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 self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the 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 Amendment No. 1, 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 No. SR–NYSE–2016–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSE–2016–45. 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, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal 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 No. SR–NYSE–2016–45, and should be submitted on or before October 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[48]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–23046 Filed 9–23–16; 8:45 am]

BILLING CODE 8011–01–P

[48] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78885; File No. SR–CBOE–2016–064]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to SPX Combo Orders

September 20, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 8, 2016, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 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 seeks to amend its rules related to SPX Combo Orders. 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'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 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 amend Rules 24.20, *SPX Combo Orders,* and 6.42, *Minimum Increment for Bids and Offers,* to specify the manner in which the minimum increment provision of Rule 6.42 applies to SPX Combo Orders.

Background

An SPX Combo Order consists of an order to purchase or sell one or more SPX option series (hereinafter the ''non-SPX combination'') and the offsetting number of ''SPX combinations'' defined by the delta.[3] For purposes of an SPX Combo Order, an SPX combination is a purchase (sale) of an SPX call and sale (purchase) of an SPX put having the same expiration date and strike price. Additionally, the delta is the positive (negative) number of SPX combinations that must be sold (bought) to establish a market neutral hedge with one or more SPX option series (*i.e.,* the non-SPX combination).[4]

SPX traders commonly hedge their options positions with SPX combinations, also called ''synthetic futures,'' which, as the above definition provides, are created by combining long(short) SPX calls with short(long) SPX puts of the same series, in lieu of hedging with the actual S&P 500 futures contract trading at CME. The individual legs of the SPX combination are priced such that a value for the SPX combination is established which is equivalent to the value of a future at a level at which the trader wishes to make the underlying futures market ''static.'' Then, based on the static value established by the SPX combination that has been quoted, the trader will request a market for the non-SPX combination that he wishes to trade, and will indicate the delta of the non-SPX combination. An SPX trader will execute the SPX combination in conjunction with the non-SPX combination, taking into account the delta of the particular options making up the non-SPX combination, such that the combined positions will create a

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

[2] 17 CFR 240.19b–4.

[3] *See* Rule 24.20(a)(3).

[4] *See* Rule 24.20(a)(1) and (2).

''delta neutral'' hedge.[5] For example, a customer that wants to purchase 100 SPX calls that have a delta of ''30'' (30% or .30) may hedge against a downward movement in the S&P 500 Index by selling 30 SPX combinations (.30 × 100). In other words, the SPX combination in this example will be to sell 30 SPX calls and buy 30 SPX puts with the same strike price and expiration date.

When the non-SPX combination is paired with an SPX combination the non-SPX combination can be described as being ''tied'' to the value of a future because the non-SPX combination is tied to an SPX combination that is equivalent to the value of a future. The concept of an option being ''tied'' to an underlying value extends to stock-option orders.[6] For example, floor brokers may represent an order to buy an AAPL call tied to the sale of AAPL stock at a specified price. The price at which the crowd is willing to sell the call is dependent on the specified price of the AAPL stock. For purposes of this example, assume the specified price is $99. The crowd may be willing to sell the call for $5.00 tied to AAPL stock at $99. If the specified price of AAPL stock was instead $100, the crowd's market for the call would change. If the broker is unable to execute the stock portion of the order at the specified price of $99, the option portion of the order also cannot be executed. Similarly, a broker representing an SPX Combo Order may be unable to execute the SPX combination portion of the order at the desired futures level because the individual leg prices of the SPX combination that would create the equivalent futures value are outside the market for the leg prices.

Minimum Increment Applicable to SPX Combo Orders

Currently, SPX Combo Orders are treated as complex orders for the purposes of the minimum increment provision of Rule 6.42(4).[7] Although Rule 24.20 does not explicitly specify the minimum increment applicable to SPX Combo Orders,[8] or reference how the minimum increment provision of Rule 6.42(4) applies to SPX Combo Orders, the Exchange believes the original intent was for SPX Combo Orders to be considered ''complex orders'' for the purposes of the minimum increment. In support of this conclusion the Exchange notes that Rule 6.42(4)(b) states that ''complex orders are subject to special priority requirements as described in Rules 6.45, 6.45A, 6.45B, 6.53C, 24.19 and 24.20.''[9] The Exchange believes referencing Rule 24.20 in this manner demonstrates the intent to include SPX Combo Orders as complex orders for purposes of the minimum increment provision.

