SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73017; File No. SR–CBOE–2014–062]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Adopt Extended Trading Hours

September 8, 2014.

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 August 26, 2014, 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to adopt extended trading hours. 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

Currently, transactions in options on individual stocks may be made on the Exchange during the normal hours for business established by the exchanges currently trading the stocks underlying CBOE options,[3] which is currently 8:30 a.m. through 3 p.m. Chicago time.[4] Additionally, transactions in index options may be effected on the Exchange between 8:30 a.m. and 3 p.m. or 3:15 p.m.[5] (8:30 a.m. through 3 p.m. or 3:15 p.m., as applicable, will be referred to as ''Regular Trading Hours''). Regular Trading Hours are consistent with the regular trading hours of the other U.S. options exchanges, unlike many U.S. stock and futures exchanges, which allow for trading in some of their listed products for various periods of time outside of Regular Trading Hours.[6] CBOE Futures Exchange LLC (''CFE''), a futures exchange owned by CBOE's parent company CBOE Holdings, Inc., currently makes CBOE Volatility Index® (''VIX'') futures available for trading nearly 24 hours a day, five days a week.[7]

Securities trading is a global industry, and investors located outside of the United States generally operate during hours outside of Regular Trading Hours. The Exchange believes there is global demand from investors for options on the S&P 500 Index (''SPX'') and VIX, two of CBOE's exclusively listed options,[8] as alternatives for hedging and other investment purposes, particularly as a complementary investment tool to VIX futures. However, given that SPX and VIX options trade during Regular Trading Hours only, it is difficult for non-U.S. investors to take advantage of trading in these options. It is also difficult for U.S. investors that trade in non-U.S. markets to use these products as part of their global investment strategies. To meet this demand, and to keep pace with the continuing internationalization of securities markets, the Exchange proposes to offer trading in these two exclusively listed options during extended trading hours from 2 a.m. to 8:15 a.m. Monday through Friday (''Extended Trading Hours''). These extended hours will allow market participants to engage in trading these options in conjunction with trading VIX futures on CFE during these hours.

Extended Trading Hours will be a separate trading session from Regular Trading Hours, and there will be no carry over from one trading session to the other and no interaction between Extended Trading Hours and Regular Trading Hours. Additionally, the Extended Trading Hours will operate using separate Exchange servers and hardware from those used during Regular Trading Hours. To reflect this separation, the proposed rule change adds definitions of each trading session. Proposed Rule 1.1(qqq) defines ''Regular Trading Hours'' as the hours during which transactions in options may be made on the Exchange as set forth in Rule 6.1 (which hours are from 8:30 a.m. to either 3 p.m. or 3:15 p.m. Chicago time, as set forth above).[9] Proposed Rule 1.1(rrr) defines ''Extended Trading Hours'' as the hours outside of Regular Trading Hours during which the Exchange may be open for trading as set forth in Rule 6.1. These definitions also indicate that each may be referred to as a trading session throughout the Rules. While most of the Exchange rules apply to trading during both trading sessions, certain differences will apply to Extended Trading Hours as further described below. Having a separate definition for each trading session allows the

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

[2] 17 CFR 240.19b–4.

[3] Rule 6.1, Interpretation and Policy .01.

[4] All times are Chicago time unless otherwise noted.

[5] Rule 24.6.

[6] *See, e.g.,* NASDAQ Stock Market LLC Rule 4617 (regular trading hours from 9:30 a.m. until 4 p.m. Eastern time and extended trading hours from 4 a.m. until 9:30 a.m. and 4 p.m. to 8 p.m. Eastern time); and New York Stock Exchange LLC Series 900 (providing for an off-hours trading facility to operate outside of the regular 9:30 a.m. to 4 p.m. Eastern time trading session); *see also, e.g.,* Chicago Board of Trade Extended Trading Hours for Grain, Oilseeds and Ethanol—Frequently Asked Questions (indicating that certain agricultural commodity products are available for electronic trading 21 hours a day on the CME Globex trading platform); and IntercontinentalExchange, Inc. Regular Trading & Support Hours (indicating that many of its listed products are available for trading for periods of time outside of Regular Trading Hours, including overnight sessions). CBOE Stock Exchange, LLC (''CBSX''), a stock trading facility of CBOE, also has a rule providing for Extended Trading hours (from 7:30 to 8:30 a.m. and 3 to 3:45 p.m.). *See* Rule 51.2(a) (the Exchange notes that CBSX ceased trading operations on April 30, 2014).

[7] Specifically, the trading week for VIX futures begins on Sunday at 5 p.m. and ends on Friday at 3:15 p.m. CFE is closed for trading on Monday through Thursday for 15 minutes between 3:15 p.m. and 3:30 p.m., and trading for the new business day will begin at 3:30 p.m. on Monday through Thursday. CFE closes at 3:15 p.m. on Friday and remains closed until 5 p.m. on Sunday.

[8] An ''exclusively listed option'' is an option that trades exclusively on an exchange because the exchange has an exclusive license to list and trade the option or has the proprietary rights in the interest underlying the option. An exclusively listed option is different than a ''singly listed option,'' which is an option that is not an ''exclusively listed option'' but that is listed by one exchange and not by any other national securities exchange.

[9] Rule 6.1, Interpretation and Policy .01 currently states that the Board of Directors has resolved that, except under unusual conditions as may be determined by the Board or its designee, hours during which transactions in options on individual stocks may be made on the Exchange shall correspond to the normal hours for business established by the exchanges currently trading the stock underlying CBOE options. The proposed rule change makes this paragraph (a) and indicates such hours will be Regular Trading Hours.

Exchange Rules to reflect these differences and the separation of the trading sessions.

Rule 6.1 states that the Exchange's Board of Directors will determine the days the Exchange will be open for business and the hours of such days during which transactions may be made on the Exchange. The proposed rule change deletes the definition of business days currently included in Rule 6.1 (which is being moved to proposed Rule 1.1(sss) as discussed below) and adds that the Board of Directors will determine both Regular Trading Hours and Extended Trading Hours. Proposed Rule 6.1, Interpretation and Policy .01(b) provides that, similar to Regular Trading Hours, the Board of Directors has resolved that, except under unusual conditions as may be determined by the Board or its designee, Extended Trading Hours are from 2 a.m. to 8:15 a.m. Chicago time on Monday through Friday.[10] The beginning of Extended Trading Hours coincides with the opening of European trading markets, which is consistent with one of the primary purposes of providing Extended Trading Hours, which is to provide additional investment opportunities for investors located outside of the United States. The Exchange may determine whether to operate during Extended Trading Hours;[11] if it does, then transactions in options designated as eligible for trading during that trading session (as further described below) may be made on the Exchange.

The proposed rule change also adds Rule 1.1(sss) to provide that a ''business day'' or ''trading day'' is a day on which the Exchange is open for trading during Regular Trading Hours. A business day or trading day will include the Regular Trading Hours and Extended Trading Hours that occur on that day. If the Exchange is not open for Regular Trading Hours on a day (for example, because it is an Exchange holiday), then it will not be open for Extended Trading Hours on that day.

Related to the separation of the trading sessions, the Book[12] used during Regular Trading Hours is not connected to the Book used during Extended Trading Hours. Therefore, orders and quotes in the Regular Trading Hours Book will not be displayed in the Extended Trading Hours Book, and vice versa. Additionally, orders and quotes submitted during Regular Trading Hours will not trade with orders and quotes submitted during Extended Trading Hours.[13]

The Exchange believes having separate trading sessions and using a separate book for each trading session is appropriate given that, while most rules apply in the same manner to both trading sessions, some rules differ in how they apply to each session and other rules do not apply to both trading sessions (as further discussed below). Additionally, as further discussed below, the Exchange expects there to be reduced liquidity, higher volatility and wider markets during Extended Trading Hours, and investors who submit orders or quotes during Regular Trading Hours may not want their orders or quotes to trade during Extended Trading Hours given those trading conditions.

The proposed rule change adds Rule 6.1A, which sets forth the rules applicable to trading during Extended Trading Hours (and identifies when trading during Extended Trading Hours differs from trading during Regular Trading Hours). The Exchange believes it will benefit investors to have a primary description of how Extended Trading Hours differs from Regular Trading Hours contained in a single place within the rules.

Specifically, proposed Rule 6.1A states the following:

- *Applicability of Rules:* Proposed paragraph (a) provides that all Exchange Rules will apply to trading during Extended Trading Hours except as set forth in proposed Rule 6.1A and except for the Rules that by their express terms are inapplicable during Extended Trading Hours or where the context otherwise requires. For example, the proposed rule change amends Rule 24.3 to provide that rule applies only during [sic] Regular Trading Hours.[14] Additionally, because the proposed rule change provides that all trading during Extended Trading Hours will be electronic and on the Hybrid System, all rules related to open outcry trading and the Hybrid 3.0 System will be inapplicable during Extended Trading Hours.
- *Electronic Trading Only:* Proposed paragraph (b) provides that all trading during Extended Trading Hours will be electronic on the Hybrid Trading System only (excluding the Hybrid 3.0 Platform) and that there will be no open outcry trading on the floor during Extended Trading Hours. Because various Rules accommodate open outcry and electronic trading by routing orders to PAR workstations,[15] the order entry firm's booth or otherwise for manual handling under certain circumstances,[16] the proposed rule change notes that if the Rules provide that an order should route to PAR, the System will return the order to the Trading Permit Holders during Extended Trading Hours.
- *Eligibility:* Proposed paragraph (c) provides that the Exchange may designate as eligible for trading during Extended Trading Hours any exclusively listed option that the Exchange has designated for trading pursuant to Rules 24.2 and 24.9 (see discussion below for additional details).[17] As indicated above, the Exchange has approved SPX[18] and VIX

[10] The proposed rule change makes conforming changes to Rule 24.6 (including Interpretation and Policy .01) regarding the days and hours of business with respect to index options.

[11] The Exchange believes it is appropriate to retain flexibility to determine whether to operate during Extended Trading Hours so that it can complete all system work and other preparations prior to implementing Extended Trading Hours and so that it can evaluate trading activity during Extended Trading Hours once implemented and determine whether to continue or modify the trading session (subject to applicable rule filings).

[12] The proposed rule change adds Rule 1.1(ppp) to define the term ''Book'' as the electronic book of buy and sell orders and quotes maintained by the Hybrid Trading System. ''Hybrid Trading System'' refers to the Exchange's trading platform that allows Market-Makers to submit electronic quotes in their appointed classes. *See* Rule 1.1(aaa). The Book is also referred to as book, electronic book and EBook throughout the Rules, and the term ''Book'' as used in the Rules will refer to the Book used during Regular Trading Hours or Extended Trading Hours, as applicable.

