

## VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,<sup>20</sup> that the proposed rule change (SR–BatsEDGX–2016–26), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Brent J. Fields,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78760; File No. SR–CBOE–2016–049]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Options That Overlie the FTSE Developed Europe Index and the FTSE Emerging Index and To Amend the Maintenance Listing Criteria Applicable to Certain Index Options

September 2, 2016.

#### I. Introduction

On June 15, 2016, the Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to list and trade options that overlie the FTSE Developed Europe Index and the FTSE Emerging Index, to raise the comprehensive surveillance agreement (“CSA”) percentages applicable to options that overlie the MSCI EAFE Index and the MSCI Emerging Markets Index, and to amend the maintenance listing criteria applicable to MSCI EAFE, MSCI Emerging Markets, FTSE 100, and FTSE China 50 Index options. The proposed rule change was published for comment in the **Federal Register** on July 1, 2016.<sup>3</sup> On August 9, 2016, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed

rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>4</sup> On August 25, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>5</sup> The Commission received no comments on the proposed rule change. The Commission is publishing this notice to solicit comment on Amendment No. 1 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

#### II. Description of the Proposed Rule Change

##### A. Listing and Trading of FTSE Developed Europe Index and FTSE Emerging Index Options

The Exchange proposes to list and trade P.M. cash-settled, European-style options on the FTSE Developed Europe Index and the FTSE Emerging Index.<sup>6</sup>

<sup>4</sup> See Securities Exchange Act Release No. 78511, 81 FR 54173 (Aug. 15, 2016).

<sup>5</sup> Pursuant to Amendment No. 1, the Exchange proposes to (i) retain the current CSA percentages applicable to the initial and continued listing of MSCI EAFE and MSCI Emerging Markets Index options at 25% and 27.5%, respectively (the original proposal would have raised such CSA percentages to 50%) and (ii) decrease the proposed CSA percentages applicable to the initial and continued listing of FTSE Developed Europe and FTSE Emerging Index options to 32.5% and 35%, respectively (the original proposal would have set such CSA percentages at 50%). Thus, as amended by Amendment No. 1, proposed Rule 24.2, Interpretation and Policy .01(a)(7) provides that “non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than: (i) Twenty-five percent (25%) of the weight of the [MSCI] EAFE Index, (ii) twenty-seven and a half percent (27.5%) of the weight of the [MSCI Emerging Markets] Index, (iii) thirty-two and a half percent (32.5%) of the weight of the FTSE Developed [Europe] Index, and (iv) thirty-five percent (35%) of the weight of the FTSE Emerging Index.” In addition, Amendment No. 1 amends the proposed maintenance listing criteria applicable to FTSE Developed Europe, FTSE Emerging, MSCI EAFE, MSCI Emerging Markets, FTSE 100, and FTSE China 50 Index options to require that the CSA percentages applicable to such products be satisfied as of the first day of the month following the Reporting Authority’s review of the weighting of the constituents in the applicable index, but in no case less than on a quarterly basis (the original proposal would have provided that the CSA requirements for such products must only be satisfied as of the first day of the January and July in each year). Amendment No. 1 is available at: <http://www.cboe.com/publish/RuleFilingsSEC/SR-CBOE-2016-049.a1.pdf>.

<sup>6</sup> The Exchange proposes to list up to twelve near-term expiration months for the FTSE Developed Europe and FTSE Emerging Index options. The Exchange also proposes to list LEAPS on the FTSE Developed Europe Index and the FTSE Emerging Index. The Exchange proposes that options on the FTSE Developed Europe Index and the FTSE Emerging Index would be eligible for all other expirations permitted for other broad-based indexes (e.g., End of Week/End of Month/Wednesday Expirations, Short Term Option Series, and Quarterly Options Series). In addition, the

The following discussion is a summary of the Exchange’s description of its proposed listing criteria for the FTSE Developed Europe and FTSE Emerging Index options.<sup>7</sup>

According to the Exchange, the FTSE Developed Europe Index is a weighted index representing the performance of large- and mid-cap companies in Developed European markets. The FTSE Developed Europe Index is comprised of over 500 securities from 15 countries. According to the Exchange, the FTSE Emerging Index is a weighted index representing the performance of large- and mid-cap companies in advanced and secondary emerging markets. The FTSE Emerging Index is comprised of approximately 950 securities from 22 countries.<sup>8</sup> The Exchange states that the indexes are monitored and maintained by FTSE International Limited (“FTSE”).<sup>9</sup> Adjustments to the indexes can be made on a daily basis, and FTSE reviews the indexes semi-annually.

