The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and national market system and promote a fair and orderly market because it would provide authority for the Exchange to nullify or adjust trades that may have resulted from a verifiable systems disruption or malfunction. The Exchange believes that it is appropriate to provide the flexibility and authority provided for in proposed Rule 975NY(a)(9) so as not to limit the Exchange's ability to plan for and respond to unforeseen systems problems or malfunctions that may result in harm to the public. The Exchange notes that the proposed rule change is based on CBOE rules and is substantially similar to rules of other markets.[9] The Exchange further notes that pursuant to existing Rule 975NY(b)(3), when acting under its own motion to nullify or adjust trades pursuant to proposed Rule 975NY(a)(9), the Exchange must consider whether taking such action would be in the interest of maintaining a fair and order market and for the protection of investors.

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed rule change is pro-competitive because it will align the Exchange's rules with the rules of other markets, including CBOE, NYSE Arca, and Phlx. By adopting proposed Rule 975NY(a)(9), the Exchange will be in a position to treat transactions that are a result of a verifiable systems issue or malfunction in a manner similar to other exchanges.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the 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 after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder. [12]

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B) [13] of the Act 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.* Please include File Number SR–NYSEMKT–2014–45 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–NYSEMKT–2014–45. 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 at 100 F Street NE., Washington, DC 20549–1090 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–NYSEMKT–2014–45, and should be submitted on or before June 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12073 Filed 5–23–14; 8:45 am]

BILLING CODE 8011–01–P

[9] *Supra* n. 3 [sic].

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72196; File No. SR–FINRA–2014–005]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Partial Amendment No. 1 and Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Partial Amendment No. 1, Relating to Broadening Arbitrators' Authority to Make Referrals During an Arbitration Proceeding

May 20, 2014.

I. Introduction

On July 12, 2010, the Financial Industry Regulatory Authority (''FINRA'') filed a proposal pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] with the Securities and Exchange Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''Commission'') to amend Rule 12104 (Effect of Arbitration on FINRA Regulatory Activities) of the Code of Arbitration Procedure for Customer Disputes (''Customer Code'') and Rule 13104 (Effect of Arbitration on FINRA Regulatory Activities) of the Code of Arbitration Procedure for Industry Disputes (''Industry Code'') (together, ''Codes'') to permit arbitrators to make referrals to FINRA during an arbitration case, and to adopt new rules to address the assessment of hearing session fees, costs, and expenses if an arbitrator made a referral during a case that resulted in withdrawal of the entire panel (''original proposal'').[3] Under the original proposal, if an arbitrator made a mid-case referral, a party could request that the referring arbitrator withdraw. Upon a party's request that the referring arbitrator withdraw, the entire panel also would have been required to withdraw. On July 7, 2011, FINRA responded to comments received by the Commission by filing an amendment to the original proposal,[4] which replaced it in its entirety.

Under the amended original proposal, an arbitrator would have been permitted to make a mid-case referral if he or she became aware of any matter or conduct that the arbitrator had reason to believe posed a serious ongoing or imminent threat that was likely to harm investors. A mid-case referral could not have been based solely on allegations in the pleadings. The amended original proposal also would have instructed the arbitrator to wait until the arbitration concluded to make a referral if investor protection would not have been materially compromised by the delay. Further, if an arbitrator made a mid-case referral, the Director of Arbitration (''Director'') would have disclosed the act of making the referral to the parties, and a party would have been permitted to request recusal of the referring arbitrator. The amended original proposal would have required either the President of FINRA Dispute Resolution (''President'') or the Director to evaluate the referral and determine whether to forward it to other divisions of FINRA for further review. Finally, the amended original proposal would have retained the provision in Rule 12104(b) of the Customer Code and Rule 13104(b) of the Industry Code that permits an arbitrator to make a post-case referral. The Commission received five comment letters in response to the amended original proposal.