[13] As discussed further below, except as set forth in proposed Rule 6.1A and except for rules that by their terms are inapplicable during Extended Trading Hours or where the context otherwise requires, all Exchange rules apply to trading during Extended Trading Hours, including the business conduct rules in Chapter IV and rules related to doing business with the public in Chapter IX. Additionally, a broker-dealer's due diligence and best execution obligations apply during Extended Trading Hours.

[14] The proposed rule change makes conforming changes to Rules 6.1, Interpretations and Policies .03 and .05, 6.2, Interpretations and Policies .01–.03 and .05, 6.2A and 6.2B, Interpretations and Policies .01 and .08 to indicate provisions of those Rules that will not apply during Extended Trading Hours and will thus apply during Regular Trading Hours only.

[15] PAR workstations are located in the trading crowds on the trading floor to allow manual handling of orders by Trading Permit Holders and Exchange PAR Officials. Because there will be no trading floor during Extended Trading Hours, PAR workstations will also not be available.

[16] For example, Rule 6.13(b)(v) states that if an order does not automatically execute because it does not satisfy the price check parameters set for the applicable class pursuant to that rule, then the order may route to PAR or, at the order entry firm's discretion, to the order entry firm's booth; if the order is not eligible to route to PAR, then it will be cancelled. Pursuant to proposed Rule 6.1A(b), during Extended Trading Hours, the system would return this order to the Trading Permit Holder.

[17] The proposed rule change makes a conforming change to Rule 24.6 (including Interpretation and Policy .01) (regarding days and hours of business for index options transactions) to indicate that the Exchange may authorize transactions in index options identified in Rule 6.1A during Extended Trading Hours.

[18] The Exchange notes that SPX currently trades on the Hybrid 3.0 trading platform during Regular

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for trading on the Exchange during Extended Trading Hours. Any series in these classes that are expected to be open for trading during Regular Trading Hours will be open for trading during Extended Trading Hours on that same trading day (subject to Rules 6.2B and 24.13, Interpretation and Policy .03, which set forth procedures for the opening of trading). Flexible Exchange Options (''FLEX Options''), which trade pursuant to Chapters XXIVA and XXIVB, will not be eligible for trading during Extended Trading Hours.[19]

• *Participants:* Proposed paragraph (d) provides that Trading Permit Holders must obtain an Extended Trading Hours Trading Permit to trade during Extended Trading Hours pursuant to the process set forth in Rule 3.1.[20] As is true during Regular Trading Hours, only authorized Trading Permit Holders (including their nominees) and their associated persons may access the Hybrid Trading System (this would apply to any non-U.S. based Trading Permit Holders).[21] The Exchange notes that while there is a distinction between Trading Permits with respect to trading sessions, there is no distinction for Trading Permit Holder status with respect to trading sessions. In other words, a current Trading Permit Holder does not need to reapply to become an Extended Trading Hours Trading Permit Holder. Trading Permit Holders may trade during Regular Trading Hours and/or Extended Trading Hours as long as they hold a Trading Permit(s) for the applicable trading session.[22] Because Regular Trading Hours and Extended Trading Hours are separate, the Exchange believes it is appropriate to have separate Trading Permits for the trading sessions.

• *Market-Makers:* Proposed paragraph (e) provides that a Market-Maker's appointment during Regular Trading Hours does not apply during Extended Trading Hours.[23] This is consistent with the separation of the two trading sessions. Additionally, because Extended Trading Hours will occur during overnight hours in Chicago (and trading levels are expected to be lower than those during Regular Trading Hours), the Exchange does not believe that Market-Maker Regular Trading Hours appointments should apply during Extended Trading Hours (and thus impose obligations on Market-Makers during that trading session who may not want to trade during that trading session).

Market-Makers may request Extended Trading Hours appointments in accordance with Rule 8.3 (and proposed subparagraph (e)(i)). Similar to Regular Trading Hours, proposed Rule 6.1A(e)(i) provides that Market-Makers can create a Virtual Trading Crowd appointment during Extended Trading Hours, which confers the right to quote electronically during Extended Trading Hours in the appropriate number of classes selected from the Extended Trading Hours tier and related appointment costs. For Extended Trading Hours, the appointment cost for each of VIX and SPX options will be 0.5. Each Extended Trading Hours Trading Permit will have an appointment credit of 1.0 (the same as a Regular Trading Hours Trading Permit), so at the launch of Extended Trading Hours, a Market-Maker will only need to hold one Extended Trading Hours Trading Permit if it wants to quote in both SPX and VIX during Extended Trading Hours.[24]

Rule 8.7(d)(ii) requires Market-Makers that trade more than 20% of contract volume electronically in an appointed class to (a) comply with bid/ask differential requirements determined by the Exchange on a class-by-class basis, (b) maintain continuous electronic quotes in 60% of the non-adjusted option series of in each appointed class [25] with a time to expiration of less than nine months for 90% of the time when the Market-Maker is quoting in a class, with initial quote size for the minimum number of contracts determined by the Exchange on a class-by-class basis (which must be at least one contract) and (c) provide a two-sided market in response to a request for quote in the crowd complying with bid/ask differential requirements. Rule 1.1(ccc) provides that a Maker will be deemed to have provided continuous electronic quotes if it provides electronic two-sided quotes for 90% of the time that the Market-Maker is required to provide electronic quotes in an appointed class on a given trading day.

Trading Hours (weekly SPX series trade on the Hybrid trading platform during Regular Trading Hours). Pursuant to proposed Rule 6.1A(b), SPX will trade on the Hybrid trading platform (and not the Hybrid 3.0 trading platform) and thus pursuant to rules applicable to the Hybrid trading platform (rather than the Hybrid 3.0 trading platform) during Extended Trading Hours.

[19] Rules 24A.4(b) and (c) and 24B.4(b) and (c) provide the Exchange with the authority to approve and open for trading any FLEX Options series on any index or security that is eligible for non-FLEX Options trading under Rules 24.2 or 5.3, respectively. Therefore, not listing FLEX Options during Extended Trading Hours is consistent with the Exchange's current authority.

[20] The proposed rule change amends Rule 3.1(a)(iv) to provide that (a) the Exchange will also have the authority to issue different types of trading permits to trade during Regular Trading Hours or Extended Trading Hours and (b) Trading Permits for one trading session do not allow trading during another trading session. The Exchange intends to issue Regular Trading Hours Trading Permits and Extended Trading Hours Trading Permits. A Regular Trading Hours Trading Permit allows the holder to trade during Regular Trading Hours but not Extended Trading Hours, and an Extended Trading Hours Trading Permit allows the holder to trade during Extended Trading Hours but not Regular Trading Hours. The Exchange notes that Rule 3.1(a)(vi) provides the Exchange with authority to limit or reduce the number of any type of Trading Permit it can issue. Thus, under that rule, the Exchange will be able to limit the number of Extended Trading Hours Trading Permits it issues, which may be different than the limit of Regular Trading Hours Trading Permits (a different Trading Permit type) it issues. The Exchange intends to set the initial limit of Extended Trading Hours Trading Permits at 300 Market-Maker Trading Permits and 150 Electronic Access Trading Permits (compared to 900 Market-Maker Trading Permits, 150 Floor Broker Trading Permits and 150 Electronic Access Trading Permits for Regular Trading Hours), as set forth in Regulatory Circular RG14–092 (dated June 13, 2014). The Exchange expects fewer Market-Makers (due to fewer products traded) during Extended Trading Hours, and Floor Broker Trading Permits are unnecessary during Extended Trading Hours (due to no open outcry trading).

[21] *See* Rule 6.23A(d). The Exchange's Web site provides the process pursuant to which Trading Permit Holders and their associated persons may receive authorization from the Exchange to access the Hybrid Trading System. Additionally, pursuant to Rule 3.8(a), all Trading Permit Holder organizations must designate an individual nominee to represent the organization with respect to each of the organization's Trading Permits. Among other things, a nominee must be approved to be a Trading Permit Holder. Thus, a nominee under Rule 3.8 would be able to access the Exchange as a Trading Permit Holder and on behalf of the applicable Trading Permit Holder organization in accordance with the rules. This is consistent with Rule 6.1, Interpretation and Policy .05, which provides that the term ''Trading Permit Holder'' as defined in the Exchange's bylaws and used in the Exchange's rules includes a nominee of a Trading Permit Holder organization unless the context otherwise requires.

[22] The Commission recently approved changes to Rule 6.21 related to give ups of Clearing Trading Permit Holders that have not yet been implemented. *See* Securities Exchange Act Release No. 34–72668 (July 24, 2014), 79 FR 44229 (July 30, 2014) (SR–CBOE–2014–048). Consistent with the changes described above regarding Trading Permits for each trading session, the proposed rule change amends the recently approved rule text in Rule 6.21 to provide that the Clearing Trading Permit Holder that is named as the give up for a transaction must hold a Trading Permit for the trading session in which the transaction occurred. A Clearing Trading Permit Holder must be operating in a trading session to be able to clear transactions during that trading session, and thus must hold a Trading Permit for that trading session.

[23] The proposed rule change makes conforming changes to Rule 8.3.

[24] The proposed rule change makes conforming changes to Rule 8.3(c) to indicate that appointments pursuant to that provision (including the appointment costs) apply during Regular Trading Hours only and that the quarterly rebalancing of appointment costs excludes Extended Trading Hours tier classes.

[25] The Exchange recently amended this provision to, among other things, apply to all appointed classes collectively, which change is effective but not yet operative. Securities Exchange Act Release No. 34–72742 (August 1, 2014), 79 FR 46282 (August 7, 2014) (SR–CBOE–2014–059).

Proposed paragraph (e)(ii) provides that, notwithstanding the 20% contract volume requirement in Rule 8.7(d)(ii), Market-Makers with Extended Trading Hours appointments must comply with the quoting obligations set forth in Rule 8.7(d)(ii) (except during Extended Trading Hours the Exchange may determine to have no bid/ask differential requirements as set forth in subparagraph (A) and there will be no open outcry quoting obligation as set forth in subparagraph (C)) [26] as well as other obligations set forth in Rule 8.7. The Exchange notes that Market-Makers with appointments for Extended Trading Hours must still otherwise comply with applicable Exchange Rules that apply during Extended Trading Hours. Because of the expected lower liquidity, wider spreads and higher volatility during Extended Trading Hours, the Exchange believes it is appropriate to have the ability to not impose bid/ask differential requirements on Market-Makers during Extended Trading Hours in order to allow Market-Makers to quote under those conditions.[27] The proposed rule change allows the Exchange to impose bid/ask differential requirements during Extended Trading Hours (which it would announce by Regulatory Circular) if it thinks such an obligation would be appropriate. Additionally, because there is no open outcry trading during Extended Trading Hours, the Exchange believes it is appropriate to not apply the open outcry quoting obligation to Market-Makers during Extended Trading Hours.

