SECURITIES AND EXCHANGE COMMISSION
Release No. 34-80264; File No. SR-CBOE-2017-021

March 16, 2017

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing
and Immediate Effectiveness of a Proposed Rule Change Related to Complex Orders

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 March 6, 2017, Chicago Board Options

Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange

Commission (the "Commission") the proposed rule change as described in Items I and II below,

which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to

Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b-4(f)(6) thereunder.[4] 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 seeks to amend its rules related to complex orders. The text of the

proposed rule change is provided below.

(additions are underlined; deletions are [bracketed])

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**Chicago Board Options Exchange, Incorporated
Rules**

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Rule 6.53C. Complex Orders on the Hybrid System

(a) – (c) No change.

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

[2]   17 CFR 240.19b-4.

[3]   15 U.S.C. 78s(b)(3)(A)(iii).

[4]   17 CFR 240.19b-4(f)(6).

(d) Process for Complex Order RFR Auction: Prior to routing to the COB or once on PAR, eligible complex orders may be subject to an automated request for responses ("RFR") auction process.

(i) For purposes of paragraph (d):

    (1) "COA" is the automated complex order RFR auction process.

    (2) A "COA-eligible order" means a complex order that, as determined by the Exchange on a class-by-class basis, is eligible for a COA considering the order's size, complex order type (as defined in paragraphs (a) and (b) above) and complex order origin types (as defined in subparagraph (c)(i) above). Complex orders processed through a COA may be executed without consideration to prices of the same complex orders that might be available on other exchanges.

(ii) Initiation of a COA:

(A) The System will send an RFR message to all Trading Permit Holders who have elected to receive RFR messages on receipt of (1) a COA-eligible order with two or more legs (including orders submitted for electronic processing from PAR) that is better than the same side of the derived net market or (2) a complex order with three or more legs that [(A)] meets the class, size, and complex order type parameters of subparagraph (d)(i)(2) and [is better than the same side of the derived net market or (B)] is marketable against the derived net market[, designated as immediate or cancel and meets the class and size parameters of subparagraph (d)(i)(2)]. Complex orders as described in subparagraph (ii)(A)(2) will initiate a COA regardless of the order's routing parameters or handling instructions (except for orders routed for manual handling). Immediate or cancel orders that are not marketable against the derived net market in accordance with subparagraph (ii)(A)(2)[(B)] will be cancelled. The RFR message will identify the component series, the size and side of the market of the COA-eligible order and any contingencies, if applicable.

(B) No change.

 (iii) – (ix) No change.

<p align="center">* * * * *</p>

The text of the proposed rule change is also 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.

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.   <u>Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change</u>

          1.   <u>Purpose</u>

On February 25, 2016, the Exchange submitted immediately effective filing SR-CBOE-2016-014, which amended Exchange rules related to the initiation of a complex order auction ("COA").[5] The purpose of SR-CBOE-2016-014 (as well as predecessor filings SR-CBOE-2015-081[6] and SR-CBOE-2014-017)[7] was to limit a potential source of unintended Market-Maker risk related to how the Exchange's Hybrid Trading System (the "System")[8] calculates risk parameters under Rule 8.18 when complex orders leg into the market.[9]

<u>Quote Risk Monitor</u>

Under Rule 8.18, CBOE offers Market-Makers that are obligated to provide and maintain continuous electronic quotes in an option class the Quote Risk Monitor Mechanism ("QRM"),

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[5]   <u>See</u> Securities Exchange Act Release No. 77297 (March 4, 2016), 81 FR 12764 (March 10, 2016) (SR-CBOE-2016-014) ("2016 Notice).

[6]   <u>See</u> Securities Exchange Act Release No. 76106 (October 8, 2015), 80 FR 62125 (October 15, 2015) (SR-CBOE-2015-081) ("2015 Notice).

[7]   <u>See</u> Securities Exchange Act Release No. 72986 (September 4, 2014), 79 FR 53798 (September 10, 2014) (SR-CBOE-2014-017) ("Approval Order").

[8]   The System is a trading platform that allows automatic executions to occur electronically and open outcry trades to occur on the floor of the Exchange. To operate in this "hybrid" environment, the Exchange has a dynamic order handling system that has the capability to route orders to the trade engine for automatic execution and book entry, to Trading Permit Holder and PAR Official workstations located in the trading crowds for manual handling, and/or to other order management terminals generally located in booths on the trading floor for manual handling. Where an order is routed for processing by the Exchange order handling system depends on various parameters configured by the Exchange and the order entry firm itself.

