

changes reflect this competitive environment.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

**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>7</sup> and paragraph (f) of Rule 19b-4<sup>8</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:

*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-ISE-2013-53 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-ISE-2013-53. 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-ISE-2013-53 and should be submitted on or before November 21, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-70755; File No. SR-CBOE-2013-102]

**Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change To Amend CBOE Rule 6.2B To Establish Modified Hybrid Opening System Opening Procedures for All Volatility Index Constituent Options**

October 25, 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 October 15, 2013, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") 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 self-regulatory organization. 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**

CBOE proposes to amend CBOE Rule 6.2B to establish modified Hybrid Opening System ("HOSS") opening procedures for all option series that are used to calculate volatility indexes. 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.

**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 those 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 parts of such statements.

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

**1. Purpose**

On the expiration/final settlement date for volatility index options and futures, modified Hybrid Opening System (HOSS) opening procedures are used for Hybrid 3.0 options and series that are used to calculate the exercise settlement/final settlement value for expiring volatility index options and futures contracts.<sup>3</sup> The exercise settlement/final settlement value for volatility index options and futures is a

<sup>3</sup> The expiration/final settlement date for volatility index options and futures is the same day that the exercise settlement/final settlement value is calculated for those contracts. See CBOE Rule 24.9(a)(5) and CBOE Futures Exchange, LLC ("CFE") Rule 1202(b). This date is on the Wednesday that is thirty days prior to the third Friday of the calendar month immediately following the month in which the applicable volatility index options or futures contract expires. If the third Friday of the month subsequent to expiration of the applicable volatility index option or futures contract is a CBOE holiday, the exercise settlement/final settlement value will be calculated on the business day immediately preceding that Friday.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f).

<sup>9</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.

Special Opening Quotation (“SOQ”) of the respective volatility index calculated from the sequence of opening prices, as traded on CBOE, of a single strip of constituent options used to calculate the exercise settlement value on expiration dates. The opening price for any constituent option series in which there is no trade on CBOE is the average of that option series’ bid price and ask price as determined at the opening of trading.

Standard expiration options (*i.e.*, third Friday expirations) on the S&P 500 index are the only Hybrid 3.0 option series for which modified HOSS opening procedures are utilized (“SPX option series”). SPX option series are used to calculate the CBOE Volatility Index (“VIX” or “VIX index”).<sup>4</sup> As a result, the only volatility index products whose exercise settlement/final settlement values are currently calculated in this manner are VIX options traded on CBOE and VIX futures contracts traded on CFE.

CBOE and CFE, however, trade options and futures on other volatility indexes<sup>5</sup> and normal HOSS opening procedures are used on all days for the constituent options in those volatility indexes, including the expiration/final settlement dates for those volatility index contracts. This is because the constituent option series of those

volatility indexes trade on the Hybrid platform and the modified HOSS opening procedures for Hybrid 3.0 classes and series are not applicable to those classes and series. The purpose of this filing is to align the opening procedures for calculating the exercise settlement/final settlement value for all volatility index products as closely as possible to the existing and known modified HOSS opening procedures used to calculate the VIX exercise/final settlement value.

In addition to the existing volatility indexes calculated using Hybrid option series, the Exchange has created a new volatility index that measures a 9-day period of implied volatility: The CBOE Short-Term Volatility Index (“VXST” or “VXST index”).<sup>6</sup> The Exchange understands that there is an unmet market demand for derivatives that expire each week on a short-term volatility index. In order to respond to that demand, the Exchange plans to introduce VXST security options (to be traded on CBOE) and VXST futures (to be traded on CFE) that expire every Wednesday. These new VXST products will trade alongside existing VIX options and VIX futures, (which expire on a monthly basis) and on one Wednesday each month, the Exchange plans to calculate two exercise

settlement/final settlement values based on S&P 500 index option series to settle expiring VIX and VXST options and futures.

In terms of product launches, the Exchange anticipates that CFE will list VXST futures prior to CBOE listing VXST options. This order of product launches is consistent with the past practice of introducing volatility index futures prior to volatility index options due to the use by many market participants of futures as proxies for forward volatility index levels when pricing options.

