

#### 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-NYSEArca-2017-38 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 Number SR-NYSEArca-2017-38. 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-NYSEArca-2017-38, and should be submitted on or before May 9, 2017.

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

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-07752 Filed 4-17-17; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80439; File No. SR-CBOE-2017-031]

#### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Complex Order Price Protections

April 12, 2017.

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 April 5, 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 and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 current price protections related to complex orders. The text of the proposed rule change is provided below (additions are *italicized*; deletions are [bracketed]).

\* \* \* \* \*

#### Chicago Board Options Exchange, Incorporated Rules

\* \* \* \* \*

#### Rule 6.53C. Complex Orders on the Hybrid System

- (a)-(d) No change.  
 . . . Interpretations and Policies:  
 .01-.07 No change.  
 .08 *Price Check Parameters*: On a class-by-class basis, the Exchange may

determine (and announce to the Trading Permit Holders via Regulatory Circular) which of the following price check parameters will apply to eligible complex orders. Paragraph (b) will not be applicable to stock-option orders.

For purposes of this Interpretation and Policy .08:

*Vertical Spread*. A "vertical" spread is a two-legged complex order with one leg to buy a number of calls (puts) and one leg to sell the same number of calls (puts) with the same expiration date but different exercise prices.

*Butterfly Spread*. A "butterfly" spread is a three-legged complex order with two legs to buy (sell) the same number of calls (puts) and one leg to sell (buy) twice as many calls (puts), all with the same expiration date but different exercise prices, and the exercise price of the middle leg is between the exercise prices of the other legs. If the exercise price of the middle leg is halfway between the exercise prices of the other legs, it is a "true" butterfly; otherwise, it is a "skewed" butterfly.

*Box Spread*. A "box" spread is a four-legged complex order with one leg to buy calls and one leg to sell puts with one strike price, and one leg to sell calls and one leg to buy puts with another strike price, all of which have the same expiration date and are for the same number of contracts.

To the extent a price check parameter is applicable, the Exchange will not automatically execute an eligible complex order that is:

- (a)-(b) No change.  
 (c) Debit/Credit Price Reasonability Checks:

(1)-(5) No change.  
 (6) This check does not apply to multi-class spreads *or to orders routed from a PAR workstation or order management terminal*.

(d) No change.  
 (e) Acceptable Percentage Range Parameter:

(i) An incoming complex order (including a stock-option order) after the series for all legs of the complex order are open for trading that is marketable and would execute immediately upon submission to the COB or following a COA if the execution would be at a price outside an acceptable percentage range. The "acceptable percentage range" is the national spread market (or Exchange spread market if the NBBO in any leg is locked, crossed or unavailable and for pairs of orders submitted to AIM or SAM) that existed when the System received the order or at the start of the COA, as applicable, plus/minus:

(A) the amount equal to a percentage (which may not be less than %) of the national spread market (the "percentage

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

<sup>17</sup> 17 CFR 240.19b-4.

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

amount”) if that amount is not less than a minimum amount or greater than a maximum amount (the Exchange will determine the percentage and minimum and maximum amounts *on a class-by-class basis* and announce them to Trading Permit Holders by Regulatory Circular);

(B) the minimum amount, if the percentage amount is less than the minimum amount; or

(C) the maximum amount, if the percentage amount is greater than the maximum amount.

(ii) The System cancels an order (or any remaining size after partial execution of the order) that would execute or rest in the COB at a price outside the acceptable price range.

(iii) If the System rejects either order in a pair of orders submitted to AIM or SAM pursuant to this parameter, then the System also cancels the paired order. Notwithstanding the foregoing, with respect to an AIM Retained (“A:AIR”) order as defined in Interpretation and Policy .09 to Rule 6.74A, if the System rejects the Agency Order pursuant to this check, then the System also rejects the contra-side order; however, if the System rejects the contra-side order pursuant to this check, the System still accepts the Agency Order if it satisfies the check. [To the extent a contra-side order or response is marketable against the Agency Order, the execution price will be capped at the opposite side of the acceptable price range.]

(iv) *This parameter applies to auction responses in the same manner as it does orders.*

(f)–(g) No change.  
.09–.12 No change.

\* \* \* \* \*

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 amend its debit/credit price reasonability check and acceptable percentage range parameter for complex orders.