[9]   <u>See</u> the Approval Order, the 2015 Notice, and the 2016 Notice.

which is functionality to help Market-Makers manage their quotes and related risk. Market-Makers with appointments in classes that trade on the System must, among other things, provide and maintain continuous electronic quotes in a specified percentage of series in each class for a specified percentage of time.[10] To comply with this requirement, each Market-Maker may use its own proprietary quotation and risk management system to determine the prices and sizes at which it quotes. In addition, each Market-Maker may use QRM.

A Market-Maker's risk in a class is not limited to the risk in a single series of that class. Rather, a Market-Maker is generally actively quoting in multiple classes, and each class may comprise hundreds or thousands of individual series. The System automatically executes orders against a Market-Maker's quotes in accordance with the Exchange's priority and allocation rules.[11] As a result, a Market-Maker has exposure and risk in all series in which it is quoting in each of its appointed classes. QRM is an optional functionality that helps Market-Makers, and TPH organizations with which a Market-Maker is associated, limit this overall exposure and risk.

Specifically, if a Market-Maker elects to use QRM, the System will cancel a Market-Maker's quotes in all series in an appointed class if certain parameters the Market-Maker establishes are triggered. Market-Makers may set the following QRM parameters (Market-Makers may set none, some or all of these parameters):

- a maximum number of contracts for that class (the "contract limit") and a specified rolling time period in seconds within which such contract limit is to be measured (the "measurement interval");

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10   See Rules 8.7(d)(ii)(iv) (Market-Makers), 8.13(d) (Preferred Market-Makers), 8.15A(b)(i) (Lead Market-Makers) and 8.85(a)(i) (Designated Primary Market-Makers).

11   See Rules 6.45 and 6.53C.

- a maximum cumulative percentage (which is the sum of the percentages of the original quoted size of each side of each series that trade) (the "cumulative percentage limit") that the Market-Maker is willing to trade within a specified measurement interval; or

- a maximum number of series for which either side of the quote is fully traded (the "number of series fully traded") within a specified measurement interval.

If the Exchange determines the Market-Maker has traded more than the contract limit or cumulative percentage limit, or has traded at least the number of series fully traded, of a class during the specified measurement interval, the System will cancel all of the Market-Maker's electronic quotes in that class (and any other cases with the same underlying security) until the Market-Maker refreshes those quotes (a "QRM Incident"). A Market-Maker, or TPH organization with which the Market-Maker is associated, may also specify a maximum number of QRM Incidents that may occur on an Exchange-wide basis during a specified measurement interval. If the Exchange determines that a Market-Maker or TPH Organization, as applicable, has reached its QRM Incident limit during the specified measurement interval, the System will cancel all of the Market-Maker's or TPH Organization's quotes, as applicable, and the Market-Maker's orders resting in the book in all classes and prevent the Market-Maker and TPH organization from sending additional quotes or orders to the Exchange until the earlier to occur of (1) the Market-Maker or TPH organization reactivates this ability or (2) the next trading day.

The purpose of the QRM functionality is to allow Market-Makers to provide liquidity across most series in their appointed classes without being at risk of executing the full cumulative size of all their quotes before being given adequate opportunity to adjust their quotes. For example, if a Market-Maker can enter quotes with a size of 25 contracts in 100 series of class ABC, its potential exposure is 2,500 contracts in ABC. To mitigate the risk of having all 2,500

contracts in ABC execute without the opportunity to evaluate its positions, the Market-Maker may elect to use QRM. If the Market-Maker elects to use the contract limit functionality and sets the contract limit at 100 and the measurement interval at five seconds for ABC, the System will automatically cancel the Market-Maker's quotes in all series of ABC if 100 or more contracts in series of ABC execute during any five-second period.

To assure that all quotations are firm for their full size, the System performs the parameter calculations after an execution against a Market-Maker's quote occurs. For example, using the same parameters in class ABC as above, if a Market-Maker has executed a total of 95 contracts in ABC within the previous three seconds, a quote in a series of ABC with a size of 25 contracts continues to be firm for all 25 contracts. An incoming order in that series could execute all 25 contracts of that quote, and, following the execution, the total size parameter would add 25 contracts to the previous total of 95 for a total of 120 contracts executed in ABC. Because the total size executed within the previous five seconds now exceeds the 100 contract limit for ABC, the System would, following the execution, immediately cancel all of the Market-Maker's quotes in series of ABC. The Market-Maker would then enter new quotes for series in ABC. Thus, QRM limits the amount by which a Market-Maker's executions in a class may exceed its contract limit to the largest size of its quote in a single series of the class (or 25 in this example).

