

**SECURITIES AND EXCHANGE COMMISSION**  
(Release No. 34-71436; File No. SR-CBOE-2014-009)

January 29, 2014

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 23, 2014, Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to eliminate the requirement to publish certain information in the Exchange Bulletin. 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).

<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 currently publishes a weekly bulletin (“Exchange Bulletin”) as a means of providing certain administrative and regulatory information to Trading Permit Holders (“TPHs”). The Exchange Bulletin is currently delivered by e-mail or by hard copy free of charge to all effective TPHs on a weekly basis. Certain information included in the Exchange Bulletin is required to be published by Exchange rules (i.e., CBOE Rules 3.9, 3.11, 3.89 (sic), 16.3, and 17.9). The Exchange seeks to amend its rules to eliminate the requirement to publish this information in the Exchange Bulletin.

First, the Exchange proposes to amend Rule 3.9 (Application Procedures and Approval or Disapproval). Rule 3.9(e) currently provides that following receipt of an application to change Clearing Trading Permit Holders or an application to become a TPH,<sup>5</sup> the name of the applicant and the application request must be published in the Exchange Bulletin. The Exchange proposes to eliminate this requirement and

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<sup>5</sup> The Exchange is not required to publish receipt of an application submitted by a TPH that has been a TPH within 9 months prior to the date of receipt of the application.

subparagraph (e) of Rule 3.9 in its entirety. The Exchange notes that prior to its demutualization, Rule 3.9 provided that, in addition to being published in the Exchange Bulletin, this information had to be posted on the Exchange Bulletin Board for a prescribed period of time (“posting period”) so that members were aware of pending applications and could submit comments during this period to the Membership Department regarding an applicant’s fitness for membership. The Exchange has since eliminated the requirement to post notice on its Bulletin Board and the posting period<sup>6</sup> and consequently the Exchange no longer accepts such comments from TPHs. The Exchange notes that decisions regarding these applications are based upon objective criteria set forth in Exchange rules. Accordingly, the dissemination of this information is no longer necessary or relevant. Additionally, it is time-consuming for Exchange staff to prepare this information for publication on an ongoing basis and this process has become a strain on current resources. As such, the Exchange proposes to amend its rules to account for a shift in the availability of resources and the relevance of this information.

The Exchange next seeks to eliminate Rule 3.11 (Notice of Effectiveness of Trading Permit Holder and Trading Function Statuses) in its entirety. Rule 3.11 requires the Exchange to publish notice of effectiveness of a TPH status or approval of a trading function<sup>7</sup> in the Exchange Bulletin. The Exchange proposes to eliminate this requirement because the Exchange does not believe it is necessary to provide such information on an ongoing basis and the process of providing this information in the form of a bulletin is a

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<sup>6</sup> See Securities Exchange Act Release No. 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (SR-CBOE-2008-088).

<sup>7</sup> The Exchange notes that historically, it has only published general categories of trading functions (e.g., Market-Maker or Floor Broker)

strain on current resources. The Exchange notes that it will make a list of all effective TPHs available upon request.

Next, the Exchange proposes to amend Rule 8.89 (Transfer of DPM Appointments). Rule 8.89(d) provides that the Exchange shall publish in the Exchange Bulletin notice of a proposed transfer of a DPM appointment. The Exchange seeks to eliminate the requirement to publish notice of a proposed transfer of a DPM appointment in the Exchange Bulletin and provide instead that such notice be published on the CBOE website. The Exchange notes that it currently posts all proposed DPM appointment transfers on the CBOE website. The Exchange wishes to amend Rule 8.89(d) to reflect this practice. Additionally, as the Exchange already publishes such notice on at the CBOE website, publication of proposed DPM appointment transfers in the Exchange Bulletin is unnecessary and redundant.

The Exchange also seeks to amend Rule 16.3 (Reinstatement). Rule 16.3(a) currently provides that a TPH, person associated with a TPH or other person suspended or limited or prohibited with respect to access to services offered by the Exchange under the provisions of CBOE Chapter 16 (Summary Suspension), may apply for reinstatement within certain prescribed time periods. Rule 16.3(a) also requires that notice of any such application for reinstatement must be published in the Exchange Bulletin. The Exchange notes that it is a rare occurrence for a TPH, associated person of a TPH, or other person suspended or limited or prohibited with respect to access to services offered by the Exchange under the provisions of CBOE Chapter 16 to apply for reinstatement within the prescribed time periods. To the extent it would occur however, the Exchange proposes to eliminate this publication requirement. The Exchange does not currently accept

comments submitted by TPHs regarding an applicant's fitness for membership (or reinstatement for that matter) and accordingly, the Exchange does not believe it is necessary or required to put TPHs on notice and provide information regarding an application for reinstatement on an ongoing basis.