Although the Exchange believes the intent was to include SPX Combo Orders as complex orders for purposes of the minimum increment, the Exchange also believes there is confusion amongst members of the trading crowd regarding the applicable minimum increment. The Exchange believes the confusion has arisen because Interpretation and Policy .01 to Rule 6.42 does not specifically identify SPX Combo Orders as complex orders; rather, Rule 6.42.01 states:

For purposes of this rule [6.42], ''complex order'' means a spread, straddle, combination or ratio order as defined in Rule 6.53,[10] a stock-option order as defined in Rule 1.1(ii), a security future-option order as defined in Rule 1.1(zz), or any other complex order as defined in Rule 6.53C.[11]

As the definitions of spread, straddle, combination and ratio order do not specifically identify SPX Combo Orders, the Exchange believes confusion has arisen with respect to whether an SPX Combo Order is a complex order for purposes of the minimum increment.

In addition, the current interpretation that an SPX Combo Order is technically a complex order for purposes of the minimum increment (meaning all legs can be executed in $0.01 increments) does not fit how SPX Combo Orders are generally executed. In general, the only time legs of an SPX Combo Order are executed in $0.01 increments is in relation to a non-SPX combination with multiple legs. When the non-SPX combination is a single leg, the trading crowd generally executes the non-SPX combination in $0.05 or $0.10 increments, even though the current interpretation allows the legs to be executed in $0.01 increments. The Exchange notes that it is not a violation to execute a single leg non-SPX combination in $0.01, $0.05 or $.10

[5] The entire SPX Combo Order consisting of the SPX combination portion and the non-SPX combination portion must be executed as a package.

[6] A stock-option order is an order to buy or sell a stated number of units of an underlying or a related security coupled with either (a) the purchase or sale of option contract(s) on the opposite side of the market representing either the same number of units of the underlying or related security or the number of units of the underlying security necessary to create a delta neutral position or (b) the purchase or sale of an equal number of put and call option contracts, each having the same exercise price, expiration date and each representing the same number of units of stock as, and on the opposite side of the market from, the underlying or related security portion of the order. Rule 1.1(ii).

[7] Rule 6.42(4) states that except as provided in Rule 6.53C, bids and offers on complex orders, as defined in Interpretation and Policy .01 [to Rule 6.42], may be expressed in any net price increment (that may not be less than $0.01) that may be determined by the Exchange on a class-by-class basis and announced to the Trading Permit Holders via Regulatory Circular, regardless of the minimum increments otherwise appropriate to the individual legs of the order. Notwithstanding the foregoing sentence, bids and offers on complex orders in options on the S&P 500 Index (SPX), p.m.-settled S&P 500 Index (SPXPM) or on the S&P 100 Index (OEX and XEO), except for box/roll spreads, shall be expressed in decimal increments no smaller than $0.05 or in any increment, as determined by the Exchange on a class-by-class basis and announced to the Trading Permit Holders via Regulatory Circular. In addition: (a) The legs of a complex order may be executed in $0.01 increments; and (b) complex orders are subject to special priority requirements as described in Rules 6.45, 6.45A, 6.45B, 6.53C, 24.19 and 24.20.

[8] Rule 24.20(b)(2) uses the term ''minimum increment'' but only in reference to the priority requirements for SPX Combo Orders, stating that: ''[w]hen a Trading Permit Holder holding an SPX Combo Order with the required combo indicator and bidding or offering in a multiple of the minimum increment on the basis of a total debit or credit for the order has determined that the order may not be executed by a combination of transaction with the bids and offers displayed in the SPX limit order book or by the displayed quotes of the crowd, then the order may be executed at the best net debit or credit so long as (A) no leg of the order would trade at a price outside the currently displayed bids or offers in the trading crowd or bids or offers in the SPX limit order book and (B) at least on leg of the order would trade at a price that is better than the corresponding bid or offer in the SPX limit order book.''