Proposal

SR-CBOE-2016-014 indicated that the Exchange would announce the implementation date of that rule change in a Regulatory Circular to be published no later than 90 days following the effective date of that filing and that the implementation date would be no later than 180 days following the effective date of that filing. The Exchange was unable to make the necessary

system changes in time to meet the deadlines set forth in SR-CBOE-2016-014. Thus, the Exchange proposes to revise the implementation date of SR-CBOE-2016-014. In conjunction with revising the implementation date of SR-CBOE-2016-014, the Exchange is proposing to revise the relevant rule text of Rule 6.53C to modify the manner in which the rule text describes complex orders that will initiate a COA.

The purpose of the rule filings in this series (SR-CBOE-2014-017, SR-CBOE-2015-081, and SR-CBOE-2016-014), including the instant filing, is to limit a potential source of unintended Market-Maker risk related to how the System calculates risk parameters under Rule 8.18 when complex orders leg into the market.[12] As discussed above, and described in the previous filings, by checking the risk parameters following each execution in a series, the risk parameters allow a Market-Maker to provide liquidity across multiple series of a class without being at risk of executing the full cumulative size of all its quotes. This is not the case, however, when a complex order legs into the regular market (i.e. the market for individual, or simple, orders). Because the execution of each leg of a complex order is contingent on the execution of the other legs, the execution of all the legs in the regular market is processed as a single transaction, not as a series of individual transactions.

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[12] Rule 6.53C(c)(ii)(1) provides that complex orders in the complex order book ("COB") may execute against individual orders or quotes in the book provided the complex order can be executed in full (or a permissible ratio) by the orders and quotes in the book. Rule 6.53C(d)(v)(1) provides that orders that are eligible for the complex order auction ("COA") may trade with individual orders and quotes in the book provided the COA-eligible order can be executed in full (or a permissible ratio) by the orders and quotes in the book. COA is an automated request for responses ("RFR") auction process. Upon initiation of a COA, the Exchange sends an RFR message to all Trading Permit Holders who have elected to receive RFR messages, which RFR message identifies the series, size and side of the market of the COA-eligible order and any contingencies. Eligible market participants may submit responses during a response time interval. At the conclusion of the response time interval, COA-eligible orders are allocated in accordance with Rule 6.53C(d)(v), including against individual orders and quotes in the book.

For example, if market participants enter into the System individual orders to buy 25 contracts for the Jan 30 call, Jan 35 call, Jan 40 call and Jan 45 call in class ABC, the System processes each order as it is received and calculates the Market-Makers parameters in class ABC following the execution of each 25-contract call. However, if a market participant enters into the System a complex order to buy all four of these strikes in class ABC 25 times, which complex order executes against bids and offers for the individual series (i.e. legs into the market), the System will calculate the Market-Maker's parameters in class ABC following the execution of all 100 contracts. If the Market-Maker had set the same parameters in class ABC as discussed above (100-contract limit with five-second measurement interval) and had executed 95 contracts in class ABC within the previous three seconds, the amount by which the next transaction might exceed 100 is limited to the largest size of its quote in a single series of the class. In that example, since the largest size of the Market-Maker's quotes in any series was 25 contracts, the Market-Maker could not have exceeded the 100-contract limit by more than 20 contracts (95 + 25 = 120). However, with respect to the complex order with four legs 25 times, the next transaction against the Market-Maker's quotes potentially could be as large as 100 contracts (depending upon whether there are other market participants at the same price), creating the potential in this example for the Market-Maker to exceed the 100-contract limit by 95 contracts (95 + 100 = 195) instead of 20 contracts.

As this example demonstrates, legging of complex orders into the regular market presents higher risk to Market-Makers than executing their quotes against individual orders entered in multiple series of a class in the regular market, because it may result in Market-Makers exceeding their risk parameters by a greater number of contracts. This risk is directly

proportional to the number of legs associated with a complex order. Market-Makers have expressed concerns to the Exchange regarding this risk.