According to the Exchange, the FTSE Developed Europe Index is calculated and published in U.S. dollars on a real-time basis during U.S. trading hours from 2:00 a.m. to 10:30 a.m. (Chicago time). At 10:30 a.m. (Chicago time) the real-time index closes using the closing prices from the London Stock Exchange and between 10:30 a.m. and 3:15 p.m. (Chicago time) the FTSE Developed Europe Index level is a static value that market participants can access via data vendors. The FTSE Emerging Index is calculated and published in U.S. dollars on a real-time basis during U.S. trading hours from 6:30 p.m. (Chicago time, prior day) to 3:10 p.m. (Chicago time, next day). At 3:10 p.m. (Chicago time) the real-time index closes using the closing prices from Brazil, Chile, Peru, and Mexico and between 3:10 p.m. and 3:15 p.m. (Chicago time) the FTSE Emerging Index level is a static value that market participants can access via data vendors.

The methodologies used to calculate the FTSE Developed Europe Index and the FTSE Emerging Index are similar to the methodology used to calculate the value of other benchmark market-

Exchange proposes to designate the FTSE Developed Europe Index and the FTSE Emerging Index as eligible for trading as FLEX options.

<sup>7</sup> For a more complete description of the FTSE Developed Europe Index and the FTSE Emerging Index, and CBOE’s proposed listing criteria for options on these indexes, see Notice, *supra* note 3.

<sup>8</sup> The Exchange states that the FTSE Developed Europe Index and the FTSE Emerging Index each meet the definition of a broad-based index as set forth in Exchange Rule 24.1(i)(1).

<sup>9</sup> The Exchange proposes to designate FTSE as the reporting authority for the FTSE Developed Europe Index and the FTSE Emerging Index.

<sup>20</sup> *Id.*

<sup>21</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 78177 (Jun. 28, 2016), 81 FR 43308 (“Notice”).

capitalization weighted indexes.<sup>10</sup> Real-time data is distributed at least every 15 seconds while the indexes are being calculated using FTSE's real-time calculation engine to Bloomberg L.P. ("Bloomberg"), Thomson Reuters ("Reuters"), and other major vendors. End of day data is distributed daily to clients through FTSE as well as through major quotation vendors, including Bloomberg and Reuters.

The Exchange proposes that trading hours for FTSE Developed Europe Index options would be from 8:30 a.m. (Chicago Time) to 3:15 p.m. (Chicago Time), except that trading in expiring FTSE Developed Europe Index options would end upon the close of the London Stock Exchange (usually 10:30 a.m. Chicago time)<sup>11</sup> on their expiration date. The Exchange proposes that trading hours for FTSE Emerging Index options would be from 8:30 a.m. (Chicago Time) to 3:15 p.m. (Chicago Time).

The Exchange proposes that FTSE Developed Europe and FTSE Emerging Index options would expire on the third Friday of the expiration month.<sup>12</sup> The exercise settlement value would be the official closing values of the FTSE Developed Europe Index and the FTSE Emerging Index as reported by FTSE on the last trading day of the expiring contract. The exercise settlement amount would be equal to the difference between the exercise-settlement value and the exercise price of the option, multiplied by the contract multiplier (\$100).<sup>13</sup> Exercise would result in delivery of cash on the business day following expiration.

