

*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**

Because the foregoing 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

A proposed rule change filed under Rule 19(b)-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on the date of filing.

The Exchange notes that the proposed rule change is intended to mitigate confidentiality concerns raised in connection with Section VII(A) of the Plan, which provides that the data made publicly available will not identify the Trading Center that generated the data. The Exchange states that the additional time would allow consideration of a methodology to mitigate concerns related to the publication of Appendix B data.<sup>16</sup>

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will synchronize the timing for publication of Appendix B data for all Participants, which should enhance the consistency and usefulness of the

data.<sup>17</sup> Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on the date of filing.<sup>18</sup>

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 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2017-044 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-NASDAQ-2017-044. 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>).

<sup>17</sup> The Commission recently granted exemptive relief to the Participants to delay the publication of their Appendix B data until August 31, 2017. See Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 28, 2017. The Commission notes that other Participants have submitted proposed rule changes to delay the publication of Appendix B data until August 31, 2017. See e.g., SR-BatsBYX-2017-10; SR-BatsBZX-2017-31; SR-BatsEDGA-2017-10; SR-BatsEDGX-2017-19; SR-BX-2017-022; SR-CHX-2017-07; SR-FINRA-2017-010; SR-IEX-2017-12; SR-Phlx-2017-33; SR-NYSE-2017-19; SR-NYSEArca-2017-49; SR-NYSEMKT-2017-24.

<sup>18</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-NASDAQ-2017-044 and should be submitted on or before June 7, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-80654; File No. SR-CBOE-2017-036]

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

May 11, 2017.

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 April 28, 2017, 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

<sup>19</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> The Commission recently approved a FINRA proposal to implement an aggregated, anonymous grouped masking methodology for the publication of Appendix B data related to OTC trading activity. See Securities Exchange Release No. 80551, (April 28, 2017), 82 FR 20948 (May 4, 2017). See also Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President FINRA, dated April 28, 2017.

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 Exchange proposes to amend its Fees Schedule with respect to quoting bandwidth allowance. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

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

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

##### **1. Purpose**

The Exchange proposes to amend its Fees Schedule. The Fees Schedule currently sets forth the quoting bandwidth allowance for a Market-Maker Trading Permit for the Regular Trading Hours ("RTH") session ("RTH MM Trading Permit") and a Market-Maker Trading Permit for the Extended Hours Trading ("ETH") session ("ETH MM Trading Permit"). The bandwidth allowance is referenced as a maximum number of quotes over the course of the trading session. Currently, the quoting bandwidth allowance for a RTH MM Trading Permit is equivalent to a maximum of 40,500,000 quotes over the course of the trading sessions and the quoting bandwidth allowance for an ETH MM Trading Permit is equivalent to a maximum of 37,500,000 quotes over the course of the trading session. Additionally, to the extent a Market-Maker is able to submit electronic quotes in a Hybrid 3.0 class (such as an

LMM that streams quotes in the class or a Market-Maker or LMM that streams quotes in a series of a Hybrid 3.0 class that trades on the Hybrid Trading System), the Market-Maker receives the quoting bandwidth allowance to quote in, and only in, that class.