In order to alleviate this potential risk to Market-Makers, the Exchange, in SR-CBOE-2015-081, amended Rule 6.53C(d) to, among other things, provide that a COA will be initiated when a complex order with three or more legs is designated as immediate or cancel ("IOC") and meets the class, marketability, and size parameters of subparagraph (d)(i)(2).[13] The Exchange observed IOC orders causing the risk to Market-Makers described above and believed the previous amendment proposed in SR-CBOE-2015-081 would reduce that risk by initiating a COA in those circumstances. SR-CBOE-2016-014 attempted to fine tune this requirement by amending Rule 6.53C(d)(ii)(A)(2)(B) to provide that a COA will be initiated when a complex order with three or more legs that is marketable against the derived net market is designated as immediate or cancel and the order meets the class and size parameters of subparagraph (d)(i)(2). SR-CBOE-2016-014 also hardcoded the price at which an order could initiate a COA.

The Exchange is proposing to further fine tune the rule text by amending Rule 6.53C(d)(ii)(A)(1) and (2).[14] Currently the term COA-eligible order in Rule 6.53C(d)(ii)(A)(1) is used in relation to orders with two legs. The Exchange is proposing to keep the term COA-eligible as the starting point for orders with three or more legs as well,[15] because all orders with two or more

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[13]   See Rule 6.53C(d)(ii)(A)(2)(B). The Exchange has not yet implemented the changes described in SR-CBOE-2015-081 in anticipation of this proposal.

[14]   As with SR-CBOE-2015-081 and SR-CBOE-2016-014, this proposed change applies to Hybrid classes only, and not Hybrid 3.0 classes. The Exchange does not believe the risk discussed in this rule filing is present in Hybrid 3.0 classes because in Hybrid 3.0 classes complex orders are not legged into the regular market. See Rule 6.53C.10 (providing flexibility for the Exchange to determine to not allow marketable complex orders entered into COB and/or COA to automatically execute against individual quotes residing in the EBook).

[15]   See Proposed Rule 6.53C(d)(ii)(A)(1).

legs that are COA-eligible (i.e., meets the class, size, order type, and origin code parameters of Rule 6.53C(d)(i)(2)) will be treated the same by the Exchange—meaning the number of legs of an order under Rule 6.53C(d)(ii)(A)(1) will not be a factor in determining whether a complex order will or will not COA. In order to effectuate this change the Exchange is also modifying subparagraph (ii)(A)(2)(A) because all orders with three legs or more that are priced better than the same side of the derived net market will only COA if they are COA-eligible under subparagraph (ii)(A)(1), which means the current rule text of (ii)(A)(2)(A) is unnecessary. The Exchange notes that the difference between the current rule text with regards to orders with three legs that are priced better than the same side of the derived net market is that current subparagraph (ii)(A)(2)(A) requires a complex order with three or more legs that meets the class, size, and order type parameter to COA, regardless of the origin code, and proposed subparagraph (ii)(A)(1) provides that the origin code is an additional parameter the Exchange may set with regards to complex orders with three legs that are priced better than the same side of the derived net market. The Exchange believes it's appropriate to apply the origin code parameter to such orders because the flexibility allows the Exchange to use its considerable expertise in an effort to ensure COAs are beneficial to the marketplace, which is why the Exchange is proposing this particular rule change and why the Exchange developed the COA origin code parameter in 2008.[16] Applying the origin code parameter to complex orders with three legs that are priced better than the same side of the derived net market is consistent with the manner in which the rule text was written prior to SR-CBOE-2014-017. To illustrate, SR-CBOE-2008-082 added the origin type parameter to the definition of a COA-eligible order, such that a COA-eligible order was defined as:

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[16]   See Securities Exchange Act Release No. 58326 (August 7, 2008), 73 FR 47986 (August 15, 2008) (SR-CBOE-2008-82).

a complex order that, as determined by the Exchange on a class-by-class basis, is eligible for a COA considering the order's marketability (defined as a number of ticks away from the current market), size, complex order type (as defined in paragraphs (a) and (b) above) and complex order origin types (as defined in subparagraph (c)(i) above).[17]

Making current subparagraph (ii)(A)(2)(A) inapplicable to complex orders that are priced better than the derived net market and making subparagraph (ii)(A)(1) applicable to all such orders (i.e., allowing the origin code parameter to apply to complex orders that are priced better than the same side of the derived net market) is consistent with the Act because it essentially reverts rule text regarding COA-eligible orders back to how the rule text read prior to SR-CBOE-2014-017.