Additionally, Rule 8.7(d) indicates that the quoting obligations in subparagraph (ii) do not apply for the first 90 days after a class begins trading and that a Market-Maker must satisfy the quoting obligations in subparagraph (ii) for a class beginning the calendar quarter following a calendar quarter in which it transacted more than 20% contract volume electronically in that class. Proposed paragraph (e)(ii) provides that, notwithstanding those two provisions, a Market-Maker with an Extended Trading Hours appointment in a class must immediately comply with the quoting obligations in Rule 8.7(d)(ii) during Extended Trading Hours. Similar to the reasoning above, because all Extended Trading Hours trading will be electronic only, the Exchange does not believe the 90-day delay period or calendar quarter delay is necessary for Extended Trading Hours.

Because appointments for each trading session are separate, the proposed rule change amends Rule 8.7(d)(iii) to provide that quoting obligations of Market-Makers apply per trading session. In other words, if a Market-Maker has an appointment in a class during Regular Trading Hours and Extended Trading Hours, the Exchange will determine compliance with the continuous electronic quoting requirement during Regular Trading Hours separately from compliance with the continuous electronic quoting requirement during Extended Trading Hours. Thus, a Market-Maker must quote in 60% of the non-adjusted series that have a time to expiration of less than nine months of an appointment for 90% of the time it is quoting during Regular Trading Hours (each trading day) and in 60% of the non-adjusted series that have a time to expiration of less than nine months of an appointment for 90% of the time it is quoting during Extended Trading Hours (each trading day).[28]

Pursuant to proposed paragraph (e)(iii)(A), the Exchange may approve one or more Market-Makers to act as Lead Market-Makers (''LMMs'') in each class during Extended Trading Hours in accordance with Rule 8.15A for terms of at least one month. However, to the extent the Exchange approves Market-Makers to act as LMMs during Extended Trading Hours, proposed paragraph (e)(iii)(B) provides that LMMs must comply with the continuous quoting obligation and other obligations of Market-Makers described above but not the obligations set forth in Rule 8.15A [29] during Extended Trading Hours for their allocated classes. It further provides that LMMs do not receive a participation entitlement as set forth in Rules 6.45B and 8.15B during Extended Trading Hours.

Pursuant to proposed paragraph (e)(iii)(C), if an LMM (1) provides continuous electronic quotes in at least the lesser of 99% of the non-adjusted series or 100% of the non-adjusted series minus one call-put pair in an Extended Trading Hours allocated class (excluding intra-day add-on series on the day during which such series are added for trading) during Extended Trading Hours in a given month and (2) ensures an opening of the same percentage of series by 2:05 a.m. for at least 90% of the trading days during Extended Trading Hours in a given month (which standards are substantially similar to LMM obligations during Regular Trading Hours except as discussed below), the LMM will receive a rebate for that month in an amount set forth in the Exchange Fees Schedule.[30] Notwithstanding Rule 1.1(ccc), for purposes of this heightened continuous quoting standard, an LMM will be deemed to have provided continuous electronic quotes during Extended Trading Hours if the LMM provides electronic two-sided quotes for 90% of the time in Extended Trading Hours in a given month.[31]

The Exchange believes it is more fitting to implement an incentive program with a rebate during Extended Trading Hours, rather than the obligation/benefit structure that exists during Regular Trading Hours. LMMs will not be obligated to satisfy

[26] The proposed rule change makes a conforming change to Rule 8.7(d) to indicate that Rule 8.7(d)(i) applies during Regular Trading Hours only. Additionally, the proposed rule change amends Rule 8.7(d) to state that the 20% threshold will be based on a Market-Maker's electronic trading volume during Regular Trading Hours only. Because only electronic trading is permitted during Extended Trading Hours, the Exchange believes it is appropriate to exclude that trading from the determination as to which set of obligations applies to a Market-Maker's appointment. For example, if a Market-Maker typically conducts most of its trading in its appointments in open outcry but elects to participate in Extended Trading Hours, it should not have to satisfy the electronic quoting obligations during Regular Trading Hours because its Extended Trading Hours trading puts the Market-Maker over the 20% threshold. It would, however, need to satisfy the continuous electronic quoting obligations during Extended Trading Hours.

[27] The Exchange notes that other exchanges with substantially similar continuous quoting obligations do not impose bid/ask differential requirements on Market-Makers during Regular Trading Hours (and also do not impose open outcry obligations). *See, e.g.,* C2 Options Exchange, Incorporated (C2) Rule 8.5.

[28] The proposed rule change makes a conforming change to Rule 1.1(ccc), which is the definition of continuous electronic quotes, to state that the percentage of time a Market-Maker must provide continuous electronic quotes is determined in the applicable trading session. Pursuant to Rule 8.7, Interpretation and Policy .01, the continuous electronic quoting obligation does not apply to intra-day add-on series on the day during which such series are added for trading.

[29] Rule 8.15A (and Rule 1.1(ccc)) requires LMMs to provide continuous electronic quotes in at least the lesser of 99% of the non-adjusted series or 100% of the non-adjusted series minus one call-put pair within their appointed classes, with the term call-put pair referring to one call and one put that cover the same underlying instrument and have the same expiration date and exercise price, for 90% of the time.

[30] The Exchange intends to submit a separate rule filing to adopt all fees applicable to Extended Trading Hours, including the amount of the rebate. As set forth in Regulatory Circular RG14–092, LMMs in each class that satisfy the heightened standard in a month are expected to receive a pro-rata share of a ''compensation pool'' equal to $25,000 times the number of LMMs in that class.

[31] If a technical failure or limitation of a system of the Exchange prevents the LMM from maintaining, or prevents the LMM from communicating to the Exchange, timely and accurate electronic quotes in a class, the duration of such failure will not be considered in determining whether the LMM has satisfied the 90% quoting standard with respect to that class. The Exchange may consider other exceptions to this continuous electronic quoting standard based on demonstrated legal or regulatory requirements or other mitigating circumstances.

heightened continuous quoting and opening quoting standards during Extended Trading Hours. The proposed rule change does not provide for LMMs to receive a benefit in exchange for satisfying an obligation. Instead, the proposed rule change creates an incentive program in which LMMs must satisfy a heightened standard to receive a rebate in order to encourage LMMs to provide significant liquidity during Extended Trading Hours.

The Exchange expects that Trading Permit Holders may need to undertake significant expenses to be able to quote at a significantly heightened standard during Extended Trading Hours, such as to perform system work and add personnel. The Exchange believes providing a rebate will encourage Trading Permit Holders to not only apply to be LMMs during Extended Trading Hours but incentive them to increase liquidity during Extended Trading Hours, as the rebate could offset the costs that accompany providing quotes at the heightened standard. The Exchange does not expect that the Regular Trading Hours obligation/benefit structure would provide similar incentive during Extended Trading Hours. The Exchange expects lower trading liquidity and trading levels during Extended Trading Hours, and thus fewer opportunities for an LMM to receive a participation entitlement. Without the possibility of receiving a participation entitlement on a sufficient volume of trades, there would not be sufficient incentive for Trading Permit Holders to undertake an obligation to quote at heightened levels, which could result in even lower levels of liquidity. Therefore, a rebate is more appropriate than imposing an obligation to receive a participation entitlement.

The participation entitlement received by LMMs during Regular Trading Hours is a form of financial benefit provided in return for satisfying a heightened quoting obligation. Offering a rebate during Extended Trading Hours is merely a different type of financial benefit that may be given to LMMs during Extended Trading Hours if it achieves a heightened quoting level. While the proposed standards are similar to the Regular Trading Hours quoting obligations (as the intent of the program is to incentive quoting to add liquidity to the trading session), the structure of the program is similar to other incentive programs (pursuant to which, for example, rebates are given in exchange for achieving volume thresholds). This program is just proposing a different type of threshold and a corresponding rebate that are more suited to the expected market conditions during Extended Trading Hours. The Exchange wants to provide LMMs with the flexibility to determine whether satisfying the heightened standard makes good business sense given the trading levels and costs during Extended Trading Hours.

The Exchange believes it is appropriate and fair for LMMs to satisfy the heightened continuous quoting standard during Extended Trading Hours as part of the incentive program on a monthly basis rather than a daily basis. First, as discussed above, the Exchange expects LMMs to have fewer employees available during Extended Trading Hours than Regular Trading Hours to address any systems issues that may arise (and thus such issues may take longer to correct), which will make satisfaction of this heightened standard more difficult. The Exchange also expects Trading Permit Holders to have additional costs during Extended Trading Hours to be able to quote at these heightened levels during Extended Trading Hours. Thus, the Exchange believes a monthly quoting standard, slightly modified from the daily Regular Trading Hours quoting obligation, will offset such additional burdens and incentive more Trading Permit Holders to be LMMs during Extended Trading Hours, which will increase liquidity during the trading session and ultimately benefit investors. The heightened standard is still challenging to achieve to justify the provision of a rebate. The Exchange believes fewer or no Trading Permit Holders will elect to function as LMMs and quote at the heightened standard during Extended Trading Hours if the standard is not applied monthly, because the benefits received (the rebate) would not offset the burdens to quote at such levels during Extended Trading Hours, particularly if those quotes will result in fewer trades during the trading session. The Exchange believes liquidity during Extended Trading Hours will benefit more from having more LMMs quoting at a heightened monthly standard than fewer (or no) LMMs quoting at a heightened daily standard.

Second, the Exchange does not believe a monthly standard would result in a material reduction in liquidity than a daily standard. An LMM that quotes 99% of the non-adjusted series (or 100% minus one call-put pair) for less than 90% of the time during one Extended Trading Hours session will have to quote more during another Extended Trading Hours session (or sessions) in the same calendar month to achieve the heightened standard and receive a rebate. To the extent the applicability of a monthly standard allows an LMM to quote a lower percentage in a class during one session, it essentially requires the LMM to quote a higher percentage in that class during another session in that month if it wants to receive the rebate for that month. Ultimately, the quoting levels balance out over the month. The Exchange also notes that the LMM heightened quoting standard must be met in each class to receive a rebate for that class. The Regular Trading Hours continuous quoting obligation, while applied daily, will soon be applied collectively. Thus, the Extended Trading Hours standard will be more difficult to achieve than the Regular Trading Hours obligation in this respect once that change is implemented and offsets any reduction that may result from a monthly standard.[32]

Third, as discussed above, the LMM heightened quoting standard, unlike during Regular Trading Hours, is not an obligation for which an LMM receives an entitlement but rather an incentive program condition to be satisfied to receive a rebate. While the Regular Trading Hours quoting obligation is applied daily, a monthly standard is consistent with other incentive programs. The Exchange believes having a monthly quoting standard will encourage more Market-Makers to apply to act as LMMs during Extended Trading Hours, which will provide greater liquidity during the trading session, ultimately benefiting all market participants during Extended Trading Hours.