[9] *See* Rule 6.42(4)(b).

[10] A spread order is defined as ''an order to buy a stated number of option contracts and to sell the same number of option contracts, or contracts representing the same number of shares at option, of the same class of options.'' *See* Rule 6.53(d). A combination order is defined as ''an order involving a number of call option contracts and the same number of put option contracts in the same underlying security. In the case of adjusted option contracts, a combination order need not consist of the same number of put and call contracts if such contracts both represent the same number of shares at option.'' *See* Rule 6.53(e). A straddle order is defined as ''an order to buy a number of call option contracts and the same number of put option contracts on the same underlying security which contracts have the same exercise price and expiration date; or an order to sell a number of call option contracts and the same number of put option contracts on the same underlying security which contracts have the same exercise price and expiration date. (E.g., an order to buy two XYZ July 50 calls and to buy two July 50 XYZ puts is a straddle order.) In the case of adjusted option contracts, a straddle order need not consist of the same number of put and call contracts if such contracts both represent the same number of shares at option.'' *See* Rule 6.53(f). A ratio order is defined as ''a spread, straddle, or combination order in which the stated number of option contracts to buy (sell) is not equal to the stated number of option contracts to sell (buy), provided that the number of contracts differ by a permissible ratio. For purposes of this section, a permissible ratio is any ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00). For example, a one-to-two (.5) ratio, a two-to-three (.667) ratio, or a two-to-one (2.00) ratio is permissible, whereas a one-to-four (.25) ratio or a four-to-one (4.0) ratio is not.'' *See* Rule 6.53(n).

[11] Rule 6.53C is inapplicable to SPX Combo Orders because SPX Combo Orders may be executed in open outcry only whereas Rule 6.53C governs complex orders submitted to the Hybrid System for electronic handling.

increments. To illustrate, if the legs were required to be executed in $0.05 increments, for example, and the legs were instead executed in $0.01 increments, it would be a violation. Here, however, the situation is reversed—$0.01 increments are allowed, which automatically allows larger increment executions. Furthermore, the Exchange believes the reason single legged non-SPX combinations are generally executed in $0.05 or $0.10 increments is because executing a single leg non-SPX combination portion in $0.01 increments makes it difficult to attain a net execution price in $0.05 increments for the entire package.[12] For example, if the net execution price of the SPX combination is $5.00, the execution price of a single leg non-SPX combination portion cannot be $1.01, $1.02, $1.03, or $1.04 for example, because the net execution price for the entire package would be in a net price increment less than $0.05. Additionally, a single legged non-SPX combination that is tied to an SPX combination is thought of in the same way as any single leg SPX option that is tied to an S&P 500 futures position. That is—an SPX option that is tied to an actual S&P 500 futures position would have to execute in $0.05 or $0.10 increments. Similarly, a single legged non-SPX combination is tied to an SPX combination that is equivalent to the futures; thus, it follows that the single legged non-SPX combination should be executed in the same increment that would be applicable if a customer was using the actual S&P 500 futures instead of the SPX combination. Customers reasonably should expect to receive an execution price on an individual leg that is in $0.05 or $0.10 increments.

Thus, in order to provide clarity regarding the minimum increment applicable to SPX Combo Orders, as well as to modify the Exchange's above interpretation in order to match the general practice of executing SPX Combo Orders, the Exchange proposes to add Rule 24.20.02 to provide as follows:

The minimum increment applicable to SPX Combo Orders under Rule 6.42 is as follows:

(a) The legs of the SPX combination portion of an SPX Combo Order may be executed in $0.01 increments and the entire SPX combination must be executed in net price increments no smaller than $0.05.[13]

(b) If the non-SPX combination portion of an SPX Combo Order consists of one leg, the leg must be executed in increments no smaller than $0.05 if the execution price is below $3.00 and increments no smaller than $0.10 if the execution price is at or above $3.00.[14]

(c) If the non-SPX combination portion of an SPX Combo Order consists of multiple legs, the individual legs may be executed in $0.01 increments and the entire non-SPX combination portion of the SPX Combo Order must be executed in net price increments no smaller than $0.05.[15]

When an SPX Combo Order is treated as a complex order for purposes of the minimum increment, as is currently the case, then the entire package may be executed at $0.05 increments and each individual leg may be executed at $0.01 increments.[16] For example, an SPX Combo Order consisting of the purchase of one SPX 2000 call for $41.35 and the offsetting SPX combination consisting of a sale of one SPX 2065 call for $23.02 and the purchase of one SPX 2065 put for $21.02 would have a net debit price of $39.35.