On January 29, 2014, FINRA withdrew the amended original proposal[5] without responding to the comments and filed the current proposal. The current proposal is identical to the amended original proposal and FINRA's filing responds to comments received on the amended original proposal. The proposed rule change was published for comment in the **Federal Register** on February 12, 2014.[6] The Commission received ten comment letters in response to the current proposal.[7] On March 28, 2014, FINRA extended to May 20, 2014 the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change. On May 19, 2014, FINRA responded to the comments and filed Partial Amendment No. 1 to the current proposal.[8]

The Commission is publishing this notice and order to solicit comments on Partial Amendment No. 1 from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act[9] to determine whether to approve or disapprove the proposed rule change as modified by Partial Amendment No. 1.

Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the proposed rule change, nor does it mean that the Commission will ultimately disapprove the proposed rule change. Rather, as discussed below, the Commission seeks additional input from interested parties on the proposed rule change, as modified by Partial Amendment No. 1, and issues presented by the proposal.

II. Description of the Proposed Rule Change

As further described in the Notice of Filing, FINRA is proposing to amend Rule 12104 of the Customer Code and Rule 13104 of the Industry Code to broaden arbitrators' authority to make referrals during an arbitration proceeding. Under the current proposal, an arbitrator would be permitted to make a mid-case referral if the arbitrator becomes aware of any matter or conduct that the arbitrator has reason to believe poses a serious ongoing or imminent threat that is likely to harm investors. A mid-case referral could not be based solely on allegations in the pleadings. The proposed rule change would further provide that when a case is nearing completion, the arbitrator should wait until the case concludes to make a referral if, in the arbitrator's judgment, investor protection would not be materially compromised by the delay. If an arbitrator makes a mid-case referral, the Director would disclose the act of making the referral to the parties, and a party would be permitted to request recusal of the referring arbitrator. The proposal would require either the President or the Director to evaluate the referral and determine whether to forward it to other divisions of FINRA for further review. Finally, the proposal would retain the provision in Rule 12104(b) of the Customer Code and Rule 13104(b) of the Industry Code that permits an arbitrator to make a post-case referral.

III. Discussion of Public Comments on the Proposed Rule

The Commission received ten comment letters[10] on the current proposal, two of which support the

[3] *See* Securities Exchange Act Rel. No. 62930 (Sept. 17, 2010), 75 FR 58007 (Sept. 23, 2010) (SR–FINRA–2010–036).

[4] *See* Securities Exchange Act Rel. No. 64954 (Jul. 25, 2011), 76 FR 45631 (Jul. 29, 2011) (SR–FINRA–2010–036) (Notice of Filing Proposed Rule Change and Amendment No. 1 to Amend the Codes of Arbitration Procedure To Permit Arbitrators To Make Mid-Case Referrals) (hereinafter, the ''amended original proposal,'' to distinguish Amendment No.1 to the original proposal from the current proposal as amended by Partial Amendment No. 1. *See infra,* Section IV).

[5] *See* SR–FINRA–2010–036, Withdrawal of Proposed Rule Change, available at *http://www.finra.org/Industry/Regulation/RuleFilings/2010/P121722.*

[6] *See* Securities Exchange Act Rel. No. 71534 (Feb 12, 2014), 79 FR 9523 (Feb. 19, 2014) (SR–FINRA–2014–005) (''Notice of Filing'').

[7] *See* Letters from Gary Berne, Stolle Berne, dated Feb. 6, 2014 (''Berne''); Jason Doss, President, Public Investors Arbitration Bar Association, dated Feb. 26, 2014 (''PIABA''); Steven B. Caruso, Esq., Maddox Hargett & Caruso, P.C., dated Mar. 4, 2014 (''Caruso''); George H. Friedman, George H. Friedman Consulting, LLC, dated Mar. 5, 2014 (''Friedman''); William A. Jacobson, Clinical Professor of Law, Cornell Law School, and Director, Cornell Securities Law Clinic, dated Mar. 11, 2014 (''Cornell''); William D. Nelson, Lewis Roca Rothgerber LLP, dated Mar. 11, 2014 (''Nelson''); Nicole G. Iannarone, Esq., Assistant Clinical Professor, Georgia State University College of Law Investor Advocacy Clinic, dated Mar. 11, 2014 (''GSU''); Elissa Germaine, Supervising Attorney, and Michelle N. Robinson, Student Intern, Pace Investor Rights Clinic, Pace Law School, dated Mar. 12, 2014 (''Pace''); Ryan Jennings, Christian Corkery, and Daniel Coleman, Legal Interns, St. John's University School of Law Securities Arbitration Clinic, dated Mar. 12, 2014 (''St. John's''); and Richard P. Ryder, Esquire, President, Securities Arbitration Commentator, dated Mar. 12, 2014 (''Ryder''). Comment letters are available at *http://www.sec.gov.*