The VXST index is calculated using S&P 500 index option series that expire on every Friday, including standard SPX option series (*i.e.*, third Friday expirations). The non-standard expiration constituent S&P 500 index option series are: (1) Listed under various Exchange rules; (2) may expire on Fridays other than the third Friday of the month; (3) Hybrid series and Hybrid 3.0 series; and (4) considered part of the S&P 500 index option class. The below chart sets forth a hypothetical listing schedule identifying the VXST derivative expiration/final settlement date, the constituent S&P 500 index option series and expiration/final settlement date and the trading platform of the constituent option series:

VXST derivative expiration/final settlement date	Constituent S&P 500 index option series and expiration date	Type of constituent series
Wednesday, August 31, 2016 .....	End-of-Week Expiration* (ticker: SPXW), Expires Friday, September 9, 2016 .....	Hybrid.
Wednesday, September 7, 2016 .....	Standard Expiration (ticker: SPX), Expires Friday, September 16, 2016 .....	Hybrid 3.0.
Wednesday, September 14, 2016 .....	End-of-Week Expiration* (ticker: SPXW), Expires Friday, September 23, 2016 .....	Hybrid.
Wednesday, September 21, 2016 .....	Quarterly Index Expiration** (ticker: SPXQ), Expires on Friday, September 30, 2016 .....	Hybrid 3.0.

\* Listed under Rule 24.9(e).  
 \*\* Listed under Rule 24.9(c).

As shown above, because some VXST constituent S&P 500 index option series are Hybrid series, the modified HOSS opening procedures for Hybrid 3.0 series are not applicable to those S&P 500 index option series.<sup>7</sup> This filing proposes to align the opening procedures on Wednesdays for all VXST constituent S&P 500 index option series to the existing and known modified HOSS opening procedures used to calculate the exercise/final settlement value for VIX derivatives.

What are the modified HOSS opening procedures?

The main feature of the modified HOSS opening procedures utilized in Hybrid 3.0 classes and series (*i.e.*, SPX options) on VIX derivative expiration/final settlement dates is the strategy order<sup>8</sup> cut-off time for the SPX option series that will be used to calculate the exercise settlement/final settlement value for VIX derivatives. Rule 6.2B.01(c)(iii)(B)(1)–(3) sets forth three

characteristics that the Exchange considers strategy orders to possess:

- (1) The orders are for options series with the expiration month that will be used to calculate the settlement price of the applicable volatility index option or futures contract;
- (2) The orders are for options series spanning the full range of strike prices in the appropriate expiration month for options series that will be used to calculate the settlement price of the applicable volatility index option or futures contract, though they will not

<sup>4</sup> Some series of the S&P 500 index option class are Hybrid series.

<sup>5</sup> For example: the CBOE Nasdaq-100 Volatility Index (“VXN”), the CBOE Russell 2000 Volatility Index (“RVX”), the CBOE Gold ETF Volatility Index (“GVZ”) and the CBOE Crude Oil ETF Volatility Index (“OVX”). This list is not exhaustive.

<sup>6</sup> The VIX index measures a 30-day period of expected volatility and is calculated using S&P 500 index option series that expire in 30 days. The VXST index measures a 9-day period of expected volatility and is calculated using S&P 500 index option series that expire in 9 days.

<sup>7</sup> The Exchange is proposing this change in order to calculate a final settlement value for VXST

futures contracts. The Exchange will submit a filing to the Commission to list VXST options separately.

<sup>8</sup> Option orders that are related to position in, or a trading strategy involving, volatility index options or futures are known as “strategy orders,” under Rule 6.2B.01(c)(iii).

necessarily include every available strike price; and

(3) The orders are for put options with strikes prices less than the “at-the-money” strike price or for call options with strike prices greater than the “at-the-money” strike price. The orders may also be for put and call options with “at-the-money” strike prices.

Rule 6.2B.01(c)(iii)(B) also gives the Exchange discretion to deem other types of orders to fall within the category of “strategy orders” if the Exchange determines that the applicable facts and circumstances warrant. Under current Rule 6.2B.01(c)(iii), all strategy orders must be submitted by 8:15 a.m. (Chicago time).<sup>9</sup> In two limited circumstances, strategy orders may be cancelled.<sup>10</sup>

As background, the Exchange notes that market participants that actively trade VIX derivatives (*e.g.*, options and futures) often hedge their positions with the SPX option series that will be used to calculate the VIX exercise settlement/final settlement value. Traders holding hedged VIX derivatives positions can be expected to trade out of their SPX option series on the relevant VIX expiration/final settlement date. Specifically, traders holding short, hedged VIX products would liquidate that hedge by selling their SPX option series, while traders holding long, hedged VIX products would liquidate their hedge by buying SPX option series. In order to seek convergence with the VIX exercise settlement/final settlement value, these traders would be expected to liquidate their hedges by submitting market orders or limit orders in the appropriate SPX option series during the SPX opening on the VIX expiration/final settlement date.

