

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing.⁸ However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.⁹ The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange can implement the enhancements once they are ready from a technology perspective.

The Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest as it will clarify that the delayed implementation of the FBMS will be effective and operative immediately. In addition, because the proposal only delays the implementation date of the FBMS and does not make any additional changes to the FBMS itself, it does not raise any novel regulatory issues. Therefore, the Commission designates the proposal operative upon filing.¹⁰

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.

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-Phlx-2013-67 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary,

the Commission written notice of its intent to file 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.

⁸ 17 CFR 240.19b-4(f)(6)(iii).

⁹ *Id.*

¹⁰ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2013-67. 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 offices of Phlx. 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-Phlx-2013-67, and should be submitted on or before July 17, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69807; File No. SR-CBOE-2013-043]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change Relating to Exchange Rule 9.21

June 20, 2013.

I. Introduction

On April 25, 2013, Chicago Board Options Exchange, Incorporated (the

“Exchange”) filed with the Securities and Exchange Commission (the “Commission”) a proposed rule change pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Exchange Act”), and Rule 19b-4 thereunder.² The proposed rule change was published for comment in the **Federal Register** on May 14, 2013.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposed to update Exchange Rule 9.21, “Options Communications,” to conform with changes recently made by the Financial Industry Regulatory Authority, Inc. (“FINRA”) to its corresponding rule.⁴ The proposed changes to Exchange Rule 9.21 are designed to alert Trading Permit Holders (“TPHs”) to their requirements with respect to Options Communications while further regulating all communications for compliance with Exchange Rules and the Securities Exchange Act of 1934 (the “Act”).

First, the proposed rule change amends Exchange Rule 9.21(a) to reduce the number of defined categories of communication from six (in the current rule) to three. The proposed three categories of communications are: Retail communications, correspondence, and institutional communications. Current definitions of “sales literature,” “advertisement,” and “independently prepared reprint” are combined into a single category of “retail communications.” Thus, the Exchange proposed to define “retail communication” as “any written (including electronic) communication that is distributed or made available to more than 25 retail investors within any 30 calendar-day period.” The Exchange also proposed to update the definition of “correspondence” to “any written (including electronic) communication distributed or made available by a Trading Permit Holder to 25 or fewer retail customers within any 30 calendar-day period.” Finally, the Exchange proposed to define “institutional communication” to include written

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 69535 (May 14, 2013), 78 FR 28262 (May 14, 2013) (“Notice”).

⁴ See Securities Exchange Act Release No. 68650 (January 14, 2013), 78 FR 4182 (January 18, 2013) (Notice of Immediate Effectiveness of SR-FINRA-2013-001). The Exchange also proposed certain changes in Rule 9.21 to conform with aspects of the FINRA rule that predated the recent FINRA amendment and were not changed by that amendment.

¹¹ 17 CFR 200.30-3(a)(12).

(including electronic) communications that are distributed or made available only to institutional investors.

Second, the Exchange proposed to amend Rule 9.21(b), "Approval by Registered Options Principal", to replace the phrase "advertisements, sales literature, and independently prepared reprints" in Rule 9.21(b)(i) with the new proposed term, "retail communications."

Under proposed rule 9.21(b)(ii), correspondence would "need not be approved by a Registered Options Principal prior to use" but would be subject to the supervision and review requirements of Exchange Rule 9.8. The Exchange proposed to delete the requirement for principal approval of correspondence that is distributed to 25 or more existing retail customers within a 30 calendar-day period that makes any financial or investment recommendation or otherwise promotes the product or service of a TPH. Under the proposed Rule 9.21(b), such communications would be considered retail communications and therefore would be subject to the principal approval requirement. As such, the proposed change would not substantively change the scope of options communications that would require principal approval.

Third, the Exchange proposed to modify the required approvals of "Institutional communications" by adding that a TPH shall "establish written procedures that are appropriate to its business, size, structure, and customers for review by a Registered Options Principal of institutional communications used by the Trading Permit Holder or TPH organization."

Fourth, the Exchange proposed to amend Rule 9.21(c) to replace the phrase "advertisements, sales literature, and independently prepared reprints" with the new proposed term "retail communications." The Exchange also proposed to further exempt options disclosure documents and prospectuses from Exchange review as other requirements apply to these documents under the Securities Act of 1933.

Fifth, the Exchange proposed to specify in Rule 9.21(d) that TPHs may not use any options communications that "constitute a prospectus" unless the communications meet the requirements of the Securities Act of 1933. Finally, the Exchange proposed to move and slightly modify Rule 9.21(d) to state that any statement made referring to "potential opportunities or advantages presented by options" must also be accompanied by a statement identifying the potential risks posed.

III. Discussion

As noted above, the Commission received no comments on the proposed rule change. The Commission has carefully reviewed the proposed rule change and finds that it is generally consistent with the Act and the rules and regulations thereunder applicable to the Exchange⁵ and, in particular, the requirements of Section 6(b) of the Act.⁶ Specifically, the Commission finds the proposed rule change is consistent with Section 6(b)(5) of the Act,⁷ which requires that the rules of a national securities exchange, among other things, 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 Commission believes the proposed rule change is consistent with Section 6(b)(5) of the Act,⁸ which requires that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Commission believes that the proposed rule change will help TPHs that are also members of FINRA to comply with their obligations regarding options communications by better aligning the Exchange's requirements with those of FINRA. In addition, the Commission believes that the proposed rule change will help protect investors from potentially false or misleading communications with the public distributed by Exchange TPHs.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act⁹ that the proposed rule change (SR-69535) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Kevin M. O'Neill,

Deputy Secretary.

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⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ *Id.*

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69806; File No. SR-ISE-2013-39]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish a Managed Data Access Service, on a Pilot Basis, for the Sale of a Number of Market Data Products Currently Offered by the Exchange

June 20, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 6, 2013, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The ISE proposes to amend its Schedule of Fees to establish a pricing structure, on a pilot basis, called Managed Data Access Service for the sale of a number of real-time market data products currently offered by the Exchange. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.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 self-regulatory organization 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 self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.