

*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-BOX-2013-26 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2013-26. 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-BOX-2013-26 and should be submitted on or before June 12, 2013.

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

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-69594; File No. SR-CBOE-2013-051]

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

May 16, 2013.

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 May 8, 2013, 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 III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

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

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

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

Footnote 13 of the Exchange Fees Schedule places caps on transaction fees

for transactions involving a number of different trading strategies, and states that, to qualify transactions for such caps, a rebate request with supporting documentation must be submitted to the Exchange within 3 business days of the transactions.<sup>3</sup> Footnote 6 of the Exchange Fees Schedule states that the Marketing Fee will not apply to transactions resulting from any of the strategies identified and/or defined in Footnote 13. However, Footnote 6 does not explicitly state that, in order for a strategy transaction identified/defined in Footnote 13 to gain exemption from being assessed the Marketing Fee, a rebate request must be submitted. Without the submission of such a request, the Exchange is unable to identify that a transaction involved one of the strategies, and therefore is unable to apply the caps described in Footnote 13 or exempt the transaction from the Marketing Fee pursuant to Footnote 6. These requests are submitted under Footnote 13, though, and when such requests are submitted, the Exchange also uses such requests to determine a strategy transaction's exemption from the Marketing Fee (pursuant to Footnote 6). However, to clarify that such requests must be submitted in order to gain such exemption, the Exchange proposes to amend Footnote 6 to state that the Marketing Fee will not apply to transactions resulting from any of the strategies identified and/or defined in Footnote 13 of the Fees Schedule (provided that a rebate request with supporting documentation is submitted to the Exchange within 3 business days of the transaction).

**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>4</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>5</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 facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and

<sup>3</sup> See Footnote 13 for further descriptions of these caps, as well as the list and definitions of the qualifying strategies.

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

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

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

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

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

open market and a national market system, and, in general, to protect investors and the public interest. Clarifying the manner in which the Marketing Fee exemption for strategy transactions can be accomplished will eliminate any confusion and provide a clear procedure for applicants to get such an exemption for their strategy transactions, thereby removing impediments to and perfecting the mechanism of a free and open market.

#### *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 does not change to whom the Marketing Fee exemption for strategy executions applies; it merely states the manner for those executing such transactions to receive the exemption. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change because only applies to trading on CBOE and does not amend any fees, or to whom such fees apply. To the extent that the more clear explanation of the manner by which a market participant executing a strategy transaction may apply for such transaction's exemption from the Marketing Fee may be attractive to market participants on other exchanges, such market participants may elect to become market participants on CBOE.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and paragraph (f) of Rule 19b-4<sup>7</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2013-051 on the subject line.

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submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2013-051 and should be submitted on or before June 12, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

[FR Doc. 2013-12164 Filed 5-21-13; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-69591; File No. SR-NYSEArca-2013-33]**

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade the International Bear ETF Under NYSE Arca Equities Rule 8.600**

May 16, 2013.

#### **I. Introduction**

On March 21, 2013, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade shares ("Shares") of the International Bear ETF ("Fund") under NYSE Arca Equities Rule 8.600. On April 3, 2013, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change, as modified by Amendment No. 1 thereto, was published for comment in the **Federal Register** on April 10, 2013.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1 thereto.

#### **II. Description of the Proposal**

The Exchange proposes to list and trade Shares of the Fund under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. The Shares will be offered by AdvisorShares Trust ("Trust"), a statutory trust organized under the laws of the State of Delaware and registered

<sup>8</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>3</sup> In Amendment No. 1, the Exchange made certain technical changes to the proposed rule change.

<sup>4</sup> See Securities Exchange Act Release No. 69303 (April 4, 2013), 78 FR 21475 ("Notice").

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f).