Similarly, the opening quoting standard is not an obligation but rather an incentive condition to be satisfied to receive a rebate. The opening quoting standard that LMMs must satisfy to receive the rebate is substantially similar to the opening quoting requirement for Regular Trading Hours.[33] For the same reasons described

[32] *See supra* note 25.

[33] The proposed rule change provides a specific timing requirement, which it believes gives clearer guidance to LMMs regarding the opening quote standard. Currently, nearly all series open for Regular Trading Hours within that time frame, and thus the Exchange believes this timeframe is appropriate and will not be unduly burdensome on LMMs. Additionally, while the Extended Trading Hours opening standard is slightly less than the Regular Trading Hours opening standard, the Exchange believes it is appropriate to provide LMMs with slight flexibility, particularly because the proposed opening quoting standard is consistent with the series and timing percentage for the continuous quoting standard. The Exchange believes that having the same percentage standard at opening and during the Extended Trading Hours allows LMMs to more efficiently quote and incentivize satisfaction of the standards by LMMs. Additionally, the Exchange believes the slight flexibility at the open may encourage quoting by LMMs. The Exchange does not believe this slight

above regarding the monthly quoting standard, the Exchange believes it is appropriate for satisfaction of the opening standard to be based on a percentage of Extended Trading Hours trading sessions during a month rather than every trading session.

The Exchange notes that if a Market-Maker is unable to regularly comply with the quoting obligation due to systems issues or for other reasons during Extended Trading Hours, the Exchange has the authority under the rules to suspend or terminate a Market-Maker's registration or appointments.[34] The Exchange also notes that while it intends initially to approve LMMs during Extended Trading Hours for one-year terms,[35] it may consider an LMM's regularity of systems issues and monthly quoting levels when deciding whether to renew a Market-Maker's application to act as an Extended Trading Hours LMM.

The proposed rule change adds Rule 6.1A(e)(iv) to provide that an order submitted during Extended Trading Hours by a Trading Permit Holder that is a Market-Maker in the class for Regular Trading Hours but not Extended Trading Hours may be eligible for Market-Maker treatment. Market-Makers may receive the benefit of different margin treatment for Market-Maker orders,[36] and the proposed rule provides that this treatment may extend to an order in a class (subject to other restrictions) submitted by a Trading Permit Holder during Extended Trading Hours, even if the Trading Permit Holder acts as a Market-Maker for that class during Regular Trading Hours but not Extended Trading Hours. However, if the rules impose any percentage limit on ''off-floor orders'' of Market-Makers in a class, then such an order will be considered an off-floor order that counts toward that percentage limit. For example, Rule 8.7, Interpretation and Policy .03 provides that if a Market-Maker receives Market-Maker treatment for off-floor orders in a calendar quarter, then the Market-Maker must execute in person (and not through orders) at least 80% of its transactions in Hybrid 3.0 classes.[37] SPX is a Hybrid 3.0 class during Regular Trading Hours but will be a Hybrid class during Extended Trading Hours. Because all Extended Trading Hours transactions are electronic (and thus ''off-floor''), the Exchange believes SPX orders that are executed during Extended Trading Hours count towards the 20% limit on a Market-Maker's transactions that may be off-floor in SPX.

- *Orders:* Proposed paragraph (f) provides that all order types that are available for electronic processing during Regular Trading Hours[38] and as otherwise determined by the Exchange[39] will be available during Extended Trading Hours except market orders, market-on-close orders, stop orders and good-til-cancelled orders. The Exchange expects reduced liquidity, higher volatility and wider spreads during Extended Trading Hours. Therefore, the Exchange believes it is appropriate to not allow market orders (and stop orders, market-on-close orders and market-if-touched orders, which can become market orders) in order to protect customers should wide price fluctuations occur due to the potential illiquid and volatile nature of the market or other factors that could impact market activity.[40] The Exchange believes that good-til-cancelled orders would likely not be used often during Extended Trading Hours given the expected reduced liquidity during those hours and potential market changes during Regular Trading Hours. As discussed above and in the following paragraph, each trading session has a separate book. The Exchange believes that it further protects investors to start each Extended Trading Hours session with an empty book, as the orders from the previous Extended Trading Hours session will have been cancelled at the end of that previous session.

- *Book:* Proposed paragraph (g) provides that the Book used during Extended Trading Hours will not be connected to the Book used during Regular Trading Hours. As discussed above, orders and quotes in the Regular Trading Hours Book will not be displayed in the Extended Trading Hours Book, and vice versa. Additionally, orders and quotes submitted during Regular Trading Hours will not trade with orders and quotes submitted during Extended Trading Hours, and vice versa. Additionally, a separate complex order book (''COB'') will also be used during Extended Trading Hours, which COB will operate during Extended Trading Hours in accordance with Rule 6.53C(c) in the same manner as the COB operates during Regular Trading Hours and not be connected to the COB used during Regular Trading Hours. Complex orders in the COB during Extended Trading Hours will execute in accordance with Rule 6.53C(c)(ii). As discussed above, the System will cancel all orders and quotes remaining on the Book and COB at the end of an Extended Trading Hours session.

- *Compliance with Rules:* Proposed paragraph (h) provides that the business conduct rules set forth in Chapter IV of the Exchange's Rules apply during Extended Trading Hours. These Rules, among other things, prohibit Trading Permit Holders from engaging in acts or practices inconsistent with just and equitable principles of trade, making any willful or material misrepresentation or omission in any application, report or other communication to the Exchange or the Options Clearing Corporation, and from effecting or inducing the purchase, sale or exercise of any security for the purpose of manipulating the price or activity of the security.[41] These Rules

reduction in the opening standard will materially impact liquidity, which is already expected to be lower during Extended Trading Hours. In fact, the Exchange believes this flexibility may increase liquidity during Extended Trading Hours. In the event a series does not open because no LMM provides opening quotes in that series, the Exchange notes that Rule 8.7(d)(iv) requires Market-Makers to submit a quote or maintain continuous quotes in a series in their appointed classes if called upon by a designated Exchange official if the official deems it necessary in the interest of maintaining a fair and orderly market.

[34] *See, e.g.,* Rules 8.2(b) and 8.3(a)(i) (subject to the Market-Makers right to a review of any such determination).

[35] Proposed Rule 6.1A(e)(iii) provides that the Exchange may appoint LMMs to a class during Extended Trading Hours for terms of at least one month (which is consistent with the provision for terms of LMMs appointed to Hybrid classes during Regular Trading Hours as set forth in Rule 8.15A(i)).

[36] *See* Rule 12.3(f).

[37] Currently, there is no similar percentage limit for VIX; however, if the Exchange rules imposed a limitation on the allowed percentage of off-floor orders for VIX Market-Makers, then Extended Trading Hours VIX Market-Maker orders would similarly count toward any applicable off-floor order percentage limit.

[38] Certain order types, such as market-if-touched orders, are available during Regular Trading Hours but not accepted by the System for electronic processing and instead are routed to PAR.

[39] The rules provide the Exchange with flexibility to determine which order types are available in general and for specific functionality. *See, e.g,* Rules 6.2B(a)(i) (permitting the Exchange to determine order types that may be entered pre-opening and participate in the opening rotation); 6.13(b)(i) (permitting the Exchange to determine eligible order types for automatic execution); 6.53 (permitting the Exchange to make order types available on a class-by-class basis and providing that certain order types may not be made available for all Exchange systems); and 6.53C(c)(i) (permitting the Exchange to determine order origin types eligible for entry into the COB) and (d)(i)(2) (permitting the Exchange to determine order types eligible for the complex order auction (''COA'')). The proposed rule change is consistent with current Exchange authority under these rules.

[40] *See* ''Report of the Working Group on Investor Protection and Education,'' Extended Hours Working Group at 2, 4 (which report recommends that limit orders be used by investors in extended trading hours until trading during that time becomes more liquid, as limit orders are the most practical method of controlling risk).

[41] Rules 4.11 and 24.4 impose position limits and Rules 4.12 and 24.5 impose exercise limits on Trading Permit Holders transactions. However, the Exchange notes that Rules 24.4 and 24.5 provide

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apply to Trading Permit Holders even without this provision; however, given the importance of these Rules, the Exchange believes that it is worthwhile to also include their applicability in proposed Rule 6.1A so that the proposed Extended Trading Hours rules are more informative and complete.

• *Exchange Determinations:* Proposed paragraph (i) provides that to the extent the Rules allow the Exchange to make a determination, such as on a class-by-class or series-by-series basis, the Exchange may make a determination for Extended Trading Hours that differs from that made for Regular Trading Hours. The Exchange will announce all determinations made under Rule 6.1A by Regulatory Circular. The Exchange maintains flexibility with respect to certain rules so that it may apply different settings and parameters to each class to address the specific characteristics of that class and its market. For example: Rules 6.45A(a) and 6.45B(a) allow the Exchange to determine electronic allocation algorithms on a class-by-class basis [42]; Rule 8.7(b)(iv), (d)(i)(A) and (d)(ii)(A) allows the Exchange to determine bid/ask differential requirements on a class-by-class basis; Rules 6.2B(e)(ii) and 6.13(b)(v) allow the Exchange to set price reasonability checks on a class-by-class basis; and Rules 6.13A(a), 6.14A(a), 6.53C(d)(i)(2), 6.74A(a)(1) and 6.74B(a)(1) allow the Exchange to activate various auctions on a class-by-class basis.[43] Because trading during Extended Trading Hours will be electronic only, and because trading during Extended Trading Hours may be different than Regular Trading Hours (such as lower trading levels, reduced liquidity and fewer participants), the Exchange believes it is appropriate to extend this flexibility to each trading session.

With respect to Rules that require determinations by the Exchange, Floor Officials or other Exchange personnel (such as trading halts, opening series, and obvious errors), the Exchange represents that it will have appropriate personnel available during Extended Trading Hours to make these determinations to the extent necessary during the trading session.