The Exchange proposes to apply the initial and maintenance listing criteria in Interpretation and Policy .01(a) to

Rule 24.2, currently only applicable to MSCI EAFE and MSCI Emerging Markets Index options, to options on the FTSE Developed Europe Index and the FTSE Emerging Index. Specifically, the Exchange proposes to amend Interpretation and Policy .01(a) to Rule 24.2 to provide that the Exchange may trade FTSE Developed Europe and FTSE Emerging Index options if each of the following conditions is satisfied: (1) The index is broad-based, as defined in Exchange Rule 24.1(i)(1); (2) options on the index are designated as P.M.-settled index options; (3) the index is capitalization-weighted, price-weighted, modified capitalization-weighted, or equal dollar-weighted; (4) the index consists of 500 or more component securities; (5) all of the component securities of the index will have a market capitalization of greater than \$100 million; (6) no single component security accounts for more than fifteen percent (15%) of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than fifty percent (50%) of the weight of the index; (7) non-U.S. component securities (stocks or American Depositary Receipts) that are not subject to CSAs do not, in the aggregate, represent more than: (a) Thirty-two and a half percent (32.5%) of the weight of the FTSE Developed Europe Index, and (b) thirty-five percent (35%) of the weight of the FTSE Emerging Index;<sup>14</sup> (8) during the time options on the index are traded on the Exchange, the current index value is widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors; however, the Exchange may continue to trade FTSE Developed Europe and FTSE Emerging Index options after trading in all component securities has closed for the day and the index level is no longer widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors, provided that FTSE Developed Europe or FTSE Emerging Index futures contracts are trading and prices for those contracts may be used as a proxy for the current index value; (9) the Exchange reasonably believes it has adequate system capacity to support the trading of options on the index, based on a calculation of the Exchange's current Independent System Capacity Advisor

(ISCA) allocation and the number of new messages per second expected to be generated by options on such index; and (10) the Exchange has written surveillance procedures in place with respect to surveillance of trading of options on the index.

Additionally, the Exchange proposes to amend Interpretation and Policy .01(b) to Rule 24.2 to set forth the following maintenance listing standards for options on the FTSE Developed Europe Index and the FTSE Emerging Index: (1) the conditions set forth in subparagraphs .01(a)(1), (2), (3), (4), (8), (9), and (10) must continue to be satisfied; the conditions set forth in subparagraphs .01(a)(5) and (6) must be satisfied only as of the first day of January and July in each year; and the conditions set forth in subparagraph .01(a)(7) must be satisfied as of the first day of the month following the Reporting Authority's review of the weighting of the constituents in the applicable index, but in no case less than a quarterly basis;<sup>15</sup> and (2) the total number of component securities in the index may not increase or decrease by more than thirty-five percent (35%) from the number of component securities in the index at the time of its initial listing. In the event a class of index options listed on the Exchange pursuant to Interpretation and Policy .01(a) fails to satisfy these maintenance listing standards, the Exchange shall not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Act.

The contract multiplier for the FTSE Developed Europe and FTSE Emerging Index options would be \$100. The Exchange proposes that the minimum tick size for series trading below \$3 would be 0.05 (\$5.00), and at or above \$3 would be 0.10 (\$10.00). The Exchange also proposes that the strike price interval for FTSE Developed Europe and FTSE Emerging Index options would be no less than \$5, except that the strike price interval would be no less than \$2.50 if the strike price is less than \$200.

The Exchange proposes to apply the default position limits for broad-based index options of 25,000 contracts on the same side of the market (and 15,000 contracts near-term limit) to FTSE Developed Europe and FTSE Emerging Index options. All position limit hedge exemptions would apply. The exercise limits for FTSE Developed Europe and FTSE Emerging Index options would be

<sup>10</sup> Specifically, the indexes are governed by the Ground Rules for the FTSE Global Equity Index Series. Further detail regarding this methodology can be found in the Notice, *supra* note 3, at notes 7 and 11 and accompanying text.

<sup>11</sup> For example, Daylight Saving Time began in Chicago on March 13, 2016, and in London on March 27, 2016. If an expiration were to occur after Daylight Savings was observed in Chicago but prior to observance in London, trading in expiring FTSE Developed Europe Index options would end at 11:30 a.m. (Chicago time). FTSE Emerging Index options are not affected by Daylight Savings as trading in expiring FTSE Emerging Index options ends at 3:15 p.m. (Chicago Time) on their expiration date.