[8] *See* Letter from Mignon McLemore, Assistant General Counsel, FINRA Dispute Resolution, to Lourdes Gonzalez, Commission, dated May 19, 2014 (''FINRA Response''). The FINRA Response and the text of Partial Amendment No. 1 are available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, and at the Commission's Public Reference Room. The FINRA Response is also available on the Commission's Web site at *http://www.sec.gov.*

[9] 15 U.S.C. 78s(b)(2)(B).

[10] *See* note 7, *supra.*

current proposal;[11] three of which support the goal of the current proposal, but seek some modifications;[12] and five of which oppose the current proposal.[13] Supporters believe that permitting arbitrators to make mid-case referrals would be beneficial for public investors[14] and help FINRA to detect and respond to ongoing fraud more quickly.[15] Other commenters, however, raised concerns regarding various aspects of the proposal. For example, some commenters suggested that a referral would lead to requests for recusals or challenges to awards because of perceived bias, and that investors would be unfairly burdened by disruptions in arbitration proceedings that might result from an arbitrator making a mid-case referral and receiving a recusal request.[16] Commenters suggested different approaches, including requiring FINRA or the party that requested recusal to compensate an investor whose case is disrupted by a mid-case referral that leads to one or more arbitrators recusing themselves,[17] explicitly excluding referrals as a basis for recusal of an arbitrator or panel,[18] and excluding referrals as a basis for challenging an award.[19] Some commenters suggested that the proposed rule would offer limited help to FINRA to uncover fraud[20] and would negatively affect investors if a mid-case referral could be used as grounds to request recusal of an arbitrator[21] or to challenge the arbitration award.[22] Other commenters suggested that the proposed rule would compromise the integrity of the arbitration process and arbitrator neutrality.[23] On May 19, 2014, FINRA responded to the comments[24] and filed Partial Amendment No. 1 to the proposed rule change. The Commission is considering FINRA's response and Partial Amendment No. 1, both of which are in the public comment file for this rule filing.

IV. escription of Partial Amendment No. 1

On May 19, 2014, FINRA proposed in Partial Amendment No. 1 that a party that wishes to request recusal of an arbitrator following a mid-case referral must do so within three days of being notified of the referral. FINRA believes that Partial Amendment No. 1 would prevent a party from receiving notice of the mid-case referral and reserving the right to strategically request recusal when it would best benefit that party.

V. Proceedings to Determine Whether to Approve or Disapprove SR–FINRA–2014–005 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether to approve or disapprove the proposed rule change.[25] Institution of such proceedings appears appropriate at this time in view of the legal and policy issues raised by the proposal. As noted above, institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the proposed rule change, as modified by Partial Amendment No. 1, and to provide the Commission with arguments to support the Commission's analysis as to whether to approve or disapprove the proposal, as amended.

Pursuant to Section 19(b)(2)(B) of the Act,[26] the Commission is providing notice of the grounds for disapproval under consideration. Section 15A(b)(6) of the Act[27] requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes FINRA's proposed rule change, as amended, raises questions as to whether it is consistent with the requirements of Section 15A(b)(6) of the Act.

VI. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect any issues raised by the proposed rule change, as modified by Partial Amendment No. 1. In particular, the Commission invites the written views of interested persons concerning (1) any issues related to the changes made to the proposal by Partial Amendment No. 1 and (2) whether the proposed rule change, as modified by Partial Amendment No. 1, is consistent with Section 15A(b)(6) of the Act. The Commission also requests comment on the issues raised by FINRA's response to comments.