• *Disclosure:* Proposed paragraph (j) requires Trading Permit Holders to make certain disclosures to customers regarding material trading risks that exist during Extended Trading Hours. The Exchange expects overall lower levels of trading during Extended Trading Hours compared to Regular Trading Hours. While trading processes during Extended Trading Hours will be substantially similar to trading processes during Regular Trading Hours, the Exchange believes it is important for investors, particularly public customers, to be aware of any differences and risks that may result from lower trading levels and thus requires these disclosures. Proposed paragraph (j) provides that no Trading Permit Holder organization may accept an order from a customer for execution during Extended Trading Hours without disclosing to that customer that trading during Extended Trading Hours involves material trading risks, including the possibility of lower liquidity (including fewer Market-Makers quoting), higher volatility, changing prices, an exaggerated effect from news announcements, wider spreads, the absence of an updated underlying index or portfolio value or intraday indicative value and lack of regular trading in the securities underlying the index or portfolio and any other relevant risk. The proposed rule provides an example of these disclosures. The Exchange believes that requiring Trading Permit Holders to disclose these risks to non-TPH customers will facilitate informed participation in Extended Trading Hours.

The Exchange also intends to distribute to its Trading Permit Holders and make available on its Web site a Regulatory Circular regarding Extended Trading Hours that discloses, among other things: (1) That the current underlying index value may not be updated during Extended Trading Hours, (2) that lower liquidity during Extended Trading Hours may impact pricing, (3) that higher volatility during Extended Trading Hours may occur, (4) that wider spreads may occur during Extended Trading Hours, (5) the circumstances that may trigger trading halts during Extended Trading Hours, (6) required customer disclosures (as described above), and (7) suitability requirements. The Exchange believes that, with this disclosure, Extended Trading Hours are appropriate and beneficial notwithstanding the absence of a disseminated updated index value during those hours.

• *Index Values:* Proposed paragraph (k) provides that the Exchange will not report a value of an index underlying an index option trading during Extended Trading Hours because the value of the underlying index will not be recalculated during or at the close of Extended Trading Hours. The closing value of the index from the previous trading day will be available for Trading Permit Holders that trade during Extended Trading Hours. However, the Exchange does not believe it would be useful or efficient to disseminate to Trading Permit Holders the same value repeatedly at frequent intervals, as it does during Regular Trading Hours (when the index value is being updated).[44]

The differences described above are consistent with the Exchange's goal to permit trading during Extended Trading Hours for those Trading Permit Holders

that there are no position or exercise limits on SPX or VIX.

[42] Thus, the allocation algorithm and priority overlays that apply to a class during Regular Trading Hours may differ from the allocation algorithm and priority overlays that apply to that class during Extended Trading Hours. For example, the ultimate matching algorithm with customer priority and participation entitlement may apply to Class XYZ during Regular Trading Hours but price-time with no customer priority or participation entitlement may apply to Class XYZ during Extended Trading Hours. The Exchange intends to initially apply the price-time allocation algorithm to SPX and the pro-rata allocation algorithm to VIX, with no priority overlays, pursuant to Rule 6.45B(a) during Extended Trading Hours. The Exchange announced this intention in Regulatory Circular RG14–092 (dated June 13, 2014) and will announce any changes to the algorithms applied to classes during Extended Trading Hours in additional Regulatory Circulars. As discussed above, Chapter IV business conduct rules apply to Trading Permit Holders during Extended Trading Hours. This includes Rule 4.2, which among other things prohibits Trading Permit Holders from violating the Act and the rules and regulations thereunder.

[43] In order to provide orders with opportunities for price improvement during Extended Trading Hours, the Exchange intends to activate COA and the automated improvement mechanism (''AIM'') auction during Extended Trading Hours, which will operate in accordance with Rules 6.53C and 6.74A, respectively, in the same manner as they do during Regular Trading Hours (including providing customer priority for executions following the conclusion of those auctions as set forth in those rules), except with respect to AIM, the requirement that three Market-Makers must be quoting to initiate an AIM auction will not apply during Extended Trading Hours. The Exchange believes it is appropriate to exclude this requirement during Extended Trading Hours because of excepted reduced number of Market-Makers during Extended Trading Hours. AIM is a valuable price improvement mechanism, and eliminating this requirement will make more price improvement opportunities available during Extended Trading Hours, despite potentially lower participation levels.

[44] Rule 24.2(b)(10), (d)(8), (e)(7) and (f)(11) currently provides that underlying index values will be disseminated at least once every 15 seconds. This provision is superseded with respect to Extended Trading Hours by proposed Rule 6.1A(k), and thus no such dissemination will occur during Extended Trading Hours. The proposed rule change also amends Rule 24.3 to provide that dissemination of the current index value will occur after the close of Regular Trading Hours (thus, no such dissemination will occur after the close of Extended Trading Hours, as no new index value will have been calculated during Extended Trading Hours) and from time-to-time on days on which transactions are made on the Exchange (pursuant to proposed Rule 6.1A(k), the Exchange will not disseminate index values during Extended Trading Hours).

that choose to do so without imposing additional burdens on those that do not. The Exchange also notes the following in connection with this goal:

- The Exchange will not require any Trading Permit Holder to participate during Extended Trading Hours. Trading during Extended Trading Hours will be optional.
- The Exchange will minimize Trading Permit Holders' preparation efforts to the greatest extent possible by allowing Trading Permit Holders to trade during Extended Trading Hours with the same connection lines,[45] message formats and data feeds that they use during Regular Trading Hours. The Exchange notes that Trading Permit Holders must use separate log-ins and acronyms for each trading session.
- The Exchange will have a pre-opening period before the opening of trading during Extended Trading Hours and an opening rotation in the same manner it does for Regular Trading Hours. The proposed rule change amends Rule 6.2B(a) to extend the applicability of the Hybrid Opening System to Extended Trading Hours. The proposed rule change states that the pre-opening period for Extended Trading Hours will be a period of time prior to 2 a.m., during which time the Hybrid Trading System will accept orders and quotes.[46] The proposed rule change also amends Rule 6.2B(b) to provide that the Hybrid Trading System will initiate the opening rotation procedure and send a notice to market participants after 2 a.m. with respect to Extended Trading Hours.[47] The Exchange notes that Rule 6.2B(f) provides that two Floor Officials may deviate from the standard manner of the opening procedure when necessary in the interests of maintaining a fair and orderly market. Because there may be reduced participation and liquidity during Extended Trading Hours, the Exchange believes it may be appropriate in certain circumstances for Floor Officials to determine to open a series during Extended Trading if, for example, there are no opening quotes if it believes there is sufficient order interest in the series.
- Order processing will operate in the same manner during Extended Trading Hours as it does for Regular Trading Hours. There will be no changes to the ranking, display, or allocation algorithms rules (as indicated above, the Exchange may apply a different allocation algorithm to a class during Extended Trading Hours than it applies to the class during Regular Trading Hours).
- There will be no changes to the processes for clearing, settlement, exercise and expiration.[48]
- The Exchange will report the Exchange best bid and offer and executed trades to the Options Price Reporting Authority (''OPRA'') during Extended Trading Hours in the same manner they are reported during Regular Trading Hours. Exchange proprietary data feeds will also be disseminated during Extended Trading Hours using the same formats and delivery mechanisms with which the Exchange disseminates them during Regular Trading Hours. Use of these proprietary data feeds will be optional.[49]
- The Exchange will require certain Trading Permit Holders to maintain connectivity to a backup trading facility during Extended Trading Hours, as it does during Regular Trading Hours.[50] The Exchange will announce which Trading Permit Holders must maintain this connectivity by Regulatory Circular.
- The Exchange will perform all necessary surveillance coverage during Extended Trading Hours.
- The Exchange will process all clearly erroneous trade breaks during Extended Trading Hours in the same manner it does during Regular Trading Hours and will have senior Help Desk personnel available to do so (the same personnel that do so during Regular Trading Hours), with one minor difference.

The proposed rule change amends Rule 6.25, Interpretation and Policy .02 to provide that, during Extended Trading Hours, the term ''Trading Officials'' as used in Rule 6.25 means at least two Exchange officials that are members of the Exchange's staff designated to perform Trading Official functions. During Regular Trading Hours, Trading Officials must include one Trading Permit Holder. However, because Trading Permit Holders may not be available during Extended Trading Hours, the Exchange believes it is appropriate to have the Exchange officials that are available make determinations under Rule 6.25 do so during Extended Trading Hours so that determinations that need to be made under the rule are done so in a timely and efficient manner in accordance with the rule.

The proposed rule change also amends Rule 6.25(a)(1)(iii) and (iv) to add a corresponding time for Extended Trading Hours by which parties may request reviews of transactions under that rule.

- The Exchange may halt trading during Extended Trading Hours in the interests of a fair and orderly market in the same manner it could during Regular Trading Hours pursuant to Rule 24.7. The proposed rule change amends Rule 24.7, Interpretation and Policy .01 to provide that one of the factors that the Exchange may consider when determining to halt trading in an option is if trading in related futures has been halted. Rule 24.7, Interpretation and Policy .01 currently provides that the Exchange may consider whether activation of price limits on futures exchanges when determining whether to halt trading in an index option; this proposed factor is merely an extension of the currently existing factor, which allows consideration of any halt in trading of the related futures product, not just a halt due to price limit activation. This factor is also consistent

[45] The Exchange notes that the same telecommunications lines used by Trading Permit Holders during Regular Trading Hours may be used during Extended Trading Hours. However, those lines will need to be connected to a separate application server at the Exchange to trade during Extended Trading Hours.

[46] The proposed rule change amends Rule 6.2 and 6.2A to state that the opening rotations described in those Rules will apply only during Regular Trading Hours. The Exchange will only use the Hybrid Opening System described in Rule 6.2B for Extended Trading Hours. The proposed rule change amends Rule 6.2B(b)(ii) to clarify that provision applies during Regular Trading Hours only. This provision primarily relates to floor trading, which will not be available during Extended Trading Hours. The proposed rule change also amends Rule 6.2B, Interpretations and Policies .01 and .08 to indicate that the modified opening procedure for Hybrid 3.0 classes and for classes on volatility settlement days apply during Regular Trading Hours only. The Hybrid 3.0 trading platform will not be available during Extended Trading Hours, and the Exchange will use the modified opening procedure for volatility settlement days during Regular Trading Hours only.

[47] The proposed rule change makes a corresponding change to Rule 24.13, which describes the opening rotation for index options, to include the applicable opening time for Extended Trading Hours.

[48] The Exchange has held discussions with the Options Clearing Corporation, which is responsible for clearance and settlement of all listed options transactions and has informed the Exchange that it will be able to clear and settle all transactions that occur on the Exchange and handle exercises of options during Extended Trading Hours.

[49] Any fees related to receipt of the OPRA data feed during Extended Trading Hours will be included on the OPRA fee schedule. Any fees related to receipt of the Exchange's proprietary data feeds during Extended Trading Hours will be included on the Exchange Fees Schedule (and will be included in a separate rule filing) or the Exchange's market data Web site, as applicable.