The strategy order cut-off time exists because trades to liquidate hedges can contribute to an order imbalance during the SPX opening on VIX expiration/final settlement dates. For example, traders liquidating hedges may predominantly be on one side of the market (*e.g.*, seek to buy the particular SPX option series) and those traders’ orders may create buy or sell order imbalances during the SPX opening on a VIX expiration/final settlement date. As a result of having a

strategy order cut-off time in place, the Exchange has created a window to encourage additional participation in the modified HOSS opening procedures among market participants who may wish to place off-setting orders against imbalances to which strategy orders may have contributed.<sup>11</sup> The Exchange also hopes that during this time period market participants will also enter orders that will result in price improvement in those SPX options series that are used to calculate the VIX exercise settlement/final settlement value.

For the same reasons set forth above, the Exchange now seeks to establish a strategy order cut-off time: (1) For all constituent option series used to calculate volatility indexes on the expiration/final settlement dates for volatility index derivatives; and (2) for all constituent SPX option series used to calculate the VXST on every Wednesday.

#### Proposed Modified HOSS Opening Procedures for Hybrid Classes and Series

The Exchange proposes to adopt new Interpretation and Policy .08 to Rule 6.2B to set forth the modified HOSS opening procedures for Hybrid classes and series used to calculate volatility indexes.

First, the Exchange proposes to set forth the applicable days for when the modified HOSS opening procedures would apply. (All provisions set forth in Rule 6.2B would remain in effect unless superseded or modified by proposed Rule 6.2B.08.) For 30-day volatility indexes, the modified HOSS opening procedures would be utilized on the days that the exercise settlement value and final settlement value is calculated for options (as determined under Rule 24.9(a)(5)) or (security) futures contracts on volatility indexes measuring a 30-day volatility period.<sup>12</sup> For short-term volatility indexes, the modified HOSS opening procedures would be utilized every Wednesday for Hybrid classes and series that are used to calculate volatility indexes measuring a 9-day volatility period. If a Wednesday is an Exchange holiday or if the Friday in the business [sic] following a Wednesday is

an Exchange holiday, then the modified HOSS opening procedures would be utilized on a Tuesday.<sup>13</sup>

Second, the Exchange proposes to provide that on applicable days, all orders in Hybrid classes and series used to calculate 30-day and short-term volatility indexes (including public customer, broker-dealer, Exchange Market-Maker, away Market-Maker and Specialist orders), other than spread or contingency orders, would be eligible to be placed on the electronic book for the purpose of permitting those orders to participate in the opening price calculation for the applicable option class or series.

Third, the Exchange proposes to establish criteria for strategy orders, a cut-off time to be established by the Exchange on a class-by-class basis and a prohibition against cancelling strategy orders; with the limited exception that would permit strategy order to be cancelled if the order is (i) not executed in the modified HOSS opening procedures and the cancellation is submitted after the procedures have concluded, or (ii) cancelled to correct a legitimate error. These proposed provisions are substantially the same as the existing provisions set forth in Rule 6.2B.01. The specific provisions proposed to be adopted are:

On the days that the modified HOSS opening procedures would be utilized, the following provisions would apply to all volatility index option components:

- All option orders for participation in modified HOSS opening procedures that are related to positions in, or a trading strategy involving, volatility index options or (security) futures, and any change to or cancellation of any such order:
  - must be received prior to the applicable strategy order cut-off time for the affected option series (established by the Exchange on a class-by-class basis), provided that the strategy order cut-off time will be no earlier than 8:00 a.m. and no later than the opening of trading in the option series. All pronouncements regarding changes to the applicable strategy order cut-off time would be announced at least one day prior to implementation.
  - may not be cancelled or changed after the applicable strategy order cut-off

<sup>9</sup> The applicable cut-off time for the entry of strategy orders is established by the Exchange on class-by-class. See Rule 6.2B.01(c)(i)(A) and CBOE Regulatory Circular RG08-43 (Cut-Off Time for Submission of Strategy Orders for Participation in SPX Modified HOSS Opening Procedure).