The Exchange proposes to increase the quoting bandwidth for RTH and ETH MM Trading Permits that are used for an appointment in S&P 500 Index options ("SPX") (including SPXW) (*i.e.*, Hybrid 3.0 class). The Exchange notes that it recently proposed to move P.M.-settled S&P 500 Index options expiring on the third-Friday of the month ("third-Friday"), currently listed in a separate class and trading under the symbol "SPXPM", to the SPX class which includes the weekly SPXW. In connection with the move, the Exchange is changing the trading symbol for these options from "SPXPM" to "SPXW." The Exchange notes that as a result of the move of SPXPM to SPXW, Market-Makers with an appointment in SPX will have an obligation to quote more series (*i.e.*, series that were formerly SPXPM, will now become SPXW). As such, the Exchange intends to increase quoting bandwidth allowance for all Market-Maker Trading Permits used for appointments in SPX/SPXW in order to ensure adequate bandwidth capacity to meet their quoting obligations and ensure a smooth transition of SPXPM into the SPX/SPXW class. The Exchange therefore seeks to make a corresponding amendment to the Fees Schedule. Specifically, the Exchange proposes to provide that the maximum number of quotes over the course of the RTH trading session for Market-Maker Trading Permits used for SPX/SPXW appointments is 81,000,000 and the maximum number of quotes over the course of the ETH trading session for Trading Permits used for an appointment in SPX/SPXW is 75,000,000. The Fees Schedule will also reflect that the quoting allowance for RTH MM Trading Permits used for an appointment in any options classes other than SPX/SPXW will remain at 40,500,000 and the allowance for ETH MM Trading Permits that do not have an appointment in SPX/SPXW will remain at 37,500,000. The Exchange notes that the increase of the respective quoting bandwidth allowances for RTH and ETH applies to all RTH and ETH Market-Maker Trading Permits used for SPX/SPXW appointments.

Lastly, the Exchange notes that it is not increasing the quoting bandwidth allowance for the Quoting and Order Entry Bandwidth Packets, as the Exchange does not believe it is necessary. Accordingly, the Exchange

proposes to clarify in the Fees Schedule that the quoting allowance provided with a Quoting and Order Entry Bandwidth Packet is the same as the quoting allowance that is provided with Market-Maker Trading Permits not used for an appointment in SPX/SPXW.

##### **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.<sup>5</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>6</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>7</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that amending the Fees Schedule to accurately reflect the increase in quoting bandwidth allowance, alleviates confusion, thereby removing impediments to and perfecting the mechanism of a free open market and a national market system, and, in general, protecting investors and the public interest. The Exchange also notes that increasing quoting bandwidth for MM Trading Permits with an SPX/SPXW appointment helps ensure that Market-Makers have an adequate capacity and ability to continue to make active markets, which also removes impediments to and perfects the mechanism of a free open market and a national market system, and, in general, protects investors and the public interest. Lastly, the Exchange believes it's equitable and not unfairly discriminatory to increase quoting bandwidth for Trading Permits with SPX/SPXW appointments as the number of series that need to be quoted in SPXW has increased due to the

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

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

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> *Id.*

migration of the trading symbol SPXPM to SPXW.

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

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change applies to all Market-Makers with Market-Maker Trading Permits used for a SPX/SPXW appointment and is merely updating the Fees Schedule to accurately reflect an increase in quoting bandwidth. Also, while quoting bandwidth was increased only for Trading Permits with SPX/SPXW appointments, Market-Makers with these appointments now have an increased number of series they need to quote due to the migration of the SPXPM symbol to SPXW. The Exchange believes that the proposed rule change will not cause an unnecessary burden on intermarket competition because it only applies to 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**

Because the foregoing 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and subparagraph (f)(6) Rule 19b-4 thereunder.<sup>9</sup>

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6). 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

A proposed rule change filed under Rule 19b-4(f)(6)<sup>10</sup> normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)<sup>11</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 requested that the Commission waive the 30-day operative delay to allow it to immediately update the Market-Maker Trading Permit bandwidth allowance for Trading Permits with an SPX/SPXW appointment. As discussed above, as a result of the recent move of the SPXPM class into SPXW, Market-Makers with an appointment in SPX now have an obligation to quote more series. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the increased quoting bandwidth should help Market Makers with an SPX/SPXW appointment accommodate the increased number of series that they now need to quote and should help to accommodate, without undue delay, the maintenance of active quoted markets in SPX/SPXW, which should benefit of investors. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>12</sup>

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:

as designated by the Commission. The Exchange has satisfied this requirement.

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### *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-2017-036 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-2017-036. 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-2017-036 and should be submitted on or before June 7, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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<sup>13</sup> 17 CFR 200.30-3(a)(12).