In addition, the Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to questions raised by commenters about the potentially adverse consequences of the proposal for retail investors whose cases may be delayed or disrupted by a mid-case referral. These questions include:

- Would the proposal adversely affect retail investors? If so, how?
- Should FINRA propose a different standard for referral? If so, what standard(s) would be appropriate?
- Does Partial Amendment No. 1 ameliorate commenters' concerns that notifying parties of a mid-case referral could lead to adverse consequences to the claimant, including requests for recusal and challenges to an award? If not, should FINRA amend the proposal to preclude the Director, or anyone else, from notifying the parties of a referral?

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4(g) promulgated under the Act, any request for an opportunity to make an oral presentation.[28]

Interested persons are invited to submit written data, views, and arguments by June 26, 2014 concerning whether the proposed rule change, as modified by Partial Amendment No. 1, should be approved or disapproved. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by July 11, 2014. Comments may be submitted by any of the following methods:

[11] *See* Caruso and Friedman.

[12] *See* GSU, PACE, and Cornell.

[13] *See* PIABA, Berne, Nelson, St. John's, and Ryder.

[14] *See* Caruso.

[15] *See* Friedman.

[16] *See* Berne, PIABA, GSU, PACE, Nelson, St. John's, and Ryder.

[17] *See* PIABA.

[18] *See* PACE and Cornell.

[19] *See* Cornell.

[20] *See* St. John's, Nelson, PIABA.

[21] *See* PACE, GSU, and Cornell.

[22] *See* Cornell.

[23] *See* Berne, Nelson, Ryder, and St. John's.

[24] *See* FINRA Response, note 8, *supra.*

[25] 15 U.S.C. 78s(b)(2). Section 19(b)(2)(B) of the Act provides that proceedings to determine whether to approve or disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to an additional 60 days if the Commission determines that a longer period is appropriate and publishes its reasons for so finding or if the self-regulatory organization that filed the proposed rule change consents to the extension.

[26] 15 U.S.C. 78s(b)(2)(B).

[27] 15 U.S.C. 78*o*–3(b)(6).

[28] *See* Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See also* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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–FINRA–2014–005 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–FINRA–2014–005. 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 principle office of FINRA. 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 publicly available.

All submissions should refer to File Number SR–FINRA–2014–005 and should be submitted on or before June 26, 2014. If comments are received, any rebuttal comments should be submitted by July 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12075 Filed 5–23–14; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72192; File No. SR–NYSEARCA–2014–60]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .02 to Exchange Rule 6.72 in Order to Extend the Penny Pilot in Options Classes in Certain Issues Through December 31, 2014

May 20, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 14, 2014, 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, 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

The Exchange proposes to amend Commentary .02 to Exchange Rule 6.72 in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously approved by the Securities and Exchange Commission (''Commission'') through December 31, 2014. The text of the proposed rule change is available on the Exchange's Web site at *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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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

1. Purpose

The Exchange hereby proposes to amend Commentary .02 to Exchange Rule 6.72 to extend the time period of the Pilot Program,[4] which is currently scheduled to expire on June 30, 2014, through December 31, 2014. The Exchange also proposes that the dates to replace issues in the Pilot Program that have been delisted be revised to the second trading day following July 1, 2014.[5]

This filing does not propose any substantive changes to the Pilot Program: all classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [6] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[7] in particular, in that it is 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options. The proposal to extend the Pilot Program is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating

[4] *See* Securities Exchange Act Release No. 71159 (December 20, 2013), 78 FR 71163 (December 27, 2013) (SR–NYSEArca-2013–145).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (i.e., June) would not be used for purposes of the analysis for determining the replacement class. Thus, a replacement class to be added on the second trading day following July 1, 2014 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2013 through May 31, 2014. The Exchange will announce the replacement issues to the Exchange's membership through a Trader Update.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).