

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70027; File No. SR-CBOE-2013-076)

July 23, 2013

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Continuing Education

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 22, 2013, the Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Exchange Rule 9.3A regarding continuing education for registered persons. The text of the proposed rule change is available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

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

<sup>2</sup> 17 CFR 240.19b-4.

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

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 9.3A to specify the different Continuing Education (“CE”) requirements for registered persons based upon their registration with the Exchange. This change will authorize the Exchange to administer different CE programs to differently registered individuals while bringing clarity to Trading Permit Holders (“TPHs”) about what CE requirement they must fulfill. More specifically, the Exchange is proposing to: (1) enumerate the required Regulatory Element programs, (2) add language to Rule 9.3A that would outline which program Exchange registered persons engaging in proprietary trading must take, and (3) add language to 9.3A(c) specifying that registered persons with a Series 56 registration must complete the Firm Element of the CE requirement.

Background

Currently, Exchange Rule 3.6A.04 states that that each individual registered with the Exchange shall “satisfy the continuing education requirements set forth in Rule 9.3A.”<sup>5</sup> Exchange Rule 9.3A specifies the CE requirements for registered persons subsequent to their

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<sup>5</sup> See Exchange Rule 3.6A.04.

initial qualification and registration with the Exchange. The requirements consist of a Regulatory Element and a Firm Element.<sup>6</sup> The Regulatory Element is a computer-based education program administered by the Financial Industry Regulatory Authority (“FINRA”) to help ensure that registered persons are kept up to date on regulatory, compliance and sales practice matters in the industry.<sup>7</sup> Currently, there are three Regulatory Element programs: the S201 Supervisor Program for registered principals and supervisors; the S106 Series 6 Program for Series 6 registered persons; and the S101 General Program for Series 7 and all other registered persons. The Exchange is proposing to enumerate these programs in the Exchange Rulebook along with adding the S501 Series 56 Proprietary Trader Continuing Education Program for Series 56 registered persons.

#### Introduction of the Proprietary Trading Continuing Education Program

The Exchange is proposing to introduce a new CE Program for Proprietary Traders registered with the Exchange who have successfully completed the Proprietary Traders Examination (“Series 56”) and who have no other registrations. Exchange Rule 3.6A.08 outlines the registration and qualification requirements (including prerequisite examinations) for TPHs and TPH organizations conducting proprietary trading, market-making and/or effecting

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<sup>6</sup> Currently, the Firm Element of the CE Program applies to any person registered with a CBOE member firm who has direct contact with customers in the conduct of the member’s securities sales, trading and investment banking activities, and to the immediate supervisors of such persons (collectively called “covered registered persons”). The requirement stipulates that each member firm must maintain a continuing education program for its covered registered persons to enhance their securities knowledge, skill and professionalism. Each firm has the requirement to annually conduct a training needs analysis, develop a written training plan, and implement the plan.

<sup>7</sup> Rule 9.3A permits a member firm to deliver the Regulatory Element to registered persons on firm premises (“In-Firm Delivery”) as an option to having persons take the training at a designated center provided that firms comply with specific requirements relating to supervision, delivery site(s), technology, administration, and proctoring. In addition, Rule 9.3A requires that persons serving as proctors for the purposes of In-Firm Delivery must be registered.

transactions on behalf of other broker dealers.<sup>8</sup> An individual TPH and/or individual associated person who is engaged in the securities business of a TPH (as described in Interpretation and Policy .06 to Rule 3.6A) is required to register as a Proprietary Trader in CRD and pass the related qualification examination, the Series 56.<sup>9</sup>

The Proprietary Trader Continuing Education Program (S501) is a computer-based education program developed by many of the self-regulatory organizations (“Participating SROs”)<sup>10</sup> and administered by FINRA to ensure that registered persons are kept current on regulatory, compliance and trading practice matters in the industry. Unlike the other offered CE Programs, the Proprietary Trader Continuing Education Program is not part of the Uniform Continuing Education Program, which is developed and maintained by the Securities Industry Regulatory Council on Continuing Education.

The Proprietary Trader Continuing Education Program will logistically operate as the currently offered CE Programs do. Specifically, registered persons will be required, through CRD, to complete the Regulatory Element of the CE on the second anniversary of the base date and then every three years thereafter. While creating the S501, the Participating SROs believe that the current procedures of the other CE programs work well. The Securities Industry

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<sup>8</sup> See Exchange Rule 3.6A.08 which outlines the qualification requirements for each of the required registration categories on the Exchange: (1) Proprietary Trader, Proprietary Trader Principal, and Proprietary Trader Compliance Officer.

<sup>9</sup> See Exchange Rule 3.6A.06.

<sup>10</sup> The Participating SROs that have assisted with the development of, and plan to administer, the Series 56 and S501 are the Exchange, C2 Options Exchange, Incorporated (“C2”), the Chicago Stock Exchange, Inc. (“CHX”), the New York Stock Exchange, LLC (“NYSE”), NYSE Arca, Inc. (“Arca”), NYSE Amex, LLC (“Amex”), the NASDAQ Stock Market LLC (“NASDAQ”), the National Stock Exchange, Inc. (“NSX”), NASDAQ OMX BX, Inc. (“BX”), NASDAQ OMX PHLX, LLC. (“PHLX”), BATS Y-Exchange, Inc. (“BATS Y”), BATS Exchange, Inc. (“BATS”), EDGA Exchange, Inc. (“EDGA”), EDGX Exchange, Inc. (“EDGX”), International Securities Exchange, LLC (“ISE”), and BOX Options Exchange, LLC (“BOX”).