Applying the proposed rule to the above example provides that the non-SPX combination (the SPX 2000 call) is one leg that executes above $3.00; thus, it must be executed in $0.10 increments, which means it would have to execute at $41.30 or $41.40, instead of $41.35. The Exchange notes that the customer may in fact receive a better execution price because of this rule change because, in the above example, market participants may be willing to sell to a customer at $41.30 instead of $41.35. If instead the SPX Combo Order contained a non-SPX combination with two legs—one leg to buy an SPX 2000 call and one leg to buy an SPX 2010 call—tied to an SPX combination, each leg of the non-SPX combination could be executed in $0.01 increments, and the net execution price of the non-SPX combination package could be in net price increments of $0.05.[17]

The Exchange notes that the priority requirements of Rule 24.20(b)(2) will still apply to the entire SPX Combo Order. Thus, an SPX Combo Order will still be able to execute at the best net debit or credit so long as (A) no leg of the order would trade at a price outside the currently displayed bids or offers in the trading crowd or bids or offers in the SPX limit order book and (B) at least one leg of the order would trade at a price that is better than the corresponding bid or offer in the SPX limit order book.

Furthermore, as noted above, for an SPX Combo Order comprised of a non-SPX combination portion with one leg, the trading crowd's practice is generally to execute the non-SPX combination portion of an SPX Combo Order in $0.05 or $0.10 increments, because executing a single leg non-SPX combination portion in $0.01 increments makes it difficult to attain a net execution price in $0.05 increments for the entire package. As noted above, if the net execution price of the SPX combination is $5.00, the execution price of a single leg non-SPX combination portion cannot be $1.01, $1.02, $1.03, or $1.04 for example, because the net execution price for the entire package would be in a net price increment less than $0.05. Thus, the practice for the non-SPX combination portion, which is completely reasonable, is to provide markets in increments of $0.05 and $0.10 to ensure that the entire package is executed in a net execution price of $0.05 increments. Thus, the Exchange believes customers will not be adversely impacted by this rule change. The rules are simply being modified to meet the existing, general practice of the trading crowd. The Exchange notes that it is the trading crowd and their practices that have created a vibrant ecosystem for customers to execute SPX Combo Orders and modifying the rules to match the practice that has helped to create this ecosystem is logical and desirable.

Conclusion

The Exchange believes this proposal will provide clarity with regards to the minimum increment applicable to SPX Combo Orders and will prevent the inconsistent application of the minimum increment. Also, customers that want to hedge a single leg SPX option order with S&P 500 futures would be required to execute the SPX option in either $0.05 or $0.10 increments; therefore, customers reasonably should expect to be required to execute a single leg SPX option in either $0.05 or $0.10 increments when the single leg SPX option is tied to an SPX combination because the SPX

[12] Because the current interpretation is an SPX Combo Order is a complex order for purposes of the minimum increment, the entire SPX Combo Order package must be executed in net price increments no smaller than $0.05 in accordance with Rule 6.42(4).

[13] Paragraph (a) will have no effect on customers as the current practice is in accordance with paragraph (a).

[14] Paragraph (b) is unlikely to have any effect on customers as the current practice is generally in accordance with paragraph (b); however, on very rare occasions members of the trading crowd currently execute a single legged non-SPX combination portion of an SPX Combo Order in $0.01 increments.

[15] Paragraph (c) will have no effect on customers as the current practice is in accordance with paragraph (c).