Additionally, prior to SR-CBOE-2014-017, the rule text essentially provided that any COA-eligible order will COA (as long as a member requested that a particular order COA), and as previously noted, what determines COA-eligibility has included the origin code parameter since 2008.[18] To illustrate, SR-CBOE-2005-65, which created COA, provided that a COA would be initiated "[o]n receipt of a COA-eligible order and request from the member representing the order that it be COA'd[.]"[19] SR-CBOE-2015-089 removed the requirement that an order include a request to initiate a COA, and instead implemented the opposite—a "do-not-COA" request that is

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[17] Id.

[18] Id.

[19] See Securities Exchange Act Release No. 54135 (July 12, 2006), 71 FR 41287 (July 20, 2006) (SR-CBOE-2005-65).

only allowed for certain orders.[20] This particular proposed rule change essentially provides that all COA-eligible orders will COA (unless the "do-not-COA provision of Rule 6.53C(d)(ii)(B) applies) provided that the complex order is priced better than the same side of the derived net market, except the proposal goes further by allowing certain orders that are not COA-eligible to still COA according to proposed subparagraph (ii)(A)(2). In short, it was consistent with the Securities Exchange Act of 1934 (the "Act") to: initiate a COA for COA-eligible order when COA was established in 2005; include the origin type parameter in the COA-eligibility definition when the origin type parameter was applied to the COA-eligibility definition in 2008; and allow COA-eligible orders to COA unless a "do-not-COA" accompanies certain orders when the "do-not-COA" request was established in 2015. Thus, it remains consistent with the Act to initiate a COA for a COA-eligible order today, which is essentially all proposed subparagraph (ii)(A)(1) states. It similarly remains consistent with the Act to allow COA-eligibility to include the origin type parameter and to COA all COA-eligible orders unless particular orders defined in Rule 6.53C(d)(ii)(B) include a "do-not-COA" request.

The Exchange also notes that adding the words "or more" to current subparagraph (ii)(A)(1) to provide that a COA-eligible order "with two legs or more" will COA is consistent with the Exchange Act because it is no different than not identifying the number of legs at all, which is how

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[20]   See current Rule 6.53C(d)(ii)(B), which provides: Notwithstanding subparagraph (ii)(A)(1), Trading Permit Holders may request on an order-by-order basis that an incoming COA-eligible order with two legs not COA (a "do-not-COA" request). Notwithstanding subparagraph (ii)(A)(2), the System will reject back to a Trading Permit Holder any complex order described in that subparagraph that includes a do-not-COA request. Any complex order in subparagraph (ii)(A)(2) on PAR will COA even if the PAR operator includes a do-not-COA request. If a two-legged order with a do-not-COA request rests on PAR, then the PAR operator may not request that the order COA. An order initially submitted to the Exchange with a do-not-COA request may still COA after it has rested on the COB pursuant to Interpretation and Policy .04. Securities Exchange Act Release No. 76622 (December 11, 2015), 80 FR 78803 (December 17, 2015) (SR-CBOE-2015-089).

the rule text read from COA's inception in 2005 until the Exchange submitted SR-CBOE-2014-017. As previously noted, SR-CBOE-2005-65, provided that a COA would be initiated "[o]n receipt of a COA-eligible order and request from the member representing the order that it be COA'd[.]"[21] In both cases—a "COA-eligible order with two or more legs" as proposed or "a COA-eligible order" as provided in SR-CBOE-2005-65— the phrase means a complex order with two or more legs. In fact, there really is no purpose to identifying the number of legs of a COA-eligible order in subparagraph (d)(ii)(A)(1), but it might provide some kind of clarity to market participants, considering that proposed subparagraph (d)(ii)(A)(2) will indicate that that particular provision applies to complex orders with three or more legs. Thus, it was consistent with the Act to initiate a COA upon receipt of COA-eligible order when COA was established in 2005, and it remains consistent with the Act to initiate a COA for a COA-eligible order, even if the rule text indicates that a COA will be initiated upon receipt of a COA-eligible order with two or more legs.