#### Debit/Credit Price Reasonability Check

In general, pursuant to the debit/credit price reasonability check in Rule 6.53C, Interpretation and Policy .08(c), the System rejects a limit complex order for a debit strategy with a net credit price, a limit complex order for a credit strategy with a net debit price, or a market order for a credit strategy that would be executed at a net debit price.<sup>5</sup> Currently, the check applies to orders routed from a PAR workstation or order management terminal (“OMT”). The proposed change amends Rule 6.53C, Interpretation and Policy .08(c)(6) to provide the check will not apply to orders routed from a PAR workstation or OMT. These orders are subject to manual handling, so the PAR or OMT operator will have evaluated the price of an order based on then-existing market conditions prior to submitting the order for electronic execution, and thus there is minimal risk of execution at an erroneous price. Other price protections similarly do not apply to these orders.<sup>6</sup>

#### Acceptable Percentage Range Parameter

In general, pursuant to the acceptable percentage range parameter in Rule 6.53C, Interpretation and Policy .08(e), the System cancels an incoming order that is marketable and would execute immediately upon submission to the complex order book (“COB”) or following a COA if the execution would be at a price outside an acceptable percentage range, which is the national spread market that existed when the System received the order or at the start of COA, as applicable, plus/minus:

- The amount equal to a percentage (which may not be less than 3%) of the national spread market (the “percentage amount”) if that amount is not less than a minimum amount or greater than a maximum amount (the Exchange will determine the percentage and minimum and maximum amounts and announce them to Trading Permit Holders by Regulatory Circular);

- the minimum amount, if the percentage amount is less than the minimum amount; or

<sup>5</sup> See Rule 6.53C, Interpretation and Policy .08(c). The System determines whether an order is a debit or credit strategy as set forth in that Rule.

<sup>6</sup> See, e.g., Rule 6.12(a)(3) and (4).

- the maximum amount, if the percentage amount is greater than the maximum amount.

First, the proposed rule change amends Rule 6.53C, Interpretation and Policy .08(e)(i)(A) to provide the Exchange may determine the percentage and the minimum and maximum amounts on a class-by-class basis. Currently, the rule states the percentage and minimum and maximum amounts will be the same for all classes. Because of class differences such as the minimum increment and option prices, the Exchange believes it may be appropriate to set different amounts so the outside of the range is not too close or too far away from the market price for a class and ensure the range creates an effective check for all classes. Therefore, the proposed rule change adds this flexibility to the Rule. Other price protections have similar flexibility.<sup>7</sup>

Second, the proposed rule change adds Rule 6.53C, Interpretation and Policy .08(e)(iv) to provide this parameter will apply to auction responses in the same manner as it does orders. The current parameter does not apply to auction responses. As noted in a recent rule filing enhancing this parameter, even if the parameter does not apply to auction responses, this protection will prevent an order from executing outside the acceptable price range (including against an auction response), and thus responses will not execute against an order outside the acceptable price range.<sup>8</sup> However, cancelling an auction response prior to the end of an auction that would execute outside the acceptable price range may give the submitting Trading Permit Holder an opportunity to submit a new response within the acceptable price range prior to the end of the auction, and thus increase execution opportunities. Therefore, the proposed rule change applies this parameter to auction response. An auction response at a price outside the acceptable price range will not execute regardless of whether this parameter applies to the auction response; applying the parameter to auction responses merely changes the timing of when the response is cancelled.<sup>9</sup> Other price

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

<sup>8</sup> See Securities Exchange Act Release No. 34–80181 (March 8, 2017), 82 FR 13678, note 26 (March 14, 2017) (SR–CBOE–2017–016).

<sup>9</sup> Paragraph (e)(iii) currently states to the extent a contra-side order or response is marketable against the Agency Order, the execution price will be capped at the opposite side of the acceptable price range. The proposed rule change deletes this rule language, as it is redundant. The price protection will, as proposed, cancel orders and responses (or remaining size after partial execution) that would

protections similarly apply to auction responses.<sup>10</sup>

## 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 Act.<sup>11</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>12</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>13</sup> 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 the proposed rule change to not apply the debit/credit price reasonability check to orders routed from a PAR workstation or OMT would remove impediments to and perfect the mechanism of a free and open market and a national market system, as those orders were subject to manual handling by a PAR or OMT operator who will have evaluated the price of an order based on then-existing market condition [sic] prior to submitted [sic] it for electronic execution, thus minimizing risk of an erroneous execution and reducing the need for application of the additional reasonability check. Other price protections similarly do not apply to these orders.<sup>14</sup>

The proposed rule change to provide the Exchange with flexibility to determine settings for the acceptable percentage range parameter on a class-by-class manner will permit the Exchange to ensure the range is not too close or too far away from the market

execute outside the acceptable price range. There [sic] is effectively the same as capping an execute [sic] price no wider than the acceptable price range, as no order or response will be able to execute at a price outside the range.

<sup>10</sup> See, e.g., Rule 6.53C, Interpretation and Policy .08(c)(4).