<sup>12</sup> According to the Exchange, when the last trading day/expiration date is moved because of an Exchange holiday or closure, the last trading day/expiration date for expiring options would be the immediately preceding business day.

<sup>13</sup> According to the Exchange, if the exercise settlement value is not available or the normal settlement procedure cannot be utilized due to a trading disruption or other unusual circumstance, the settlement value would be determined in accordance with the rules and bylaws of the Options Clearing Corporation.

<sup>14</sup> See Amendment No. 1, *supra* note 5. Other than proposed listing criteria 7 of Rule 24.2.01(a) and maintenance listing criteria 1 of Rule 24.2.01(b), the Exchange is proposing to adopt the same listing criteria for FTSE Developed Europe and FTSE Emerging Index options that are currently applicable to MSCI EAFE and MSCI Emerging Markets Index options.

<sup>15</sup> See Amendment No. 1, *supra* note 5.

equivalent to the near-term position limits for those options. In addition, the Exchange proposes that the position limits for FLEX options on the FTSE Developed Europe Index and the FTSE Emerging Index would be equal to the position limits for non-FLEX options on the FTSE Developed Europe Index and the FTSE Emerging Index. The exercise limits for FLEX options on the FTSE Developed Europe Index and the FTSE Emerging Index would be equivalent to the position limits for those options.

The Exchange states that, except as modified by the proposal, Exchange Rules in Chapters I through XIX, XXIV, XXIVA, and XXIVB would equally apply to FTSE Developed Europe and FTSE Emerging Index options. The Exchange also states that FTSE Developed Europe and FTSE Emerging Index options would be subject to the same rules that currently govern other CBOE index options, including sales practice rules, margin requirements,<sup>16</sup> and trading rules.<sup>17</sup>

The Exchange represents that it has an adequate surveillance program in place for FTSE Developed Europe and FTSE Emerging Index options and intends to use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in the proposed options. The Exchange also states that it is a member of the Intermarket Surveillance Group; is an affiliate member of the International Organization of Securities Commissions; and has entered into various CSAs, Memoranda of Understanding, and/or information sharing agreements with various stock exchanges. Finally, the Exchange represents that it believes it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result from the introduction of FTSE Developed Europe and FTSE Emerging Index options.

#### *B. Amendment to Maintenance Listing Criteria Applicable to Certain Index Options*

The Exchange also proposes to amend Exchange Rule 24.2, Interpretation and Policy .01(b)(1), .02(b)(1), and .03(b)(1) to modify the maintenance listing

criteria applicable to MSCI EAFE, MSCI Emerging Markets, FTSE 100, and FTSE China 50 Index options, and that will be applicable to the proposed FTSE Developed Europe and FTSE Emerging Index options. The Exchange proposes to amend Exchange Rules 24.2.01(b)(1), 24.2.02(b)(1), and 24.2.03(b)(1)<sup>18</sup> to specify that the listing criteria set forth in subparagraphs .01(a)(7), .02(a)(7), and .03(a)(7) to Rule 24.2 need only be met as of the first day of the month following the Reporting Authority's review of the weighting of the constituents in the applicable index, but in no case less than a quarterly basis.<sup>19</sup> The listing criteria set forth in subparagraphs .01(a)(7), .02(a)(7), and .03(a)(7) to Rule 24.2 generally provides that non-U.S. component securities (stocks or American Depositary Receipts) that are not subject to CSAs do not, in the aggregate, represent more than a certain percent of the weight of the applicable index. Currently, Rules 24.2.01(b)(1), 24.2.02(b)(1), and 24.2.03(b)(1) provide that this listing criteria must continue to be satisfied.