The purpose of proposed subparagraph (2) of Rule 6.53C(d)(ii)(A) is simply to allow certain orders with three legs that will not COA under subparagraph (1) to COA pursuant to subparagraph (2). Proposed Rule 6.53C(d)(ii)(A)(2) provides that a COA will be initiated upon receipt of a complex order with three or more legs that meets the class, size, and complex order type parameters of subparagraph (d)(i)(2) and is marketable against the derived net market. In short, if an order with three or more legs does not COA pursuant to Rule 6.53C(d)(ii)(A)(1)—because it is not COA-eligible—it may still COA pursuant to Rule 6.53C(d)(ii)(A)(2), as long as the order meets the class, size, complex order type parameters of subparagraph (d)(i)(2) and is marketable against the derived net market.

The Exchange notes that the flaw with SR-CBOE-2016-014 lies in current rule

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[21] See Securities Exchange Act Release No. 54135 (July 12, 2006), 71 FR 41287 (July 20, 2006) (SR-CBOE-2005-65).

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6.53C(d)(ii)(A)(2)(B), which provides that a COA will be initiated when a complex order with three or more legs:

> is marketable against the derived net market, designated as immediate or cancel and meets the class and size parameters of subparagraph (d)(i)(2).

This provision would prevent the Exchange from initiating a COA for an order that does not have the IOC contingency—even though the order has three or more legs, the order is marketable against the derived net market, and the order meets the class the class and size parameters of subparagraph (d)(i)(2). As previously noted, the purpose of the rule filings in this series (SR-CBOE-2014-017, SR-CBOE-2015-081, and SR-CBOE-2016-014), including the instant filing, is to limit a potential source of unintended Market-Maker risk related to how the System calculates risk parameters under Rule 8.18 when complex orders leg into the market. Complex orders with three or more legs that are not designated as IOC may still cause the risk to Market-Makers; thus, it is prudent for the Exchange to include the order type parameter in proposed Rule 6.53C(d)(ii)(A)(2) instead of singling out IOCs. The Exchange believes the reason SR-CBOE-2016-014 specifically identified IOCs in Rule 6.53C(d)(ii)(A)(2)(B) is because IOC's are not currently COA-eligible so all IOC orders with two or more legs do not currently initiate a COA and identifying IOCs in the rule text provided further notice to market participants that orders designated as IOC may COA. However, the Exchange believes it's unnecessary to identify IOCs in the rule text in this manner— although the Exchange notes that the rule text will continue to state that IOCs that are not marketable against the derived net market in accordance with subparagraph (ii)(A)(2) will be cancelled, which serves as notice to market participants that IOCs will initiate a COA in certain circumstances, especially considering that upon filing this proposal the Exchange will also be publishing a circular that identifies IOCs as a contingency that may initiate a COA in certain circumstances.

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The Exchange also notes that SR-CBOE-2016-014 proposed to treat all market participants the same when the Exchange received an order with three or more legs that met the class, size, complex order type parameters of subparagraph (d)(i)(2) and was better than the same side of the derived net market. Proposed subparagraph (2) of Rule 6.53C(d)(ii)(A) will continue to treat all market participants the same when the Exchange receives an order with three or more legs that meets the class, size, and complex order type parameters of subparagraph (d)(i)(2)—except the Exchange will only utilize subparagraph (2) when the incoming order is marketable against the derived net market—instead of when the orders is priced better than the same side of the derived net market as SR-CBOE-2016-014 proposed. Ultimately, the Exchange believes this proposal represents much simpler rule text than what was proposed in SR-CBOE-2016-014.

In sum, if a complex order with two or more legs is COA-eligible and priced better than the same side of the derived net market, the order will initiate a COA. If a complex order with three more legs is not otherwise COA-eligible it will still initiate a COA if it is marketable against the derived net market and it meets the class, size, and order type parameters. To illustrate, assuming all of the non-price specific requirements are met, a complex order with two or more legs under subparagraph (d)(ii)(A)(1) will initiate a COA if the derived net market is 1 – 1.20 and the complex order is to buy at $1.01 or higher or to sell at 1.19 or lower.[22] As described above, assuming the non-price specific requirements are met, a complex order with three legs under subparagraph (d)(ii)(A)(2) will initiate a COA if the derived net market is 1 – 1.20 and the complex order is to buy at $1.20 or higher or to sell at $1.00 or lower. Initiating a COA in these situations will relieve the risk to Market-Makers noted above and throughout this series of rule filings, which helps promote

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[22]   As previously noted, the price at which an order may initiate a COA was hardcoded by SR-CBOE-2016-014. This proposal makes no changes to the price at which an order may initiate a COA.

just and equitable principles of trade by relieving risk to Market-Makers allowing them to more efficiently and effectively provide important liquidity.