Regulatory Council on Continuing Education has tailored the process of the other CE Programs since its inception to a process that has been successful. Thus, as proposed, the S501 will work in the same manner. In addition, consistency between the different programs will avoid creating confusion amongst the registered persons and FINRA.

The Proprietary Trader Continuing Education Program (S501) is required for those registrants who registered as Proprietary Traders (“Series 56”) and do not maintain any other registration through CRD.<sup>11</sup> Individuals that are registered under any other registration are required to maintain the CE obligations associated with those registrations. For example, an individual that is registered as a Proprietary Trader with the Exchange yet continues to maintain a Series 7 registration will be required to continue taking the Series 7 Continuing Education Program (S101).<sup>12</sup> Though such individual may be engaging in the same capacity as one registered as a Proprietary Trader, because the Series 7 Examination is a more comprehensive exam of topics not covered on the Series 56, the Exchange believes that this individual continuing to maintain a Series 7 registration should complete a CE that covers all aspects of his or her registration.

As part of the new Proprietary Trader CE, registered persons will also be required to complete the Firm Element outlined in Exchange Rule 9.3A(c). Though proprietary traders with a Series 56 registration do not interact with the public, the Exchange believes this requirement is

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<sup>11</sup> Any registered person who receives a waiver of the Series 56 under Exchange Rule 3.6A.05, and does not maintain any other registrations in CRD, will be required to complete the Proprietary Trader Continuing Education Program (S501). Such individuals will also be required to complete the Firm Element which is currently described in Exchange Rule 9.3A(b).

<sup>12</sup> See footnote 11, supra. If a registered person has received a Series 56 waiver under Exchange Rule 3.6A.05 but continues to maintain a Series 7 registration (that predates the introduction of the Series 56 on the Exchange) that registered individual will only be required to continue taking the Series 7 CE Program (S101). Through CRD, FINRA will recognize the Series 56 as waived while still requiring the Series 7 CE completion.

appropriate as it ensures these registered persons continue to enhance their securities knowledge, skill and professionalism. As stated in Exchange Rule 9.3A(c)(ii), the program should be tailored to fit the business of the Trading Permit Holder or TPH organization. Thus, the Exchange believes it is appropriate that these individuals also complete the Firm Element.

The introduction of the Proprietary Trader Continuing Education Program allows the Exchange to tailor its CE requirements more closely to those registered individuals who are registered as Series 56. More specifically, the Exchange believes allowing individuals engaging in proprietary trading and registered under the Series 56 to complete a separate CE Program than those maintaining a Series 7 registration is appropriate as all individuals have the option of taking either test. In comparison to the Series 7, the Series 56 Examination is more closely tailored to the practice of proprietary trading while the Series 7 is more comprehensive. As such, the Exchange believes a Series 56 CE Program should be tailored as well. At the same time, if an individual would like to remain registered as a Series 7, the Exchange believes it is appropriate they continue to be required to complete the broader CE program. As stated above, though an individual maintaining a Series 7 registration may be engaging in the same capacity as one one [sic] registered as a Proprietary Trader, because the Series 7 Examination is a more comprehensive exam of topics not covered on the Series 56, the Exchange believes that such individual that continues to maintain a Series 7 registration should complete a CE that covers all aspects of his or her registration.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(c) of the Act,<sup>13</sup> in general, and

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<sup>13</sup> 15 U.S.C. 78f(c).

further the objectives of Section 6(c)(3)<sup>14</sup> of the Act, which authorizes the Exchange to prescribe standards of training, experience and competence for persons associated with the Exchange TPHs, in that the proposed rule codifies the existing requirements for Exchange TPHs and TPH organizations. The proposed rule also introduces a new CE program which merely prescribes a standard for Series 56 registered persons. The Exchange believes the proposed changes are reasonable and set forth the appropriate CE requirements for an individual Trading Permit Holder or individual associated person who is required to register under Exchange Rule 3.6A.

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. Specifically, the Exchange does not believe the administrative changes being made nor the introduction of the Proprietary Trader Continuing Education Program (S501) will affect intermarket competition as the Exchange believes all Exchanges offering the same CE requirements will file similar rules addressing those CE Programs. In addition, the Exchange does not believe the proposed changes will affect intramarket competition because all similarly situated registered persons, e.g. registered persons maintaining the same registrations, are required to complete the same CE requirements. For example, all individuals maintaining a Series 7 registration will be required to complete the Series 7 CE while all individuals maintaining a Series 56 registration (and no other registrations) will be required to complete the new Series 56 CE.

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<sup>14</sup> 15 U.S.C. 78f(c)(3).

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

Because the foregoing proposed rule does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay. The rule change specifies that proprietary traders who have qualified by taking the Series 56 exam or receiving a waiver of the Series 56 examination requirement, must take the S 501 continuing education program. The Exchange has represented that the S 501 continuing education will be available on August 19, 2013. Waiver of the operative delay will enable those registered persons required to take the S 501 continuing education to do so as soon as the program becomes available, enabling them to comply with their continuing education requirements in a timely manner, and thus is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposal operative upon filing.<sup>16</sup>

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or

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

<sup>16</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).



otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

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

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>);
- or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2013-076 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2013-076. This file number should be included on the subject line if e-mail 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 website (<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 website viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. 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-2013-076 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

Kevin M. O'Neill  
Deputy Secretary

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