<sup>10</sup> These circumstances include when the order is not executed in the modified HOSS opening procedures and the cancellation or change is submitted after the modified HOSS opening procedures are concluded or if there is a legitimate error and the procedures for cancelling or changing a legitimate error are followed as set forth in Rule 6.2B.01(c)(iii)(B).

<sup>11</sup> Any imbalance of contracts to buy over contracts to sell in the applicable index option series, or vice versa, as indicated on the electronic book, as well as expected opening prices and sizes are periodically published in a snapshot form on the CBOE and CFE Web sites as soon as practicable up through the opening on settlement days when the modified HOSS opening procedures are utilized. See CBOE Rule 6.2B.01(vi). They are also periodically disseminated on the Hybrid trading system.

<sup>12</sup> See *supra* note 1 [sic].

<sup>13</sup> The Exchange is identifying the days that the modified HOSS opening procedures would apply in proposed Rule 6.2B.08 because those days need to be identified in order to calculate a final settlement value for VXST futures. The Exchange expects to amend this provision when the Exchange makes a filing with the Commission to list VXST options. Specifically, the Exchange plans to establish an expiration date and exercise settlement rule for VXST options that would be comparable to Rule 24.9(a)(5).

time established in accordance with paragraph (c)(i) to Rule 6.2B.08, unless the order is not executed in the modified HOSS opening procedures and the cancellation or change is submitted after the modified HOSS opening procedures are concluded (provided that any such order may be changed or cancelled after the applicable strategy order cut-off time established in accordance with paragraph (c)(i) to Rule 6.2B.08 and prior to applicable cut-off time established in accordance with paragraph (d) to Rule 6.2B.08 in order to correct a legitimate error, in which case the Trading Permit Holder submitting the change or cancellation would be required to prepare and maintain a memorandum setting forth the circumstances that resulted in the change or cancellation and shall file a copy of the memorandum with the Exchange no later than the next business day in a form and manner prescribed by the Exchange).

In general, the Exchange would consider option orders to be related to positions in, or a trading strategy involving, volatility index options or (security) futures for purposes of Rule 6.2B.08 if the orders possess the following three characteristics:

- The orders are for option series with the expirations that will be used to calculate the exercise settlement or final settlement value of the applicable volatility index option or (security) futures contract.

- The orders are for options series spanning the full range of strike prices for the appropriate expiration for options series that will be used to calculate the exercise settlement or final settlement value of the applicable volatility index option or (security) futures contract, but not necessarily every available strike price.

- The orders are for put options with strike prices less than the “at-the-money” strike price and for call options with strike prices greater than the “at-the-money” strike price. The orders may also be for put and call options with “at-the-money” strike prices.

Whether option orders are related to positions in, or a trading strategy involving, volatility index options or (security) futures for purposes of this Rule 6.2B.08 would depend upon specific facts and circumstances. Order types other than those provided above may also be deemed by the Exchange to fall within this category of orders if the Exchange determines that to be the case based upon the applicable facts and circumstances.

Fourth, the Exchange proposes to provide that the provisions of Rule 6.2B.08 may be suspended by two Floor

Officials in the event of unusual market conditions.

Fifth, the Exchange proposes to provide that all other option orders for participation in the modified HOSS opening procedures, and any change to or cancellation of any such order, would be required to be received prior to the applicable cut-off time in order to participate at the opening price for the applicable option series. The applicable cut-off time for the affected option series would be established by the Exchange on a class-by-class basis, provided the cut-off time would be no earlier than 8:25 a.m. and no later than the opening of trading in the option series. All pronouncements regarding changes to the applicable cut-off time would be announced at least one day prior to implementation.

Sixth, the Exchange proposes to provide that any imbalance of contracts to buy over contracts to sell in the applicable option series, or vice versa, as indicated on the electronic book, would be published as soon as practicable up through the opening of trading in the affected series on days that the modified HOSS opening procedures are utilized.

The Exchange notes that there are certain provisions set forth in Rule 6.2B.01 that the Exchange is not proposing to adopt as parallel provision to proposed Rule 6.2B.08. The provisions set forth in Rules 6.2B.01(a), (b) and (c)(ii) pertain to opening requirements for liquidity providers that only apply to Hybrid 3.0 classes and series. For Hybrid classes and series, the applicable opening provisions for liquidity providers are set forth in Rule 6.2B. The key difference is that liquidity providers in Hybrid 3.0 classes and series are required to enter opening quotes whereas no such requirement exists for Hybrid classes and series.