As previously noted, the Exchange was unable to implement the amendments made by SR-CBOE-2016-014 in the timeframe set forth in SR-CBOE-2016-014. Thus, the Exchange will announce the implementation date of amendments made in SR-CBOE-2016-014, as modified by this proposed rule change, in a Regulatory Circular to be published no later than 90 days following the effective date of this filing. The implementation date will be no later than 180 days following the effective date of this filing.

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.[23] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[24] 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)[25] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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[23]   15 U.S.C. 78f(b).

[24]   15 U.S.C. 78f(b)(5).

[25]   Id.

In particular, the Exchange believes the proposed rule change is consistent with the purpose of SR-CBOE-2014-017, SR-CBOE-2015-081, and SR-CBOE-2016-14, which was to alleviate a potential risk to Market-Makers that arises through the use of QRM. Complex orders with three or more legs that are designated that meet the class, size, and order type (including IOCs) parameters of subparagraph (d)(i)(2) and that are marketable against the derived net market (which the Exchange has identified as potentially causing risk to Market-Makers) will initiate a COA, which helps promote just and equitable principles of trade by relieving risk to Market-Makers allowing them to more efficiently and effectively provide important liquidity. Orders that are designated as IOC and meet the class and size parameters of subparagraph (d)(i)(2), but that are not marketable against the derived net market, will be cancelled, which allows order entry firms to use their own sophisticated technology to manage their orders helping to remove impediments to and perfect the mechanism of a free and open market. SR-CBOE-2016-014 removed the Exchange's flexibility to determine that price at which an order may initiate a COA, and this proposal makes no changes in that regard. Although the Exchange prefers flexibility, the Exchange does not foresee the need to retain flexibility in this regard and hardcoding the parameter may help avoid confusion with regards to the price at which a complex order may initiate a COA, which also helps to remove impediments to and perfect the mechanism of a free and open market.

The Exchange also believes the proposed rule change to initiate a COA upon receipt of complex orders with three or more legs that meet the class, size, and order type (including IOCs) parameters of subparagraph (d)(i)(2) and that are marketable against the derived net market is consistent with the requirement that Market-Makers' quotes be firm under Rule 602 of

Regulation NMS.[26] The proposed rule change does not relieve Market-Makers of their obligation to provide "firm" quotes. If a complex order in a Hybrid class with three or more legs goes through COA and then legs into the market for execution upon completion of the COA, at which point the complex order would execute against a Market-Maker's quotes based on priority rules, the Market-Maker must execute its quotes against the order at its then-published bid or offer up to its published quote size, even if such execution would cause the Market-Maker to significantly exceed its risk parameters. However, prior to the end of COA (and thus prior to a complex order legging into the market), a Market-Maker may adjust its published quotes to manage its risk in a class as it deems necessary, including to prevent executions that would exceed its risk parameters. In this case, the firm quote rule does not obligate the Market-Maker to execute its quotes against the complex order at the quote price and size that was published when the order entered the System and initiated the COA. Rather, the Market-Maker's firm quote obligation applies only to its disseminated quote at the time an order is presented to the Market-Maker for execution, which presentation does not occur until the System processes the

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26   Rule 602(b)(2) obligates a Market-Maker to execute any order to buy or sell a subject security presented to it by another broker or dealer or any other person belonging to a category of persons with whom the Market-Maker customarily deals, at a price at least as favorable to the buyer or sell as the Market-Maker's published bid or offer in any amount up to its published quotation size. Rule 602(b)(3) provides that no Market-Maker is obligated to execute a transaction for any subject security to purchase or sell that subject security in an amount greater than its revised quotation size if, prior to the presentation of an order for the purchase or sale of a subject security, the Market-Maker communicated to the Exchange a revised quotation size. Similarly, no Market-Maker is obligated to execute a transaction for any subject security if, before the order sought to be executed is presented, the Market-Maker has communicated to the Exchange a revised bid or offer. CBOE Rule 8.51 imposes a similar obligation (Market-Maker must sell (buy) at least the established number of contracts at the offer (bid) which is displayed when the Market-Maker receives a buy (sell) order at the trading station where the reported security is located for trading; however, no Market-Maker is obligated to execute a transaction for a listed option when, prior to the presentation of an order to sell (buy) to the Market-Maker, the Market-Maker has communicated to the Exchange a revised quote).

order against the leg markets after completion of the COA.[27] Thus, the proposed rule change is consistent with the firm quote rule.