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> *Id.*

<sup>14</sup> See, e.g., Rule 6.12(a)(3) and (4).

price for a class based on factors such as minimum increment and premium, and thus ensure the range creates an effective check for all classes. This will protect investors from potentially erroneous executions while removing impediments to and perfecting the mechanism of a free and open market and a national market system by ensuring orders are not inadvertently cancelled due to a range that is too narrow. Other price protections have similar flexibility.<sup>15</sup>

The proposed rule change to apply the acceptable percentage range parameter to auction responses merely changes the time at which responses outside the acceptable price range is cancelled. However, application of the acceptable percentage range parameter to auction responses may permit the submitting Trading Permit Holder to enter a new auction response at a price within the range prior to the end of the auction, which improves execution opportunities and thus protects investors. Other price protections similarly apply to auction responses.<sup>16</sup>

### 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 proposed rule change will apply to all complex orders submitted to CBOE in the same manner. The enhancements to the price protection mechanisms applicable to all incoming orders will help further prevent potentially erroneous executions, which benefits all market participants. Additionally, the proposed rule change is substantially similar to other price protections.<sup>17</sup> The proposed rule change will not impose any burden on intermarket competition, as it applies only to CBOE price protection mechanisms that prevent erroneous executions on CBOE.

### 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.

<sup>15</sup> *Id.*

<sup>16</sup> See, e.g., Rule 6.53C, Interpretation and Policy .08(c)(4).

<sup>17</sup> See, e.g., Rules 6.12(a)(3) and (4) and Rule 6.53C, Interpretation and Policy .08(c)(4).

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>18</sup> and Rule 19b-4(f)(6) thereunder.<sup>19</sup>

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall 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-2017-031 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-2017-031. 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/>

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

*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-2017-031 and should be submitted on or before May 9, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017-07751 Filed 4-17-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80437; File No. SR-NASDAQ-2017-035]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees at Rule 7014(f) To Amend the Designated Liquidity Provider Program

April 12, 2017.

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 March 31, 2017, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 the Exchange's transaction fees at Rule 7014(f) to amend the Designated Liquidity Provider ("DLP") Program ("Program").

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on April 3, 2017.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the 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 purpose of the proposed rule change is to amend the DLP Program in Rule 7014(f) to eliminate the rebates that are paid pursuant to the New Product Support Incentives ("NPSI"). With the elimination of the NPSI, the Exchange also proposes to amend one of the "Basic Rebates" to increase that rebate from \$0.0047 per executed share to \$0.0070 per executed share. Nasdaq also proposes to amend the manner in which the average daily volume ("ADV") of an exchange-traded product ("ETP") is calculated for purposes of determining a DLP's eligibility for the Basic Rebate.

The DLP Program is designed to provide incentives to market makers to make markets in certain ETPs. To achieve this goal, Nasdaq provides credits to a DLP when executing a Qualified Security. As set forth in the Rule, a DLP is a registered Nasdaq market maker for a Qualified Security that has committed to maintain

minimum performance standards.<sup>3</sup> A Qualified Security is defined as an exchange-traded product listed on Nasdaq pursuant to Nasdaq Rules 5705 (Exchange Traded Funds: Portfolio Depository Receipts and Index Fund Shares), 5710 (Securities Linked to the Performance of Indexes and Commodities, Including Currencies), 5720 (Trust Issued Receipts), 5735 (Managed Fund Shares), or 5745 (NextShares), and it must have at least one DLP.

Currently, a DLP may be eligible for three different kinds of rebates under the Program. First, a DLP will qualify for a "Basic Rebate" for adding shares of displayed liquidity in the ETP if the DLP is at the National Best Bid and Offer ("NBBO") at least 20% of the time on average in any given month in a particular assigned ETP. The Basic Rebates vary based on the ETP's ADV in a given month. Specifically, a DLP will receive: (i) A rebate of \$0.0047 per executed share of displayed liquidity in an ETP that has less than 500,000 ADV during the month; (ii) a rebate of \$0.0042 per executed share of displayed liquidity in an ETP that has between 500,000 and 5 million ADV during the month; and (iii) a rebate of \$0.0036 per executed share of displayed liquidity in an ETP that has greater than 5 million ADV during the month. The Basic Rebate will be paid in lieu of other rebates or fees provided under Rules 7018 and 7014.

The second rebate is the NPSI rebate. Like the Basic Rebate, the NPSI rebate will be paid in lieu of other rebates or fees provided under Rules 7018 and 7014, including the Basic Rebate. A DLP will qualify for the NPSI rebate for adding shares of displayed liquidity in the ETP if the DLP is at the NBBO at least 20% of the time in the assigned ETP in any given month. The ETP itself must have a three month ADV of less than 500,000, and the ETP must be less than 36 months old. Assuming the ETP meets the NPSI volume criteria, a rebate of \$0.0070 per executed share of displayed liquidity will be paid to DLPs that are assigned to ETPs that are 0-12 months from the ETP's product inception date; a rebate of \$0.0065 per executed share of displayed liquidity for ETPs that are 12 to 24 months from the

<sup>3</sup> The Rule also provides that a DLP shall be selected by Nasdaq based on factors including, but not limited to, experience with making markets in exchange-traded products, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. Nasdaq may limit the number of DLPs in a security, or modify a previously established limit, upon prior written notice to members. See Rule 7014(f)(2).

<sup>20</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.