[50] Currently, all Market-Makers in exclusively listed option classes on CBOE who are streaming quotes in such classes, all DPMs in multiply listed option classes, and all Trading Permit Holders connected to the CBOE primary data center and transacting non-Trading Permit Holder customer business unless a Trading Permit Holder can demonstrate ready access to the back-up data center through another Trading Permit Holder connected to the back-up data center, must connect to the backup trading facility during Regular Trading Hours. *See* Regulatory Circular RG13–110.

with the Exchange's authority to consider whether trading in a related index option has been halted when determining whether to halt trading in an option on a security other than a stock option.[51]

In addition, Rule 24.7(d) provides that when the hours of trading of the underlying primary securities market for an index option do not overlap or coincide with those of the Exchange, the provisions in paragraphs (a) through (c) of that Rule (except for (a)(v)) do not apply. As Extended Trading Hours do not coincide with the hours of trading of the underlying primary securities market, the proposed rule change extends the applicability of paragraph (d) to Extended Trading Hours. Generally, the Exchange considers halting trading only in response to unusual conditions or circumstances, as it wants to interrupt trading as infrequently as possible and only if necessary to maintain a fair and orderly market. During Regular Trading Hours, it would be unusual, for example, for stocks or options underlying the index to not be trading or the current calculation of the index to not be available. However, as discussed above, there will be no calculation of underlying indexes during Extended Trading Hours, and Extended Trading Hours do not coincide with the regular trading hours of the underlying stock or options (there may be some overlap with trading of certain underlying stocks towards the end of Extended Trading Hours as mentioned above[52]). Thus, these factors described in Rule 24.7(a) (other than (a)(v)) are not unusual for Extended Trading Hours, and thus the Exchange does not believe it is necessary to consider these as reasons for halting trading during Extended Trading Hours.[53] Exclusion of Extended Trading Hours from those provisions will allow trading during that trading session to occur despite the existence of those conditions (if the Exchange considered the existence of those conditions during Extended Trading Hours as reasons to halt, trading during Extended Trading Hours would be halted every trading day). It is appropriate for the Exchange to consider any unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market during Extended Trading Hours, which may, for example, include whether the underlying primary securities market was halted at the close of the previous trading day (in which case the Exchange will evaluate whether the condition that led to the halt has been resolved or would not impact trading during Extended Trading Hours) or significant events that occur during Extended Trading Hours.

Rule 24.7(c) references Rule 6.3B regarding the initiation of a marketwide trading halt (or a circuit breaker). Under Rule 6.3B, the Exchange will halt trading in all classes whenever a circuit breaker is initiated in response to extraordinary market conditions. Rule 6.3B(b)(i) [sic] states that the Exchange will halt trading for 15 minutes if a Level 1 or Level 2 Market Decline occurs after 8:30 a.m. and up to and including 2:25 p.m. (or 11:25 a.m. for an early scheduled close). Additionally, the Exchange will not halt trading if a Level 1 or Level 2 Market Decline occurs after 2:25 p.m. (or 11:25 a.m., if applicable). Rule 6.3B(b)(ii) [sic] states that the Exchange will halt trading until the next trading day if a Level 3 Market Decline occurs. Exclusion of consideration of Rule 6.3B is consistent with the terms of Rule 6.3B, as the beginning of Extended Trading Hours occurs well past the 15-minute halt window for a Level 1 or Level 2 Market Decline, and is the next trading day in accordance with a Level 3 Market Decline. Additionally, if stock trading has not resumed within the 15-minute window, Rule 6.3B(c)(ii) [sic] allows the Exchange to open trading in all options not overlying any stocks for which trading has not resumed.

The Exchange believes that, even if stock trading was halted at the close of the previous trading day, the length of time between that time and the beginning of Extended Trading Hours is significant (over 10 hours), and the condition that led to the halt is likely to have been resolved. The proposed rule change allows the Exchange to consider unusual conditions or circumstances when determining whether to halt trading during Extended Trading Hours. To the extent a circuit breaker caused a stock market to be closed at the end of the prior trading day, the Exchange could consider, for example, whether it received notice from stock exchanges that trading was expected to resume (or not) the next trading day in determining whether to halt trading during Extended Trading Hours. Because the stock markets would not begin trading until after Extended Trading Hours opens, the Exchange believes it should be able to open Extended Trading Hours rather than waiting several hours to see whether stock markets open to allow investors to participate in Extended Trading Hours if the Exchange believe such trading can occur in a fair and orderly manner based on then-existing circumstances, not circumstances that existed many hours earlier.

Rule 24.7(c) currently provides that the factors in Rule 24.7(a) (other than (a)(v)) and circuit breakers initiated pursuant to Rule 6.3B do not apply to the Exchange when the hours of the underlying primary securities market for an index option do not overlap or coincide with those of the Exchange. As this is true for Extended Trading Hours, the proposed rule change merely extends this authority to such trading session.

The proposed rule change also amends certain rules to indicate that they apply separately to each trading session. Rule 6.23B provides that Trading Permit Holders may purchase bandwidth packets in accordance with the Exchange's Fees Schedule. The proposed rule change amends this rule to indicate that bandwidth packets can be purchased for each trading session.[54] Bandwidth packets for Regular Trading Hours are separate and distinct from bandwidth packets for Extended Trading Hours and may be used only during the applicable trading session. Rule 8.3A provides that the Exchange may impose a limit on the number of market participants that may quote electronically in a product.[55] The proposed rule change amends this rule to indicate that the quoting limit will apply during each trading session. The class quoting limit is intended to limit the number of quoters in a product at

[51] *See* Rule 6.3(a)(iv). As discussed above, VIX futures currently trade on CFE, which overlap with the proposed Extended Trading Hours on CBOE. The Exchange believes it is appropriate to consider halting trading in SPX and VIX options if CFE has halted trading in VIX futures.

[52] *See supra* note 6.

[53] Rule 24.7(a) provides that the Exchange may consider the following factors when determining whether to halt trading in an index option: (a) The extent to which trading is not occurring in the stocks or options underlying the index; (b) the current calculation of the index derived from the current market prices of the stocks is not available; (c) the ''current index level'' for a volatility index is not available or the cash (spot) value for a volatility index is not available; (d) the extent to which the rotation has been completed or other factors regarding the status of the rotation; or (e) other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

[54] Rule 6.23B currently provides that bandwidth limits are not in effect during pre-opening prior to 8:25 a.m. The proposed rule change amends this provision to indicate that the bandwidth limits will not be in effect five minutes before the beginning of a trading session to extend the applicability of this provision to the pre-opening period of Extended Trading Hours, as it will apply in the same manner to accommodate potentially increased activity prior to the opening.

[55] Pursuant to Rule 8.3A, Interpretation and Policy .01, the default class quoting limit for a Hybrid class is 50. Pursuant to that rule, the Exchange will submit a rule filing to increase this limit for a product (including for a product during Extended Trading Hours) and announce any changes to the limit in an Information Circular.

the same time, so the Exchange believes it is appropriate for the limit to apply to each trading session, particularly because the quoters during Regular Trading Hours may be different than those during Extended Trading Hours. Rule 8.18 makes available to Market-Makers a quote risk monitor mechanism (''QRM'') pursuant to which Market-Makers may establish parameters to manage their risk. The proposed rule change amends this rule to indicate that parameters established by Market-Makers apply to each trading session.[56] Thus, a Market-Maker that elects to use QRM for Regular Trading Hours and Extended Trading Hours will have to separately establish parameters for each trading session (although a Market-Maker may elect to use the same parameters for both trading sessions or use QRM for one trading session and not the other). These proposed rule changes are consistent with the separation of the trading sessions and provides for the application of different parameters to address the differing market conditions that may be present during each trading session.

Certain rules currently include general phrases related to a day, trading, such as normal trading and the close of trading. The proposed rule change makes technical changes to Rules 6.2B, Interpretation and Policy .03, 6.13(b)(vi), 8.7, Interpretation and Policy .01, and 11.1(c) and Interpretation and Policy .03 to incorporate the terminology included in this proposed rule change to specify the appropriate trading session(s) being referenced in those rules. The Exchange will disseminate last sale and quotation information during Extended Trading Hours through OPRA pursuant to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (the ''OPRA Plan''), as it does during Regular Trading Hours.[57] It will also disseminate an opening quote and trade price through OPRA for Extended Trading Hours.[58] Therefore, all Trading Permit Holders that trade during Extended Trading Hours will have access to all quote and sale information during those hours.

The Exchange understands that systems and other issues may arise and is committed to resolving those issues as quickly as possible, including during Extended Trading Hours. Thus, the Exchange will have appropriate staff on-site and otherwise available as necessary during Extended Trading Hours to handle any technical and support issues that may arise during those hours. Additionally, the Exchange will have Exchange Floor Officials available to address any trading issues that may arise during Extended Trading Hours.[59] The Exchange is also committed to fulfilling its obligations as a self-regulatory organization at all times, including during Extended Trading Hours, and will have appropriate trained, qualified regulatory staff in place during Extended Trading Hours to the extent it deems necessary to satisfy those obligations. The Exchange's surveillance procedures will also be revised to incorporate transactions that occur and orders and quotations that are submitted during Extended Trading Hours. The Exchange believes that its surveillance procedures are adequate to properly monitor trading of SPX and VIX options during Extended Trading Hours.

As discussed above, one of the primary goals of adding Extended Trading Hours is to attract investors located outside of the United States. In connection with extended trading hours on CFE, the Exchange implemented a communications hub near London, England in February 2013. The hub consists of telephone switch equipment and communication lines to provide direct access to the matching engine located in the United States. Currently, the hub is available to CFE trading privilege holders. However, upon launch of Extended Trading Hours, CBOE expects to allow Trading Permit Holders to connect to the hub to reach CBOE's matching engine located in the United States instead of setting up their own communication lines.[60] The Exchange believes the hub will provide Trading Permit Holders with a more efficient and cost-effective way to connect and submit orders to the Hybrid Trading System and thus encourage trading by these non-U.S. investors during Extended Trading Hours.[61]

In connection with the implementation of the hub for Trading Permit Holders, the proposed rule change amends the definition of Hybrid Trading System in Rule 1.1(aaa) to provide that the System will include any connectivity to the Exchange's trading platform that is administered by or on behalf of the Exchange, such as a communications hub. Additionally, to accommodate the potential interest of non-U.S. persons or organizations to become Trading Permit Holders, the proposed rule change amends Rule 3.4 regarding foreign Trading Permit Holders. Currently, Rule 3.4 provides that a Trading Permit Holder that does not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the Commission and the Exchange must (i) prepare all such reports, and maintain a general ledger chart of account and any description thereof, in English and U.S. dollars, (ii) reimburse the Exchange for any expense incurred in connection with examination of the Trading Permit Holder to the extent that such expenses exceed the cost of examining a Trading Permit Holder located within the United States, and (iii) ensure the availability of an individual fluent in English knowledgeable in securities and financial matters to assist the representatives of the Exchange during examinations.[62] The proposed rule change provides that if a Trading Permit Holder applicant is not domiciled in (with respect to individuals) or organized under the laws of (with respect to organizations) the United States, then, in order for the Exchange

[56] The proposed rule change also makes the nonsubstantive change to add a period after ''Rule 8.18'' in the rule heading to conform to the other rule headings throughout the rules.