In addition, the Exchange is not proposing to adopt a provision similar to Rule 6.2B.01(c)(v) which provides that the HOSS system automatically generates cancels immediately prior to the opening of the applicable index option series for broker-dealer, Exchange Market-Maker, away Market-Maker, and Specialist orders which remain on the electronic book following the modified HOSS opening procedures. This is another difference between Hybrid 3.0 classes and series and Hybrid classes and series in that a similar automatic cancellation function does not occur for Hybrid classes and series because orders from those participants would be permitted to rest in the electronic book following the modified HOSS opening procedures.

Proposed Non-Substantive Changes to Rule 6.2B.01

The Exchange is taking this opportunity to make some non-substantive changes to Rule 6.2B.01. First, the Exchange is proposing to delete the sentence that is set forth in from [sic] Rule 6.2B.01(b). This provision provides that (on all days), series will not open if there is not a quote present in that series that complies with the bid/ask different [sic] requirements that the Exchange establishes on a class-by-class basis. This same requirement is set forth earlier in Rule 6.2(e). Therefore, the second sentence to Rule 6.2B.01(b) can be deleted.

Second, the Exchange is proposing to amend Rule 6.2B.01(c)(i). On all days, non-customer orders in Hybrid 3.0 classes and series are not permitted to rest in the book after the open. Accordingly, non-customers must submit “opening rotation orders” (“OPG”) in order to participate in the opening.<sup>14</sup> If non-customer orders are not submitted as OPG orders, those orders will not participate in the opening rotation. An OPG order is not technically a contingency but is a requirement for non-customers to participate in the opening for Hybrid 3.0 classes and series. As a result, the Exchange proposes to add the phrase “non-OPG” before “contingency orders” in Rule 6.2B.01(c)(i) to make that rule clearer.

Third, the Exchange is proposing to amend Rule 6.2B.01 to include the correct terminology conventions for options and futures throughout Rule 6.2B.01. The Exchange notes that options expire on an expiration date and settle to an exercise settlement value. Futures settle on a final settlement date and settle to a final settlement value. Where appropriate, the Exchange is adding the correct terminology throughout Rule 6.2B.01.

Fourth, the Exchange is proposing to change the reference to “month” as used in Rule 6.2B.01(c)(i) and (c)(iii)(B)(2) [sic] to “expiration.” The reference to month is used to designate which month’s option series will be used to calculate a 30-day volatility index. Because options series that expire more often than monthly will be used to calculate the VXST, the Exchange is proposing to amend these provisions to account for the existence of volatility

<sup>14</sup> See Rule 6.53(l), which defines “Opening Rotation Order.” After the opening rotation is concluded, unfilled OPG orders are cancelled. See also CBOE Regulatory Circular RG07-097 (SPX Trading on Hybrid 3.0).

indexes that expire more frequently than on a once per month basis.

Fifth, the Exchange is proposing to add more specific rule citations throughout Rule 6.2B.01. Currently, there are several cross references throughout Rule 6.2B.01 to Rule 6.2B and Rule 6.2B.01. In order to be more clear (because some of the same numbering conventions are used in these provisions and could be confusing), the Exchange is proposing to add specific rule references (instead of just subparagraphs) throughout Rule 6.2B.01.

Sixth, the Exchange is proposing to replace the reference to the “opening bell” to [sic] the “opening of trading in the affected series” in Rule 6.2B.01(vi) [sic]. This change is being proposed to make that provision more specific in its description of when imbalances will be published.

Finally, the Exchange is proposing to make a few grammatical changes throughout Rule 6.2B.01.

#### Proposed Changes to Rule 24.9(a)(5)

The Exchange is proposing to amend Rule 24.9(a)(5), which sets forth the method of determining the day that the exercise settlement value will be calculated and of determining the expiration date and last trading day for volatility index options. Specifically, the Exchange is proposing to add the phrase “Measure a 30-Day Volatility Period.” This change is being proposed to account for the existence of two different volatility index products that overlie different implied volatility measurement periods. As described in footnote 13, when the Exchange makes a filing with the Commission to list VXST options, the Exchange plans to establish a proposed similar rule setting forth similar information for VXST options.

#### Surveillance

The Exchange currently conducts heightened surveillance on the days when the modified HOSS opening procedures are utilized. Those same heightened surveillance practices will be utilized on every Wednesday and the Exchange represents that these surveillance practices shall be adequate to monitor trading in all constituent option series used to calculate volatility indexes. The Exchange expects to enhance surveillance practices in tandem with any resultant trading volume growth.