The Exchange also notes making subparagraph (ii)(A)(2)(A) inapplicable to complex orders that are priced better than the derived net market and making subparagraph (ii)(A)(1) applicable to all such orders is consistent with the Act because it essentially reverts rule text regarding COA-eligible orders back to how the rule text read prior to SR-CBOE-2014-017. Prior to SR-CBOE-2014-017, the rule text essentially provided that any COA-eligible order will COA.[28] This proposed rule change essentially provides the same, except certain orders that are not COA-eligible may still COA according to proposed subparagraph (ii)(A)(2). Thus, it was consistent with the Securities Exchange Act of 1934 (the "Act") to initiate a COA-eligible order when COA was established in 2005, and it remains consistent with the Act to initiate a COA-eligible order.

The Exchange also notes that adding the words "or more" to current subparagraph (ii)(A)(1) to provide that a COA-eligible order "with two legs or more" will COA is consistent with the Exchange Act because it is no different than not identifying the number of legs at all,

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[27]   See Staff Legal Bulletin No. 16, *Transaction in Listed Options Under Exchange Act Rule 11Ac1-1*, U.S. Securities and Exchange Commission, Division of Market Regulation, January 20, 2004 ("Scenario 3: When an Order is "Presented" . . . If an individual market maker generates its own quotations . . . and exchange systems route incoming orders to the responsible broker-dealer with priority, when is an order presented to a responsible broker-dealer? **Response:** . . . . When each market maker is the responsible broker-dealer with respect to its own quote, an order is presented to it when received by the market maker from the exchange system."). When a complex order is processing through COA, the order is still in the System and has not yet been presented to a broker or dealer (including a Market-Maker) for execution. Only after completion of the COA, when the System allocates the complex order for execution in accordance with priority rules, will that order be "presented" to the Market-Maker for firm quote purposes.

[28]   See Securities Exchange Act Release No. 54135 (July 12, 2006), 71 FR 41287 (July 20, 2006) (SR-CBOE-2005-65).

which is how the rule text read from COA's inception in 2005[29] until the Exchange submitted SR-CBOE-2014-017. In both cases—a "COA-eligible order with two or more legs" or "a COA-eligible order"— the phrase means a complex order with two or more legs. In fact, there really is no purpose to identifying the number of legs of a COA-eligible order in subparagraph (d)(ii)(A)(1), but it might provide some kind of clarity to market participants, considering that proposed subparagraph (d)(ii)(A)(2) will indicate that that particular provision applies to complex orders with three or more legs. Thus, it was consistent with the Act to initiate a COA-eligible order when COA was established in 2005, and it remains consistent with the Act to initiate a COA-eligible order, even if the rule text indicates that a COA will be initiated upon receipt of a COA-eligible order with two or more legs.

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

CBOE does not believe that the proposed rule change will impose any burden on intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition because all IOC orders will be treated equally by the Exchange. The proposed rule change is intended to reduce risk to Market-Makers that are quoting in the regular market. CBOE believes that the proposed rule change will promote competition by encouraging Market-Makers to increase the size of and to more aggressively price their quotes, which will increase liquidity on the Exchange. To the extent that the rule change makes CBOE a more attractive marketplace, market participants are free to become Trading Permit Holders on CBOE and other exchanges are free to amend their rules in a similar manner. Furthermore, the Exchange does not believe the proposed rule change will impose any

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[29]   [sic]

burden on intermarket competition because the rule change does not materially affect the outcome or purpose of SR-CBOE-2014-017, SR-CBOE-2015-081, or SR-CBOE-2016-014, which was to alleviate potential risk to Market-Makers using QRM. The Exchange also does not believe that the hardcoding of the price at which a complex order may initiate a COA, as described in SR-CBOE-2016-014, will impose a burden on competition. Finally, the Exchange does not believe initiating a COA for a COA-eligible order pursuant to Rule 6.53C(d)(ii)(A)(1) will impose any burden on competition as the Exchange has initiated a COA for such orders since the inception of COA in 2005.

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 change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[30] and Rule 19b-4(f)(6) thereunder.[31]

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

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[30]   15 U.S.C. 78s(b)(3)(A).

[31]   17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

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

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2017-021 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CBOE-2017-021. 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, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m.

and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2017-021 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.[32]

Eduardo A. Aleman
Assistant Secretary

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[32]   17 CFR 200.30-3(a)(12).