[57] The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder. *See* Securities Exchange Act Release No. 17638 (March 18, 1981). The full text of the OPRA Plan is available at *http://www.opradata.com.* All operating U.S. options exchanges participate in the OPRA Plan. The operator of OPRA informed CBOE that it intends to add a modifier to the disseminated information during Extended Trading Hours.

[58] The proposed rule change makes a corresponding change to Rule 6.2B(d).

[59] The Exchange notes that, to conduct trading during Extended Trading Hours, persons that are not Trading Permit Holders, such as employees of affiliates of Trading Permit Holders located outside of the United States, may be transmitting orders and quotes during Extended Trading Hours (such non-Trading Permit Holders would not have direct access to the Exchange, and thus those orders and quotes would be submitted to the Exchange through Trading Permit Holders' systems subject to applicable laws, rules and regulations). Trading Permit Holders may authorize (in a form and manner determined by the Exchange) individuals at these non-Trading Permit Holder entities to contact the Help Desk during Extended Trading Hours to address any issues.

[60] Market participants may also connect to the hub to receive market data.

[61] *See supra* note 21 regarding who may directly access the Exchange on behalf of a Trading Permit Holder.

[62] The proposed rule change amends Rule 3.4(a)(iii) to provide that the individual referenced in that provision must be familiar with the Trading Permit Holder's securities business and financial matters, not just securities and financial matters in general. This more clearly states the intent of the rule to ensure that the individual is familiar with the appropriate matters and thus able to provide sufficient information to the Exchange as necessary. This proposed rule change is also consistent with CFE Rule 305B, upon which the proposed rule change is based.

to approve the applicant to be a Trading Permit Holder, the individual or organization must, in addition to the other conditions set forth in Rules 3.2 and 3.3: [63] (i) Be domiciled in or organized under the laws of a foreign jurisdiction expressly approved by the Exchange,[64] which approval may be limited to one or more specified categories of Trading Permit Holders or Trading Permit Holder activities or be contingent upon the satisfaction of specified conditions by such individual or organization, (ii) be subject to the jurisdiction of the federal courts of the United States and the courts of the state of Illinois, and (iii) prior to acting as agent for a customer from a foreign jurisdiction, obtain written consent from the customer that permits the individual or organization to provide information regarding the customer and the customer's trading activities to the Exchange in response to a regulatory request for information pursuant to the rules of the Exchange. The Exchange believes these additional requirements for foreign Trading Permit Holders are reasonable so that the Exchange is able to ensure it is in compliance with any regulatory requirements that apply to it in foreign jurisdictions in which Trading Permit Holders are located, to obtain all books, records, reports and other information regarding the Trading Permit Holders and their customers that is necessary to conduct its surveillances, and to provide it with jurisdiction over the Trading Permit Holders to enforce its rules.

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.[65] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [66] 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 facilitation 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) [67] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change is a competitive initiative designed to improve the Exchange's marketplace for the benefit of investors. The proposed rule change provides a new investment opportunity within the options trading industry that is consistent with the continued globalization of the securities markets and closer aligns the Exchange's trading hours with extended trading hours of stock exchanges and near round-the-clock trading of futures exchanges. The Exchange believes the proposed rule change will enhance competition by providing a service to investors that other options exchanges currently are not providing. The Exchange believes that competition among exchanges ultimately benefits the entire marketplace. Given the robust competition among the options exchanges, innovative trading mechanisms are consistent with the above-mentioned goals of the Exchange Act.

The proposed rule change also provides a mechanism for the Exchange to more effectively compete with exchanges located outside of the United States. Global markets have become increasingly interdependent and linked, both psychologically and through improved communications technology. This has been accompanied by an increased desire among investors to have access to U.S.-listed exchange products outside of Regular Trading Hours, and the Exchange believes this desire extends to its exclusively listed products. The Exchange believes that the proposed rule change is reasonably designed to provide an appropriate mechanism for trading outside of Regular Trading Hours while providing for appropriate Exchange oversight pursuant to the Act, trade reporting, and surveillance.

While no other options exchanges are currently open for trading outside of Regular Trading Hours, as discussed above, the Commission has authorized stock exchanges to be open for trading outside of those hours pursuant to the Act. Additionally, futures exchanges are also outside of those hours. Thus, the proposed rule change to adopt Extended Trading Hours is not novel. The Exchange currently has authority to list for trading the two products that will initially be available during Extended Trading Hours. As the proposed rule change is a new Exchange initiative, the Exchange believes it is reasonable to trade a limited number of classes upon implementation for which demand is believed to be the highest during Extended Trading Hours.

The vast majority of the Exchange's trading rules will apply during Extended Trading Hours in the same manner as during Regular Trading Hours, which rules have all been approved by the Commission as being consistent with the goals of the Act. Rules that will apply equally during Extended Trading Hours include rules that protect public customers, impose best execution requirements on Trading Permit Holders, and prohibit acts and practices that are inconsistent with just and equitable principles of trade as well as fraudulent and manipulative practices. The proposed rule change also provides opportunities for price improvement during Extended Trading Hours and applies the same allocation and priority rules that are available to the Exchange during Regular Trading Hours. The Exchange believes that the rules that will apply during Extended Trading Hours will continue to promote just and equitable principles of trade and prevent fraudulent and manipulative acts.

Additionally, the Exchange believes that the proposed rule change will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, as the Exchange will ensure that adequate staffing is available during Extended Trading Hours to provide appropriate trading support during those hours, as well as Exchange Officials to make any necessary determinations under the Rules during Extended Trading Hours (such as trading halts and trade nullification for obvious errors). The Exchange is also committed to fulfilling its obligations as a self-regulatory organization at all times, including during Extended Trading Hours. The Exchange's surveillance procedures will also be revised to incorporate transactions that occur and orders and quotations that are submitted during Extended Trading Hours. The Exchange believes that its surveillance procedures are adequate to

[63] The proposed rule change also specifically imposes the requirements of Rule 3.4(a) on any Trading Permit Holder not domiciled in or organized under the laws of the United States.

[64] The proposed rule change allows the Exchange to withdraw approval of a foreign jurisdiction at any time and provides any Trading Permit Holder domiciled in, or organized under the laws of, that foreign jurisdiction with three months following the withdrawal to come into compliance with Rule 3.4. If that does not occur, the Exchange may terminate the Trading Permit Holder's status as a Trading Permit Holder.

[65] 15 U.S.C. 78f(b).

[66] 15 U.S.C. 78f(b)(5).

[67] *Id.*

properly monitor trading of SPX and VIX options during Extended Trading Hours. Clearing and settlement processes will be the same for Extended Trading Hours transactions as they for Regular Trading Hours transactions.

The proposed rule change also allows all Trading Permit Holders and their associated persons with access to the Hybrid Trading System to obtain Trading Permits to trade during Extended Trading Hours, but does not require any Trading Permit Holder to participate during Extended Trading Hours, and thus does not unfairly discriminate among market participants. The Exchange also notes that Trading Permit Holders will be able to trade during Extended Trading Hours using the same connection lines, message formats and data feeds that they do during Regular Trading Hours, minimizing any preparation efforts necessary to participate during Extended Trading Hours.

Market-Makers that elect to have appointments during Extended Trading Hours will be subject to the same quoting obligations with respect to their appointments as they are during Regular Trading Hours, which will be separately determined for each trading session, except that no open outcry quoting obligation will apply during Extended Trading Hours, as there will be no open outcry trading. Additionally, the proposed rule change provides that the Exchange may not impose bid/ask differential requirements during Extended Trading Hours. Because of the expected lower liquidity, wider spreads and higher volatility during Extended Trading Hours, the Exchange believes this flexibility is appropriate in order to address these conditions. The Exchange notes that other options exchanges that are fully electronic (and thus have no open outcry trading) impose no bid/ask differential requirements on Market-Makers during Regular Trading Hours but have substantially similar continuous electronic quoting obligations as the Exchange will have during Extended Trading Hours. Therefore, the Exchange believes the proposed rule change provides the appropriate balance between the benefits and obligations of Market-Makers during Extended Trading Hours and thus consistent with the Act.

While LMMs will only be required to meet the same obligations as Market-Makers during Extended Trading Hours, the Exchange believes it may be unduly burdensome to impose heightened quoting obligations during Extended Trading Hours as it does during Regular Trading Hours given the expected lower participation and trading volume and liquidity. The Exchange believes LMMs should have the flexibility to determine whether satisfying the heightened standards is appropriate for its business given the then-current market conditions during Extended Trading Hours. Because there are no additional obligations imposed on LMMs during Extended Trading Hours, they receive no additional benefits (*i.e.,* no participation entitlement) during Extended Trading Hours. The incentive program is not unfairly discriminatory, as all Trading Permit Holders have the opportunity to apply to act as LMMs during Trading Permit Holders and participate in the incentive program, and the Exchange will appoint LMMs based on the factors set forth in the rules and otherwise disclosed to Trading Permit Holders.[68]

The LMM incentive program during Extended Trading Hours is reasonable, as it is designed to encourage increased quoting to add liquidity during those hours and, while the heightened standard is substantially similar to the Regular Trading Hours quoting obligation, is similar to other incentive programs. While it may have a different type of threshold than those programs, the threshold is designed to achieve the purpose the Exchange is seeking through this program (added liquidity during Extended Trading Hours). LMMs that satisfy the heightened continuous quoting standard and the opening quoting standard in a class receive a rebate pursuant to the Fees Schedule. The Exchange believes it is appropriate to offer this LMM incentive program during Extended Trading Hours (as opposed to imposing heightened obligations and providing a participation entitlement) given the potential added costs that an LMM may undertake in order to satisfy the heightened quoting standards and expected lower trading volume (and thus fewer opportunities to receive a participation entitlement) during that trading session. Additionally, if an LMM does not satisfy these standards, then it will not receive the rebate set forth in the Fees Schedule. The Exchange believes it will benefit all market participants in Extended Trading Hours to encourage LMMs to satisfy the heightened quoting standards, which may increase liquidity during those hours.