#### 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>15</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>16</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The primary purpose of the proposed rule change is to establish a strategy-order cut-off time for option series on the day those option series are used to calculate the exercise settlement/final settlement value for volatility index options and futures. Because those option series are typically used to hedge VIX derivatives, market participant [sic] liquidating their hedges on expiration/final settlement dates may contribute to an order imbalance. The proposed rule change will protect investors and the public interest because the strategy order cut-off time provides a time period prior to the open of trading during which market participants may help reduce order imbalances for volatility index options. The Exchange notes that a series will not open if there is an imbalance. By creating a window of opportunity to enter orders that reduce any order imbalances to which strategy orders may have contributed, the Exchange is establishing a procedure that is designate [sic] to facilitate a more stable opening process.

In addition, the Exchange hopes that the establishment of a strategy cut-off time will result in market participants submitting orders that would result in price improvement to the option series used to calculate exercise settlement/final settlement values for volatility index derivatives.

#### 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 not necessary or appropriate in furtherance of the purposes of the Act. Specifically, CBOE believes that the establishment of a strategy-order cut-off time results in all market participants, that hedge volatility index derivative using constituent volatility index options, being treated the same and does not impose any burden on competition.

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

No written comments were solicited or received with respect to the proposed rule change.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2013-102 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-2013-102. 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

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

<sup>16</sup> 15 U.S.C. 78f(b)(5).

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-2013-102 and should be submitted on or before November 21, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70754; File No. SR-NYSEArca-2013-105]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the SPDR MFS Systematic Core Equity ETF, SPDR MFS Systematic Growth Equity ETF, and SPDR MFS Systematic Value Equity ETF Under NYSE Arca Equities Rule 8.600

October 25, 2013.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on October 10, 2013, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") 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 self-regulatory organization. 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 list and trade shares of the following under NYSE Arca Equities Rule 8.600 ("Managed Fund Shares"): SPDR MFS Systematic Core Equity ETF; SPDR MFS Systematic Growth Equity ETF; and SPDR MFS Systematic Value Equity ETF. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.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 those 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 parts of such statements.

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

###### 1. Purpose

The Exchange proposes to list and trade shares ("Shares") of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares: SPDR MFS Systematic Core Equity ETF; SPDR MFS Systematic Growth Equity ETF; and SPDR MFS Systematic Value Equity ETF (each a "Fund" and, collectively, the "Funds").<sup>4</sup> The Shares will be offered by SSgA Active ETF Trust (the "Trust"), which is organized as a Massachusetts business trust and is registered with the Commission as an open-end management investment

<sup>4</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

company.<sup>5</sup> SSgA Funds Management, Inc. (the "Adviser" or "SSgA FM") will serve as the investment adviser to the Funds. Massachusetts Financial Services Company (the "Sub-Adviser" or "MFS") will be the sub-adviser for the Funds.<sup>6</sup> State Street Global Markets, LLC (the "Distributor" or "Principal Underwriter") will be the principal underwriter and distributor of the Funds' Shares. State Street Bank and Trust Company (the "Administrator", "Custodian" or "Transfer Agent") will serve as administrator, custodian and transfer agent for the Funds.<sup>7</sup>

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.<sup>8</sup> Commentary .06 to Rule

<sup>5</sup> The Trust is registered under the 1940 Act. On December 21, 2012, the Trust filed with the Commission an amendment to its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) ("Securities Act"), and under the 1940 Act relating to the Funds (File Nos. 333-173276 and 811-22542) ("Registration Statement"). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 29524 (December 13, 2010) (File No. 812-13487) ("Exemptive Order").

<sup>6</sup> MFS is a subsidiary of Sun Life of Canada (U.S.) Financial Services Holdings, Inc., which in turn is an indirect majority owned subsidiary of Sun Life Financial Inc. (a diversified financial services organization).

<sup>7</sup> The Commission has previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. See, e.g., Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR-NYSEArca-2008-31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR-NYSEArca-2009-55) (order approving listing of Dent Tactical ETF); 62502 (July 15, 2010), 75 FR 42471 (July 21, 2010) (SR-NYSEArca-2010-57) (order approving listing of AdviserShares WCM/BNY Mellon Focused Growth ADR ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR-NYSEArca-2010-79) (order approving listing of Cambria Global Tactical ETF).

<sup>8</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a

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

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.