#### **III. Discussion and Commission Findings**

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>20</sup> Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>21</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

The Commission believes that the listing and trading of FTSE Developed Europe Index options should broaden trading and hedging opportunities for investors by providing an options instrument based on an index representing the performance of large- and mid-cap companies in Developed European markets. Similarly, the

Commission believes that the listing and trading of FTSE Emerging Index options should broaden trading and hedging opportunities for investors by providing an options instrument based on an index representing the performance of large- and mid-cap companies in advanced and secondary emerging markets. Moreover, the Exchange states that FTSE Developed Europe and FTSE Emerging Index futures contracts are listed for trading on the Chicago Mercantile Exchange ("CME") and that FTSE Developed Europe and FTSE Emerging Index options are designed to provide additional opportunities for investors to hedge or speculate on the market risk associated with the FTSE Developed and FTSE Emerging Indexes by listing an option directly on these indexes.

Because the FTSE Developed Europe Index and the FTSE Emerging Index are broad-based indexes composed of actively-traded, well-capitalized stocks, the trading of options on these indexes does not raise unique regulatory concerns. The Commission believes that the listing standards, which are substantially similar to the listing standards for MSCI EAFE and MSCI Emerging Markets Index options, are consistent with the Act,<sup>22</sup> for the reasons discussed below.

The Commission notes that the proposed listing standards would require that the FTSE Developed Europe Index and the FTSE Emerging Index each consist of 500 or more component securities. Further, for options on the FTSE Developed Europe Index and the FTSE Emerging Index to trade, each of the minimum of 500 component securities would need to have a market capitalization of greater than \$100 million. The Commission notes that, according to the Exchange, the FTSE Developed Europe Index has more than 500 components and the FTSE Emerging Index has more than 900 components, all of which must meet the market capitalization requirement to permit options on these indexes to begin trading.

The Commission notes that the proposed listing standards for options on the FTSE Developed Europe Index and the FTSE Emerging Index would not permit any single component security to account for more than 15% of the weight of the index, and would not permit the five highest weighted component securities to account for more than 50% of the weight of the

<sup>16</sup> The Exchange states that FTSE Developed Europe and FTSE Emerging Index options would be margined as broad-based index options.

<sup>17</sup> See, e.g., Exchange Rule Chapters IX (Doing Business with the Public), XII (Margins), IV (Business Conduct), VI (Doing Business on the Trading Floor), VIII (Market-Makers, Trading Crowds and Modified Trading Systems), and XXIV (Index Options).

<sup>18</sup> The Exchange also proposes to amend Rule 24.2.03(b) to correct a technical error in which Current Rule 24.2.03(b) and (b)(1) mistakenly reference paragraph .02(a), instead of .03(a).

<sup>19</sup> See Amendment No. 1, *supra* note 5.

<sup>20</sup> 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).

<sup>21</sup> 15 U.S.C. 78f(b)(5).

<sup>22</sup> See Securities Exchange Act Release No. 74687 (April 8, 2015), 80 FR 20032 (April 14, 2015) (SR-CBOE-2015-023) (order approving the listing of MSCI EAFE and MSCI Emerging Markets Index options on the Exchange).

index in the aggregate. The Commission believes that, in view of the requirement on the number of securities in each index, the number of countries represented in each index, and the market capitalization, this concentration standard is consistent with the Act. Further, the Exchange states that no single component accounts for more than 5% of either index. As noted above, the Exchange represents that it has an adequate surveillance program in place for FTSE Developed Europe and FTSE Emerging Index options and intends to use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in the proposed options.

The proposed listing standards would require that non-U.S. component securities of the FTSE Developed Europe Index that are not subject to CSAs will not, in the aggregate, represent more than 32.5% of the weight of the index. With respect to the FTSE Emerging Index, the proposed listing standards would require that non-U.S. component securities that are not subject to CSAs must not, in the aggregate, represent more than 35% of the weight of the index. The Exchange stated that both indexes are broad-based indexes and have high market capitalizations. Given the high number of constituents and the overall high capitalization of the FTSE Developed Europe and FTSE Emerging Indexes and the deep and liquid markets for the securities underlying these indexes, the Exchange believes that the concerns for market manipulation or disruption in the underlying markets are greatly reduced. Additionally, in its filing, the Exchange represented that it has an adequate surveillance program for FTSE Developed Europe and FTSE Emerging Index options and intends to use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in these products.

