

Finally, the Exchange is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,<sup>8</sup> 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. The Exchange believes that the proposed modifications on the Rights Fees would not impose an unfair burden on competition because the proposed Rights Fees would more closely align with the economic benefit of being e-Specialist, DOMM, or Specialist in a given issue. Because other Market Makers are not subject to the Rights Fee, the proposed discount would not disadvantage Market Makers. Instead, the proposed ACE-related discounts would operate to incent each e-Specialist, DOMM, or Specialist to achieve higher ACE Tiers to reduce its own Rights Fee. The Exchange believes that the proposed discounts would encourage e-Specialists, DOMMs, or Specialists to quote and trade competitively in their issues and would reduce the burden on competition among e-Specialists, DOMMs, or Specialists in the most actively-traded issues because e-Specialists, DOMMs, or Specialists that achieve the discounts would have reduced overhead.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

#### *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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>9</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>10</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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)<sup>11</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2016-115 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-2016-115. 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 Number SR-NYSEMKT-2016-115, and should be submitted on or before January 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016-30564 Filed 12-19-16; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-79560; File No. SR-CBOE-2016-081]

### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Move the Web Site and Vendor Through Which It Sells and Disseminates Open and Close Volume Data on the CBOE**

December 14, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 9, 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.

<sup>12</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>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

<sup>11</sup> 15 U.S.C. 78s(b)(2)(B).

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

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

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 creates volume data for each Exchange-listed option that consists of opening buys and opening sells and closing buys and closing sells.<sup>3</sup> This opening and closing position data is subdivided by origin code (*i.e.* customer or firm), and the customer data is further subdivided by order size. The volume data is summarized by day and series (symbol, expiration date, strike price, call or put). This volume data is referred to herein as the "Open/Close Data." A fee schedule for the sale of Open/Close data was codified pursuant to a filing noticed [sic] on January 8, 2007.<sup>4</sup>

#### Current Status

Currently, Open/Close Data is provided to the vendor Intelligent Financial Systems, LTD ("IFS"). IFS hosts and supports a Web site for Market Data Express, LLC ("MDX"), a wholly owned subsidiary of the Exchange. The MDX Web site ([MarketDataExpress.com](http://MarketDataExpress.com)) offers the Open/Close Data for sale to CBOE

Trading Permit Holders ("TPHs") and non-TPHs. The fees that MDX assesses for the Open/Close Data are set forth in a price list on MDX's Web site. TPHs and non-TPHs (together, "Customers") are charged the same fees for the Open/Close Data.

Customers may purchase Open/Close Data on a subscription basis or by ad hoc request. Daily Open/Close Data covering all CBOE securities may be purchased by subscribing to the Daily Update service at a cost of \$600 per month. Subscribers to the Daily Update service receive access to a daily data file via download from MDX's Web site.

Historical Open/Close Data covering all CBOE securities may be purchased on an ad hoc request basis. The charge for historical Open/Close Data covering all CBOE securities is \$7,200 per year for requests for one to four years of data. Requests for five or more years of historical Open/Close Data receive a 50% discount beginning with the fifth year of data (*i.e.*, MDX charges \$7,200 for each of the first four years of data and \$3,600 for year five and each subsequent year of data).

Alternatively, a Customer may purchase historical Open/Close Data on an individual CBOE security at a cost of \$4.50 per security per month. This data is received via download from MDX's Web site. A 50% discount is applied for requests for ten or more years of data, beginning with the tenth year of data.

#### Proposed Change

Development, Web site hosting, and customer support relating to the Open/Close data will be transferred to CBOE Livevol, LLC ("Livevol"), a wholly owned subsidiary of the Exchange's parent company, CBOE Holdings, Inc. CBOE will make Open/Close data available on the Livevol Data Shop Web site ([datashop.cboe.com](http://datashop.cboe.com)). Customer support will be transitioned from [Support@MarketDataExpress.com](mailto:Support@MarketDataExpress.com) to [support@livevol.com](mailto:support@livevol.com).

Open/Close data (and customer support) will be available on both the MDX and Livevol Web sites during a transition period, which began on November 10, 2016 and is ending no later than January 31, 2017. At least two weeks prior to the end of the transition period, the Exchange will announce the end of the transition period via circular. At the end of the transition period, availability of the Open/Close data through the MDX Web site will be retired and the Open/Close data will only be available through the Livevol Web site. The fees related to the Open/Close Data, including all applicable discounts, will remain the same during the transition period and once Open/

Close data is available only through the Livevol Web site. The Exchange is changing the vendor and web address through which the Open/Close Data is purchased and disseminated and adopting a substantively identical fee schedule for Open/Close data on Livevol. At the end of the transition period, Open/Close data will be removed from the MDX fee schedule.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>5</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>6</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>7</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Finally, as discussed below, the Exchange believes the proposed rule change is consistent with Section 6(b)(4)8 of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The proposed rule change addresses where and how Open/Close data is sold and disseminated. The Exchange believes the proposed rule change is equitable and does not permit unfair discrimination between customers, issuers, brokers or dealers, as the Open/Close Data will be available to all customers, including TPHs and other persons purchasing the data, at the same price and in the same manner. During and after the transition, the fees currently in place will continue to apply.

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> *Id.*

<sup>3</sup> An opening buy is a transaction to create or increase a long position, and an opening sell is a transaction to create or increase a short position. A closing buy is a transaction to close out a short position, and a closing sell is a transaction to reduce or eliminate a long position.

<sup>4</sup> See Securities and Exchange Act Release No. 55062 (January 8, 2007), 72 FR 2048 (January 17, 2007) (SR-CBOE-2006-088) [sic].

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

The Exchange does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule will have no impact on competition because there is no change to the fee. The proposed rule change is merely changing the Web site on which the data will be available for purchase and adopting a substantively identical fee schedule for the new Web site.

### *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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and paragraph (f) of Rule 19b-4<sup>10</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2016-081 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-2016-081. 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-2016-081 and should be submitted on or before January 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2016-30565 Filed 12-19-16; 8:45 am]

**BILLING CODE 8011-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-79554; File No. SR-NASDAQ-2016-141]**

### **Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Rule 4702 To Adopt a New Retail Post-Only Order**

December 14, 2016.

On October 13, 2016, The Nasdaq Stock Market LLC ("Exchange") 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 amend Exchange Rule 4702 to adopt a new Retail Post-Only Order. The proposed rule change was published for comment in the **Federal Register** on November 1, 2016.<sup>3</sup> The Commission received one comment letter on the proposed rule change.<sup>4</sup>

Section 19(b)(2) of the Act<sup>5</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is December 16, 2016. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> designates January 30, 2017, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-NASDAQ-2016-141).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2016-30559 Filed 12-19-16; 8:45 am]

**BILLING CODE 8011-01-P**

<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. 79163 (October 26, 2016), 81 FR 75862.

<sup>4</sup> See Letter from Joseph Saluzzi and Sal Arnuk, Partners, Themis Trading LLC, to Brent J. Fields, Secretary, Commission, dated November 7, 2016.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(31).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f).

<sup>11</sup> 17 CFR 200.30-3(a)(12).