[16] *See* Rule 6.42(4) (stating that bids and offers on complex orders in options on the S&P 500 Index (SPX), p.m.-settled S&P 500 Index (SPXPM) or on the S&P 100 Index (OEX and XEO), except for box/roll spreads, shall be expressed in decimal increments no smaller than $0.05 and that the legs of a complex order may be executed in $0.01 increments).

[17] This is similar to how complex orders must be executed in net price increments no smaller than $0.05. *See* Rule 6.42(4).

combination is equivalent to an underlying futures level.

Upon approval of this rule change, the Exchange will announce the implementation date of the proposed rule change in a Regulatory Circular to be published no later than 90 days following the approval date. The implementation date will be no later than 180 days following the approval date.

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 Securities Exchange Act of 1934 (the ''Act'').[18] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[19] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[20] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes it is not clear from the rules what minimum increment applies to SPX Combo Orders and that specifying the minimum increment applicable to SPX Combo Orders will help to remove impediments to and perfect the mechanism of a free and open market and a national market system. Furthermore, the Exchange believes that essentially treating the non-SPX combination portion and the SPX combination as separate orders for purposes of the applicable minimum increment is consistent with the nature of SPX Combo Orders, which consist of a non-SPX combination tied to an underlying S&P Index value via the SPX combination. The Exchange believes maintaining consistency throughout its rules in this manner helps eliminate confusion in the marketplace, which helps to protect investors and the public interest generally. The consistency and clarity provided by this amendment will help to protect investors and the public interest generally. Finally, the Commission has already determined that it's consistent with the Act to require orders in SPX with only one leg (*i.e.,* orders that are not complex orders or SPX Combo Orders) to be executed in increments no smaller than $0.05 for option series below $3.00 and $.10 for all options series at or above $3.00.[21] Thus, it follows that requiring a one legged non-SPX combination portion of an SPX Combo Order to be executed in $0.05 and $0.10 in the same manner is consistent with the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will apply to all SPX Combo Orders, and all TPHs that represent and compete for those orders, in the same manner. The Exchange believes that specifying the minimum increment applicable to SPX Combo Orders, and clarifying the manner in which these orders execute on the Exchange, promotes fair and orderly markets, as well as assists the Exchange in its ability to effectively attract order flow and liquidity to its market, and ultimately benefits all TPHs and all investors. Furthermore, any perceived burden on customers due to the fact that the single legged non-SPX combination portion of an SPX Combo Order must be executed in $0.05 or $0.10 increments pursuant to this rule (instead of $0.01 increments as is currently the Exchange's interpretation) is outweighed by the fact that the current practice of the trading crowd is to execute the single legged non-SPX combination in $0.05 or $0.10 increments and that the current practice enables the trading crowd to more quickly provide bids and offers that meet the minimum increment requirements. Furthermore, customers may in fact receive a better execution price on their SPX Combo Orders because TPHs competing for the order may improve their market by $0.05 or $0.10 instead of just $0.01. This rule change will only prevent the rare situation where a member is determined to execute a single legged non-SPX combination portion of an SPX Combo Order in $0.01 increments, which, again, is not a frequent occurrence. Furthermore, customers that want to hedge a single leg SPX option order with S&P 500 futures would be required to execute the SPX option in either $0.05 or $0.10 increments; therefore, customers reasonably should expect to be required to execute a single leg SPX option in either $0.05 or $0.10 increments when the single leg SPX option is tied to an SPX combination because the SPX combination is equivalent to an underlying futures level. Finally, the Commission has already determined that it's not unduly burdensome to competition to require orders in SPX with only one leg (*i.e.,* orders that are not complex orders or SPX Combo Orders) to be executed in increments no smaller than $0.05 for option series below $3.00 and $.10 for all options series at or above $3.00.[22] Thus, it follows that requiring a one legged non-SPX combination portion of an SPX Combo Order to be executed in $0.05 and $0.10 in the same manner is also not unduly burdensome on competition.

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

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

[20] *Id.*

[21] *See* Rule 6.42(1)–(3).