The proposed listing standards require that, during the time options on the FTSE Developed Europe Index and the FTSE Emerging Index are traded on the Exchange, the current index value is widely disseminated at least once every 15 seconds by one or more major market data vendors. However, the Exchange may continue to trade FTSE Developed Europe and FTSE Emerging Index options after trading in all component securities has closed for the day and the index level is no longer widely disseminated at least once every 15 seconds by one or more major market data vendors, provided that FTSE Developed Europe Index futures

contracts or FTSE Emerging Index futures contracts, respectively, are trading and prices for those contracts may be used as a proxy for the current index value.<sup>23</sup>

In addition, the proposed listing standards require the Exchange to reasonably believe that it has adequate system capacity to support the trading of options on the FTSE Developed Europe Index and the FTSE Emerging Index. As noted above, the Exchange represents that it believes it and the OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result from the introduction of FTSE Developed Europe and FTSE Emerging Index options.

As a national securities exchange, the Exchange is required, under Section 6(b)(1) of the Act,<sup>24</sup> to enforce compliance by its members, and persons associated with its members, with the provisions of the Act, Commission rules and regulations thereunder, and its own rules. As noted above, the Exchange states that, except as modified by the proposal, Exchange Rules in Chapters I through XIX, XXIV, XXIVA, and XXIVB would equally apply to FTSE Developed Europe and FTSE Emerging Index options. The Exchange also states that FTSE Developed Europe and FTSE Emerging Index options would be subject to the same rules that currently govern other CBOE index options, including sales practice rules, margin requirements, and trading rules.

The Commission further believes that the Exchange's proposed position and exercise limits, trading hours, margin, strike price intervals, minimum tick

size, series openings, and other aspects of the proposed rule change related to the listing and trading of FTSE Developed Europe and FTSE Emerging Index options are appropriate and consistent with the Act.

Finally, the Exchange has proposed to modify the maintenance listing criteria applicable to current MSCI EAFE, MSCI Emerging Markets, FTSE 100, and FTSE China 50 Index options, and to be applied to FTSE Developed Europe and FTSE Emerging Index options, to specify that the listing criteria set forth in subparagraphs .01(a)(7), .02(a)(7), and .03(a)(7) of Rule 24.2, which generally provide that non-U.S. component securities (stocks or American Depositary Receipts) that are not subject to CSAs do not, in the aggregate, represent more than a certain percent of the weight of the applicable indexes, be met as of the first day of the month following the Reporting Authority's review of the weighting of the constituents in the applicable index, but in no case less than a quarterly basis. According to the Exchange, any change to the CSA percentages described in subparagraph 7 of Rules 24.2.01(a), 24.2.02(a), and 24.2.03(a) would most likely occur during the rebalancing process by which constituent securities are added or removed from the indexes.<sup>25</sup> Further, the Exchange states that the relevant indexes are rebalanced no more frequently than quarterly.<sup>26</sup> Based on these representations, the Commission believes that the proposed amendment to the maintenance listing criteria is appropriate and consistent with the Act.

#### IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 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-2016-049 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.

<sup>23</sup> The Exchange notes that, because trading in the components of the FTSE Developed Europe Index ends at approximately 10:30 a.m. (Chicago Time), there will not be a current FTSE Developed Europe Index level calculated and disseminated during a portion of the time when FTSE Developed Europe Index options would be traded (from approximately 10:30 a.m. (Chicago Time) to 3:15 p.m. (Chicago Time)). However, the Exchange states that FTSE Developed Europe Index futures contracts will be trading during this time period and that the futures prices would be a proxy for the current FTSE Developed Europe Index level during this time period. The Exchange states that E-mini FTSE Developed Europe Index futures contracts are listed for trading on CME. Similarly, because trading in the components of the FTSE Emerging Index ends at approximately 3:10 p.m. (Chicago Time), there will not be a current FTSE Emerging Index level calculated and disseminated during a portion of the time when FTSE Emerging Index options would be traded (from approximately 3:10 p.m. (Chicago Time) to 3:15 p.m. (Chicago Time)). However, the Exchange states that FTSE Emerging Index futures contracts will be trading during this time period and that the futures prices would be a proxy for the current FTSE Emerging Index level during this time period. The Exchange states that E-mini FTSE Emerging Index futures contracts are listed for trading on CME.