Finally, the Exchange seeks to amend Rule 17.9 (Decision). By way of background, CBOE Chapter XVII governs the Exchange's disciplinary process. Rule 17.1 (Disciplinary Jurisdiction) provides that a TPH or associated person of a TPH who is alleged to have violated or aided and abetted a violation of, among other things, any provision of the Securities Exchange Act of 1934, as amended (the "Act"), Bylaw or rule of the Exchange may be appropriately disciplined after notice and opportunity for hearing. Rule 17.6 (Hearing), provides that, subject to Rule 17.7 concerning summary proceedings, a hearing on the charges must held before one or more members of the Business Conduct Committee (the "BBC"). Rule 17.9 provides that following a hearing, the Panel must issue a decision in writing and that the Exchange must publish a summary of such decision in the Exchange Bulletin upon the decision becoming final. The Exchange seeks to amend Rule 17.9 to eliminate the requirement to publish summaries of BCC hearing decisions in the Exchange Bulletin and provide instead that the Exchange will post complete BCC hearing decisions on the CBOE website. The Exchange notes that it currently posts all decisions issued by the BCC on the CBOE website. The Exchange will continue this practice as it believes publication of such decisions is important, in part, to ensure consistent decision making. The Exchange also notes that in addition to posting full BCC decisions online, it intends to periodically issue a Regulatory Circular which will include summaries of any BCC decisions that have recently become

final. Accordingly, publication of summaries of those decisions in the Exchange Bulletin is unnecessary and redundant, as well as a strain on current resources.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>8</sup>

Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change is needed as publication of the information provided for in Rules 3.9(e), 3.11, 8.89(d), 16.3(a) and 17.9 in the Exchange Bulletin is a time-consuming process and the Exchange believes its resources could be more efficiently used if directed elsewhere. More specifically, by

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> Id.

alleviating an unnecessary strain on its resources, the Exchange will be enabled to better protect investors and the public interest.

Additionally, the Exchange notes that, as to the publication requirements set forth in Rules 3.9(e), and 16.3(a), the rationale for publishing this information was to, prior to demutualization, put members on notice of certain applications and provide them an opportunity to submit comments to the Exchange regarding the applicants. The Exchange however, no longer accepts such comments from TPHs. Determinations made regarding these applications are made by Exchange staff alone based upon objective criteria set forth in Exchange rules. Accordingly, the dissemination of this information is no longer necessary or relevant. As to the publication requirements set forth in Rule 3.11, the Exchange also believes it is not necessary to provide ongoing notice of effectiveness of a TPH status or approval of a trading function in the Exchange Bulletin, especially as these notices relate simply to statuses that have already been approved (unlike notices of pending membership applications which, as discussed, were historically posted so that members could submit comments regarding an applicant's fitness for membership).

As it relates to the requirements set forth in Rule 8.89(d) and 17.9, the Exchange notes that this information will continue to be disseminated, but through a different, more efficient means (i.e., post to CBOE website)

Finally, the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, in that all such investors would no longer receive an Exchange Bulletin that publishes: (i) the name of applicants and application requests to change Clearing Trading Permit Holders or to become a TPH; (ii) notice of

effectiveness of a TPH status or approval of a TPH trading function; (iii) notice of proposed transfers of DPM appointments; (iv) notice of applications for reinstatement; and (v) summaries of any BCC decisions.

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

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule changes impose any burden on intramarket competition because it applies to all TPHs. Additionally, the Exchange does not believe the proposed rule change will impose any burden on intermarket competition as it is merely attempting to eliminate the dissemination of information that it believes is no longer necessary or relevant via the Exchange Bulletin.

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 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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the



Commission,<sup>11</sup> the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup> At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### **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-2014-009 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-2014-009. 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

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<sup>11</sup> The Exchange has fulfilled this requirement.

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

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. 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-2014-009 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>14</sup>

Kevin M. O'Neill  
Deputy Secretary

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