27] *Id.*

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be 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–2016–091 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–2016–091. 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–2016–091 and should be submitted on or before January 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–31943 Filed 1–4–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a closed meeting on Friday, January 6, 2017 at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the closed meeting.

Chair White, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting will be:

Institution of injunctive actions;

Institution and settlement of administrative proceedings;

Adjudicatory matters; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

[28] 17 CFR 200.30–3(a)(12).