<sup>24</sup> 15 U.S.C. 78f(b)(1).

<sup>25</sup> See Amendment No. 1, *supra* note 5.

<sup>26</sup> See *id.*

All submissions should refer to File Number SR-CBOE-2016-049. 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-2016-049 and should be submitted on or before September 29, 2016.

#### V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>27</sup> for approving the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of notice of Amendment No. 1 in the **Federal Register**. As noted above, the Commission previously approved the listing and trading of options on the MSCI EAFE Index and the MSCI Emerging Markets Index on the Exchange,<sup>28</sup> and the current proposal is substantially similar to the rules applicable to MSCI EAFE and MSCI Emerging Markets Index options that were approved by the Commission. The original proposal was subject to a full 21-day comment period and no comments were received on the proposal. In Amendment No. 1, the Exchange proposed changes to limit the scope of its original proposal with respect to (1) the CSA requirements

applicable to FTSE Developed Europe, FTSE Emerging, MSCI EAFE, and MSCI Emerging Markets Index options; and (2) the maintenance listing criteria applicable to FTSE Developed Europe, FTSE Emerging, MSCI EAFE, MSCI Emerging Markets, FTSE 100, and FTSE China 50 Index options.

The Commission believes that the changes proposed in Amendment No. 1 act to limit the scope of certain aspects of the original proposal, as described above,<sup>29</sup> and do not raise any new substantive issues or unique regulatory concerns not originally subjected to the proposal's full 21-day comment period, during which no comments were received. Therefore, the Commission finds that good cause exists to approve the proposal, as modified by Amendment No. 1, on an accelerated basis.

#### VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>30</sup> that the proposed rule change (SR-CBOE-2016-049), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>31</sup>

**Brent J. Fields,**

*Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78749; File No. SR-NASDAQ-2016-121]

#### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change Related to the NASDAQ Options Market LLC's Pricing at Chapter XV, Section 2(6)

September 1, 2016.

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 August 29, 2016, The Nasdaq Stock Market LLC ("Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is

publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes related to the NASDAQ Options Market LLC's ("NOM") pricing at chapter XV, section 2(6).

#### 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

The Exchange proposes to file to provide notice that Execution Access, LLC<sup>3</sup> will offer a credit to its clients authorized to transact business at EA, provided those clients, who are also NOM Participants ("dual access client"), qualify for one of the two highest Market Access and Routing Subsidy or "MARS" Payment tiers available on NOM. The NOM Participant must qualify for the MARS Payment tier in order for the dual access client to receive a credit on EA. The dual access client may be an affiliate entity of the NOM Participant at EA.<sup>4</sup> The qualification and credit are explained further below.<sup>5</sup> The purpose

<sup>3</sup> Execution Access, LLC ("EA") is a broker-dealer that operates a fully electronic central limit order book known as eSpeed. EA facilitates the matching of client orders in U.S. Treasury securities.

<sup>4</sup> Affiliates would include other legal entities under common control.

<sup>5</sup> Nasdaq believes that EA is not a "facility" of the Exchange. 15 U.S.C. 78c(a)(2). The Act defines "facility" to include an exchange's "premises, tangible or intangible property whether on the premises or not, any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including, among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and any right of the exchange to the use of any property or service." EA is a distinct entity that is separate from NOM and engages in a discrete line of business that is not "for

<sup>27</sup> 15 U.S.C. 78s(b)(2).

<sup>28</sup> See *supra* note 22.

<sup>29</sup> See *supra* note 5.

<sup>30</sup> 15 U.S.C. 78s(b)(2).

<sup>31</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.