[22] *See* Rule 6.42(1)–(3).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2016–064 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–CBOE–2016–064. 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–2016–064 and should be submitted on or before October 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–23044 Filed 9–23–16; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78882; File No. TP 16–13]

Order Granting Limited Exemptions From Exchange Act Rule 10b–17 and Rules 101 and 102 of Regulation M to Amplify YieldShares Prime 5 Dividend ETF Pursuant to Exchange Act Rule 10b–17(b)(2) and Rules 101(d) and 102(e) of Regulation M

September 20, 2016.

By letter dated September 20, 2016 (the ''Letter''), as supplemented by conversations with the staff of the Division of Trading and Markets, counsel for Amplify ETF Trust (the ''Trust'') on behalf of the Trust, Amplify YieldShares Prime 5 Dividend ETF (the ''Fund''), any national securities exchange on or through which shares of the Fund (''Shares'') are listed and may subsequently trade, and persons or entities engaging in transactions in Shares (collectively, the ''Requestors''), requested exemptions, or interpretive or no-action relief, from Rule 10b–17 of the Securities Exchange Act of 1934, as amended (''Exchange Act''), and Rules 101 and 102 of Regulation M, in connection with secondary market transactions in Shares and the creation or redemption of aggregations of Shares of 50,000 shares (''Creation Units'').

The Trust is registered with the Securities and Exchange Commission (''Commission'') under the Investment Company Act of 1940, as amended (''1940 Act''), as an open-end management investment company. The Fund seeks to track the performance of an underlying index, the Prime 5 US Dividend ETF Index (''Underlying Index''). The Underlying Index seeks to provide exposure to the five highest-ranked dividend ETFs based on the index provider's scoring and selection criteria.

The Fund will seek to track the performance of its Underlying Index by normally investing at least 80% of its total assets in the underlying exchange-traded funds that comprise the Underlying Index.[1] In light of the composition of the Underlying Index, the Fund intends to operate as an ''ETF of ETFs.'' Except for the fact that the Fund will operate as an ETF of ETFs, the Fund will operate in a manner identical to the underlying ETFs.

The Requestors represent, among other things, the following:

• Shares of the Fund will be issued by the Trust, an open-end management investment company that is registered with the Commission;

• Creation Units will be continuously redeemable at the net asset value (''NAV'') next determined after receipt of a request for redemption by the Fund, and the secondary market price of the Shares should not vary substantially from the NAV of such Shares;

• Shares of the Fund will be listed and traded on BATS Exchange Inc. or another exchange in accordance with exchange listing standards that are, or will become, effective pursuant to Section 19(b) of the Exchange Act (the ''Listing Exchange'');[2]

• The Fund seeks to track the performance of the Underlying Index, all the components of which have publicly available last sale trade information;

• The Listing Exchange will disseminate continuously every 15 seconds throughout the trading day, through the facilities of the Consolidated Tape Association, the market value of a Share;

• The Listing Exchange, market data vendors or other information providers will disseminate, every 15 seconds throughout the trading day, a calculation of the intraday indicative value of a Share;

• On each business day before the opening of business on the Listing Exchange, the Fund will cause to be published through the National Securities Clearing Corporation the list of the names and the quantities of securities of the Fund's portfolio that will be applicable that day to creation and redemption requests;

• The arbitrage mechanism will be facilitated by the transparency of the Fund's portfolio and the availability of the intraday indicative value, the liquidity of securities held by the Fund, the ability to acquire such securities, as well as arbitrageurs' ability to create workable hedges;

• The Fund will invest solely in liquid securities;

• The Fund will invest in securities that will facilitate an effective and efficient arbitrage mechanism and the ability to create workable hedges;

• All ETFs in which the Fund invests will either meet all conditions set forth in one or more class relief letters, will have received individual relief from the Commission, will be able to rely on individual relief even though they are not named parties, or will be able to rely

[1] The remaining 20% may be invested in securities with maturities of less than one year or cash equivalents, or the Fund may hold cash.

[2] Further, the Letter states that should the Shares also trade on a market pursuant to unlisted trading privileges, such trading will be conducted pursuant to self-regulatory organization rules that are or will become effective pursuant to Section 19(b) of the Exchange Act.