

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70118; File No. SR-CBOE-2013-070]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Offer a New Data Feed

August 5, 2013.

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 24, 2013, the Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) 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. CBOE has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. 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 offer a new data feed. There are no proposed changes to Exchange rule text.

#### 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

CBOE proposes to offer a new data feed. CBOE already offers a BBO Data

Feed, which is a real-time, low latency data feed that includes CBOE “BBO data” and last sale data.<sup>4</sup> The BBO and last sale data contained in the BBO Data Feed is identical to the data that CBOE sends to the Options Price Reporting Authority (“OPRA”) for redistribution to the public.<sup>5</sup> The BBO Data Feed also includes certain data that is not included in the data sent to OPRA, namely, (i) totals of customer versus non-customer contracts at the BBO, (ii) All-or-None contingency orders priced better than or equal to the BBO, (iii) BBO data and last sale data for complex strategies (e.g., spreads, straddles, buy-writes, etc.) (“Spread Data”), (iv) BBO data and last sale data for Flexible Exchange (“FLEX”) options traded on the CBOE FLEX Hybrid Trading System, including BBO data and last sale data for FLEX complex strategies (collectively, “FLEX BBO data”), and (v) expected opening price (“EOP”) and expected opening size (“EOS”) information that is disseminated prior to the opening of the market and during trading rotations (collectively, “EOP/EOS data”).<sup>6</sup>

The Exchange proposes to offer a new data feed (the “COB Feed”). This new COB Feed will provide data regarding the Exchange’s Complex Order Book (“COB”) and related complex order information. The COB Feed will include BBO quotes and identifying information for all CBOE-traded complex order strategies, as well as all executed CBOE complex order trades (and identify whether the trade was a customer trade, or whether a complex order in the COB is a customer order). All of this data is also currently included in the BBO Data Feed. At this time, the Exchange has determined to offer the COB Feed to all market participants free of charge.<sup>7</sup>

<sup>4</sup> The BBO Data Feed includes the “best bid and offer,” or “BBO”, consisting of all outstanding quotes and standing orders at the best available price level on each side of the market, with aggregate size (“BBO data,” sometimes referred to as “top-of-book data”). Data with respect to executed trades is referred to as “last sale” data.

<sup>5</sup> The Exchange notes that Market Data Express, LLC (“MDX”), an affiliate of CBOE, makes available to Customers the BBO data and last sale data that is included in the BBO Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

<sup>6</sup> The Exchange identified the inclusion of FLEX BBO data and EOP/EOS data in the BBO Data Feed in a proposed rule change filed in January 2013. See Securities Exchange Act Release No. 68696 (January 18, 2013), 78 FR 5527 (January 25, 2013). MDX also makes the FLEX BBO data available as a separate data feed at no charge to any Customer that wishes to subscribe to only that data. EOP/EOS data is not offered separate from the BBO Data Feed.

<sup>7</sup> All Exchange market participants will be afforded equal access to the COB Feed and the Exchange will not discriminate amongst who may be able to access the COB Feed.

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</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.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. CBOE believes that this proposal is in keeping with those principles by promoting increased transparency through the dissemination of useful data and also by clarifying its availability to market participants.

Additionally, CBOE is making a voluntary decision to make this data available. CBOE is not required by the Act in the first instance to make the data available, unlike the best bid and offer which must be made available under the Act. CBOE chooses to make the data available as proposed in order to improve market quality, to attract order flow, and to increase transparency. Further, all of the data included in the COB Feed is already available in the BBO Data Feed, so no new data is being made available by the introduction of the COB Feed.

##### 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. CBOE 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

<sup>8</sup> 15 U.S.C. 78ff(b).

<sup>9</sup> 15 U.S.C. 78ff(b)(5).

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

COB Feed is available to all market participants. The Exchange does not believe that offering the COB Feed will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the COB Feed involves data that is specific to CBOE. Further, to the extent creating the COB Feed (and offering it for free) makes CBOE a more attractive marketplace for market participants on other exchanges, such market participants may elect to become CBOE market participants. Indeed, this may enhance competition by spurring other options exchanges to create more data feeds (and offer such new feeds for free).

*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) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

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 has stated that it is prepared to offer the COB Feed immediately and does not intend to assess a fee for such feed at this time, so waiving the 30-day operative delay would allow Exchange market participants to begin to receive the data in the COB Feed immediately instead of having to wait 30 days. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because such waiver will enable market participants to receive the COB data free of charge immediately,

which data is otherwise only available to market participants for a fee (as part of the BBO Data Feed) until the proposal becomes effective. For this reason, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as 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 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-CBOE-2013-070 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-CBOE-2013-070. 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-2013-070 and should be submitted on or before August 30, 2013.

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

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

[FR Doc. 2013-19266 Filed 8-8-13; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-70117; File No. SR-NASDAQ-2013-100]

**Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Its Fees for Routing of Orders Priced at \$1 or More Under Rule 7018(a), as Well as Changes to Its Excess Order Fee Under Rule 7018(m)**

August 5, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that, on July 25, 2013, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") 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 NASDAQ. 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**

NASDAQ is proposing changes to its fees for routing of orders priced at \$1 or

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its 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. CBOE has satisfied this requirement.

<sup>12</sup> 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).

<sup>13</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.