

exists an active and liquid market functioning on the Exchange outside of the Auction.³⁴ The Commission further believes that the proposed revisions to the eligibility requirements for orders of fewer than 50 contracts with respect to circumstances when the NBBO is no more than \$0.01 wide should help to enhance the operation of the Auction by providing meaningful opportunities for price improvement in such circumstances, and should benefit investors and others in a manner that is consistent with the Act.

The Commission further notes that, as discussed more fully above, ISE Gemini is initially proposing to implement a price improvement requirement for Agency Orders of fewer than 50 option contracts where the difference in the NBBO is \$0.01 with a member conduct standard.³⁵ As described in greater detail above, ISE Gemini proposes to enforce this requirement under ISE Rule 1614(d)(4). The Commission believes that ISE Gemini's proposed member conduct standard and ISE Rule 1614(d)(4) are reasonable means to implement the price improvement requirement until implementation of its proposed systems-based mechanism for this requirement, which will become effective following the migration of a symbol to INET, the platform operated by Nasdaq, Inc. that will also operate the PIM. The Commission further notes that the Exchange has represented that its proposed member conduct standard will be effective until the migration of all symbols to the INET platform, which shall be no later than April 15, 2017.³⁶

Thus, the Commission has determined to approve the Exchange's proposed revisions to ISE Gemini Rule 723(b) and Supplementary Material .03 and .05 to ISE Gemini Rule 723, and to approve the Pilot, as proposed to be modified, on a permanent basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁷ that the proposed rule change (SR-ISEGemini-2016-23), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁸

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79816; File No. SR-CBOE-2017-003]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

January 18, 2017.

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 January 3, 2017, 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 proposes to amend its Fees Schedule. The text of the proposed rule change is also 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 make a number of amendments to its Order Routing Subsidy (ORS) and Complex Order Routing Subsidy (CORS) Programs (collectively "Programs"). By way of background, the ORS and CORS Programs allow CBOE to enter into subsidy arrangements with any CBOE Trading Permit Holder ("TPH") (each, a "Participating TPH") or Non-CBOE TPH broker-dealer (each a "Participating Non-CBOE TPH") that meet certain criteria and provide certain order routing functionalities to other CBOE TPHs, Non-CBOE TPHs and/or use such functionalities themselves.³ (The term "Participant" as used in this filing refers to either a Participating TPH or a Participating Non-CBOE TPH). Participants in the ORS Program receive a payment from CBOE for every executed contract for simple orders routed to CBOE through their system. CBOE does not make payments under the ORS Program with respect to executed contracts in single-listed options classes traded on CBOE, or with respect to complex orders or spread orders. Similarly, participants in the CORS Program receive a payment from CBOE for every executed contract for complex orders routed to CBOE through their system. CBOE does not make payments under the CORS Program with respect to executed contracts in single-listed options classes traded on CBOE or with respect to simple orders. Currently, under both programs the Exchange pays a subsidy of \$0.02 per contract for all customer (origin code "C") orders and a subsidy of \$0.06 per contract for all non-customer orders.

The Exchange first proposes to exclude customer orders from the Programs and eliminate the customer order subsidy. The Exchange also proposes to increase the subsidy for non-customer orders from \$0.06 per contract to \$0.07 per contract under both ORS and CORS. The Exchange notes that another Exchange with a similar subsidy program also does not provide subsidies for customer orders.⁴

³ See CBOE Fees Schedule, "Order Router Subsidy Program" and "Complex Order Router Subsidy Program" tables for more details on the ORS and CORS Programs.

⁴ See NASDAQ PHLX LLC Pricing Schedule, Section IV(e) [sic], Other Transaction Fees, Market Access and Routing Subsidy ("MARS").

³⁴ See Exhibit 3 to SR-ISEGemini-2016-23.

³⁵ The Exchange stated that it will conduct electronic surveillance of the PIM to ensure that members comply with the proposed price improvement requirements for option orders of fewer than 50 contracts. See Notice, *supra* note 3, at 91275-76.

³⁶ See Notice, *supra* note 3, at 91275 & n.7.

³⁷ 15 U.S.C. 78s(b)(2).

³⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The Exchange next proposes to amend one of the system requirements under the Programs. Specifically, the Exchange notes that to qualify for the subsidy arrangement under ORS and CORS, a Participant's order routing functionality has to, among other things, cause CBOE to be the default destination exchange for simple (under ORS) and complex (under CORS) orders, but allow any user to manually override CBOE as the default destination on an order-by-order basis. As the Exchange is proposing to eliminate subsidies for customer orders, the Exchange does not believe it's necessary to require that CBOE be set as the default destination exchange for customer orders. As such, the Exchange proposes to amend the Fees Schedule to provide that under the ORS and CORS programs, CBOE must be set as the default exchange for non-customer orders only (and still allow any user to manually override CBOE as the default destination on an order-by-order basis).

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.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ 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 Section 6(b)(4) of the Act,⁷ 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.

In particular, the Exchange believes the proposed amendments to the ORS and CORS Programs are reasonable because the proposed changes still affords Participants an opportunity to receive payments to subsidize the costs associated with providing certain order

routing functionalities that would otherwise go unsubsidized. Additionally, the Exchange believes the increased \$0.07 per contract subsidy for non-customer orders is reasonable because it is within the range of subsidies paid by another exchange under a similar subsidy program.⁸ The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to maintain a subsidy for non-customer orders only under the Programs. Particularly, the Exchange notes that customer orders already have the opportunity to earn various rebates, discounts or fee caps.⁹ Moreover, the Exchange notes that another exchange also does not provide subsidies for customer orders.¹⁰

The Exchange believes the elimination of the requirement to set CBOE as the default destination for customer orders is reasonable, equitable and not unfairly discriminatory because the Exchange will no longer be providing a subsidy for such orders.