With respect to determining satisfaction by LMMs of these standards to receive the monthly rebate on a monthly basis, the Exchange expects Market-Makers to have fewer employees available during Extended Trading Hours than Regular Trading Hours to address any systems issues that may arise (and thus such issues may take longer to correct), which will make achievement of the heightened standards during Extended Trading Hours more difficult and potentially unduly burdensome. Because the Exchange expects reduced liquidity and trading activity during Extended Trading Hours, the Exchange believes applying the heightened quoting standard monthly will incentive more Trading Permit Holders to apply to be LMMs during Extended Trading Hours and thus increase liquidity during the trading session. Unlike during Regular Trading Hours (during which obligations must be satisfied daily), as discussed above, these standards are not obligations that an LMM must satisfy to receive a participation entitlement but rather an incentive to receive a rebate. A monthly standard is consistent with other incentive programs.[69] The Exchange believes having monthly quoting standards will encourage more Market-Makers to apply to act as LMMs during Extended Trading Hours, which may ultimately provide greater liquidity during the trading session (even if these standards represent slight reductions from the corresponding Regular Trading Hours LMM obligations), ultimately benefiting all market participants during Extended Trading Hours. This greater liquidity benefits all market participants by potentially providing more trading opportunities and tighter spreads. The Exchange will further discuss the LMM incentive program in a separate fee filing.

The proposed rule change clearly identifies the ways in which trading processes during Extended Trading Hours will differ from trading processes during Regular Trading Hours. Similarly, the proposed rule change indicates throughout the rules to which trading session they apply. These changes ensure that investors and the public are aware of any differences among the trading sessions and thus promote compliance by Trading Permit Holders with applicable rules during each trading session. The Exchange believes these differences are consistent with the separation of the trading sessions, the Exchange's goal to permit trading during Extended Trading Hours for those Trading Permit Holders that choose to do so without imposing

[68] *See* Regulatory Circular RG14–123 (dated August 12, 2014).

[69] *See, e.g.,* Securities Exchange Act Release No. 34–66054 (December 23, 2011), 76 FR 82332 (December 30, 2011) (SR–CBOE–2011–120) (adoption of volume incentive program that provides a rebate based on monthly trading activity) and the CBOE Fees Schedule.

additional burdens on those that do not, and the expected differences in liquidity, participation and trading activity between Regular Trading Hours and Extended Trading Hours. The flexibility provided to the Exchange to make determinations for each trading session will allow the Exchange to apply settings and parameters to address the different market conditions that may be present during each trading session. Additionally, to further protect investors from any additional risks related to trading during Extended Trading Hours, the proposed rule change requires that disclosures be made to customers describing these potential risks. The separation of Regular Trading Hours and Extended Trading Hours (including the use of separate Books) also protects investors by preventing any investors who do not wish to trade during Extended Trading Hours from having any orders or quotes trade during those hours. Consistent with the goal of investor protection, the Exchange will not allow market orders during Extended Trading Hours due to the expected increased volatility and decreased liquidity during those hours.

The proposed rule change is also consistent with Section 11A of the Act and Regulation NMS thereunder, because it provides for the dissemination of transaction and quotation information during Extended Trading Hours through OPRA pursuant to the OPRA Plan, which Commission approved and indicated to be consistent with the Act. While Section 11A and Regulation NMS contemplate an integrated system for trading securities, they also envision competition between markets, and innovation that provides marketplace benefits to attract order flow to an exchange does not result in unfair competition if the other markets are free to compete in the same manner.[70]

Additionally, the proposed rule change is also consistent with Rule 15c3–5 under the Act, in that it includes in the definition of System any connectivity to the Exchange's trading platform administered by or on behalf of the Exchange, such as the London hub. Thus, only Trading Permit Holders may connect to the hub.[71] The Exchange believes the proposed rule change promotes compliance by Trading Permit Holders with the market access requirements under that rule.[72] Further, the proposed rule change related to foreign Trading Permit Holders, including the requirement that the Exchange approve foreign jurisdictions from which Trading Permit Holders may connect, will promote compliance by the Exchange with regulatory requirements of governments and regulatory authorities outside of the United States. The proposed rule change that requires foreign Trading Permit Holders acting as agents for customers for foreign jurisdictions to obtain consent from customers that permits the Trading Permit Holders to provide information regarding their customers and their customers' trading activity to the Exchange enhances the Exchange's ability to satisfy its self-regulatory obligations by ensuring it is able to receive sufficient information to conduct its surveillances and investigations.

When Congress charged the Commission with supervising the development of a ''national market system'' for securities, Congress stated its intent that the ''national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed.[73] Consistent with this purpose, Congress and the Commission have repeatedly stated their preference for competition, rather than regulatory intervention to determine products and services in the securities markets.[74] This consistent and considered judgment of Congress and the Commission is correct, particularly in light of evidence of robust competition in the options trading industry. The fact that an exchange proposed something new is a reason to be receptive, not skeptical—innovation is the life-blood of a vibrant competitive market—and that is particularly so given the continued internalization of the securities markets, as exchanges continue to implement new products and services to compete not only in the United States but throughout the world. Options exchanges continuously adopt new and different products and trading services in response to industry demands in order to attract order flow and liquidity to increase their trading volume. This competition has led to a growth in investment choices, which ultimately benefits the marketplace and the public. The Exchange believes that the proposed rule change will help further competition by providing market participants with yet another investment option.

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. All Trading Permit Holders will be able to obtain a separate Trading Permit to trade during Extended Trading Hours. However, the proposed rule change does not impose additional burdens on those Trading Permit Holders that do not elect to trade during Extended Trading Hours. Additionally, while Market-Makers may choose to obtain an appointment for Extended Trading Hours, they are not required to do so, and if they do, they will be subject to the same quoting obligations that otherwise apply during Regular Trading Hours, with the exception of open outcry quoting obligations and potentially bid/ask differential requirements (although the Exchange will determine compliance with those obligations separately for each trading session). Similarly, while LMMs are not required to satisfy a heightened quoting standard and opening quoting standard, they do not receive the additional benefit of a participation entitlement. The Exchange believes the obligations imposed on

[70] *See* Exchange Act Release No. 29237 (May 24, 1991) (SR–NYSE–1990–052 and SR–NYSE–1990–053) (approval of proposed rule change for NYSE to extend its trading hours outside of Regular Trading Hours). The Exchange also notes that currently no other U.S. options exchange provides for trading during hours outside of Regular Trading Hours as is provided for in the proposed rule change, and only exclusively listed products will be available for trading during Extended Trading Hours, so there is currently no need for intermarket linkage during Extended Trading Hours.

[71] *See supra* note 21.

[72] Please note that in the adopting release for Rule 15c3–5 (risk management controls for brokers or dealers with market access), the Commission indicated that a broker-dealer relying on risk management technology developed by third parties should perform appropriate due diligence to help assure the controls are reasonably designed, effective, and otherwise consistent with Rule 15c3–5. Mere reliance on representations of the third-party technology developer—even if an exchange or other regulated entity—is insufficient to meet this due diligence standard.

[73] *See* H.R. Rep. No. 94–229, at 92 (1975) (Conf. Rep.).

[74] *See* S. Rep. No. 94–75, 94th Cong., 1st Sess. 8 (1975) (''The objective [in enacting the 1975 amendments to the Exchange Act] would be to enhance competition and to allow economic forces, interacting within a fair regulatory field, to arrive at appropriate variations in practices and services.''); Order Approving Proposed Rule Change Relating to NYSE Arca Data, Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (''The Exchange Act and its legislative history strongly support the Commission's reliance on competition, whenever possible, in meeting its regulatory responsibilities for overseeing the [self-regulatory organizations] and the national market system. Indeed, competition among multiple markets and market participants trading the same products is the hallmark of the national market system.''); and Regulation NMS, 70 FR at 37499 (observing that NMS regulation ''has been remarkably successful in promoting market competition in [the] forms that are most important to investors and listed companies'').

Market-Makers (including LMMs) during Extended Trading Hours is an appropriate balance of obligations and benefits, and the Exchange notes that the quoting obligations applicable during Extended Trading Hours are nearly identical to those of another options all-electronic options exchange (that has no bid/ask differential requirements during Regular Trading Hours). Additionally, elimination of bid/ask differential requirements during Extended Trading Hours is offset by the added costs Market-Makers may need to undertake to quote and fewer trades in which they may participate during Extended Trading Hours. Please see ''Purpose'' and ''Statutory Basis'' above for additional discussion regarding the balance of these benefits and obligations during Extended Trading Hours.

The Exchange believes the LMM incentive program during Extended Trading Hours will encourage LMMs to provide more liquidity during Extended Trading Hours, which may create more trading opportunities and tighter spreads and ultimately benefit all market participants. Please see ''Purpose'' and ''Statutory Basis'' above for additional discussion regarding the competitive impact of the proposed LMM incentive program, including the potential for increased liquidity during Extended Trading Hours. The Exchange also notes that Trading Permit Holders will be able to trade during Extended Trading Hours using the same connection lines, message formats, and data feeds that they do during Regular Trading Hours, reducing the potential added costs that Trading Permit Holders that elect to participate in Extended Trading Hours may need to undertake.

The Exchange believes the proposed rule change is a new competitive initiative that will benefit the marketplace and investors. The Exchange also believes the proposed rule change will enhance competition by providing a service to investors that other options exchanges currently are not providing. Additionally, all options exchanges are free to compete in the same manner. The Exchange further believes that the same level of competition among options exchanges will continue during Regular Trading Hours. Because CBOE proposes to make only exclusively listed products available for trading during Extended Trading Hours, and because quotes and orders submitted during Extended Trading Hours will not trade with quotes and orders submitted during Regular Trading Hours, the proposed rule change will have no effect on the national best prices or trading during Regular Trading Hours. The Exchange also believes the proposed rule change could increase its competitive position outside of the United States by providing investors with an additional investment vehicle with respect to their global trading strategies during times that correspond with regular trading hours outside of the United States.

Please see ''Statutory Basis'' above for additional discussion regarding the procompetitive impact of the proposed rule change.

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
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2014–062 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–2014–062. 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 a.m. and 3 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–CBOE–2014–062 and should be submitted on or before October 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[75]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–21731 Filed 9–11–14; 8:45 am]

BILLING CODE 8011–01–P

[75] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14091 and #14092]

Tennessee Disaster Number TN–00082

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Tennessee (FEMA–4189–DR), dated 08/13/2014.

Incident: Severe storms, tornadoes, straight-line winds, and flooding.

Incident Period: 06/05/2014 through 06/10/2014.

DATES: *Effective Date:* 09/03/2014.

Physical Loan Application Deadline Date: 10/14/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 05/13/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and