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

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed changes will impose an unnecessary burden on intramarket competition because they will apply equally to all participating parties. Although the subsidy for orders routed to CBOE through a Participant's system only applies to Participants of the Programs, the subsidies are designed to encourage the sending of more orders to the Exchange, which should provide greater liquidity and trading opportunities for all market participants. Additionally, although customer orders will no longer be eligible for subsidies under the programs, customer orders are eligible for other rebates, discounts or fee caps.¹¹ The Exchange also does not believe that such changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that, should the proposed changes make CBOE more attractive for trading, market participants trading on other exchanges can always elect to provide order routing functionality to CBOE.

⁸ See supra note 4.

⁹ See e.g., CBOE Fees Schedule, Customer Large Trade Discount and Volume Incentive Program.

¹⁰ See supra note 4.

¹¹ See e.g., CBOE Fees Schedule, Customer Large Trade Discount and Volume Incentive Program.

Additionally, to the extent that the proposed changes to the ORS and CORS Programs result in increased trading volume on CBOE and lessened volume on other exchanges, the Exchange notes that market participants trading on other exchanges can always elect to become TPHs on CBOE to take advantage of the trading opportunities.

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 Act¹² and paragraph (f) of Rule 19b-4¹³ 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. Please include File Number SR-CBOE-2017-003 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-2017-003. This file number should be included on the subject line if email is used. To help the Commission process and review your

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78f(b)(4).

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-2017-003 and should be submitted on or before February 15, 2017.

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

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79822; File No. SR-CHX-2017-01]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Examination Requirement for CHX Market Maker Authorized Traders

January 18, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹, and Rule 19b-4² thereunder, notice is hereby given that on January 6, 2017 the Chicago Stock Exchange, Inc. ("CHX" or the "Exchange") filed with the Securities and Exchange Commission ("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

CHX proposes to amend the Rules of the Exchange ("CHX Rules") to modify the examination requirement for CHX Market Maker Authorized Traders ("MMATs"). The text of this proposed rule change is available on the Exchange's Web site at (www.chx.com) and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes [sic] 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 CHX 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 Changes

1. Purpose

The Exchange proposes to amend CHX Rules to modify the examination requirement for CHX Market Maker Authorized Traders ("MMATs"). Specifically, the Exchange proposes to eliminate the requirement that prospective MMATs successfully complete the CHX Market Maker Authorized Trader Exam, which is an examination currently maintained and administered by the Exchange for prospective MMATs. In lieu of the CHX Market Maker Authorized Trader Exam, the Exchange proposes to require prospective MMATs to successfully complete the Series 57 Securities Trader Examination³ and any other training

³ A Representative (as defined under CHX Article 6, Rule 2(b)) that is engaged in securities trading activities, on either an agency or principal basis, for the Participant (as defined under CHX Article 1, Rule 1(s)) with which the Representative is associated, must register with the Exchange as a Securities Trader and pass the Series 57 Securities Trader Examination. See CHX Article 6, Rule 3(a)(1).

and/or certification programs as may be required the Exchange.

The Exchange notes that the proposed rule change would harmonize the Exchange's MMAT examination requirement with the MMAT examination requirements of other national securities exchanges that require prospective MMATs (or equivalents) to successfully complete the Series 57 Securities Trader Examination.⁴

Background

Current Article 16, Rule 3(b) provides the registration requirements for MMATs. Thereunder, current paragraph (b)(2) provides that to be eligible for registration as an MMAT, a person must be registered with the Exchange as provided in Article 6 and complete any other training and/or certification programs as may be required. Moreover, current paragraph .01(b) of the Interpretations and Policies of Article 6, Rule 3 provides that prior to the Exchange approving a Participant's request to register an individual as an MMAT, such individual must successfully complete the Market Maker Authorized Trader Exam.

In order to further streamline and bring consistency to the qualification and registration requirements for MMATs (or equivalents) across different markets, the Exchange now proposes to eliminate the Market Maker Authorized Trader Exam and instead require prospective MMATs to successfully complete the Series 57 Securities Trader Examination in order to satisfy the Exchange's MMAT examination requirement. To this end, the Exchange proposes to delete current paragraph .01(b) of the Interpretations and Policies of Article 6, Rule 3 in its entirety and amend current Article 16, Rule 3(b)(2) to provide as follows:

To be eligible for registration as a MMAT, a person must successfully complete the Series 57 Securities Trader Examination and any other training and/or certification programs as may be required by the Exchange.

The Exchange does not propose to amend or modify any other requirements related to MMATs or Market Makers in general.

⁴ See, e.g., NYSE Arca Equities Rule 7.21(b)(2). Other markets do not explicitly recognize an MMAT registration category but require any person engaged in the purchase or sale of securities or other similar instruments for the account of a member organization, which would include market maker traders, to be registered as a Securities Trader and pass the Series 57 Securities Trader Examination. See e.g., paragraph .10 of the Supplementary Material under NYSE Rule 345; see also, e.g., NASDAQ PHLX Rule 613(f)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.