

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-88881; File No. SR-NYSECHX-2020-16)

May 15, 2020

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Temporary Relief Granted to Institutional Brokers to Report Non-Tape, Clearing-Only Submissions into the Exchange's Systems to June 30, 2020 (or Earlier)

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on May 14, 2020, the NYSE Chicago, Inc. ("NYSE Chicago" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 extend the temporary relief granted to Institutional Brokers to report non-tape, clearing-only submissions into the Exchange's systems pursuant to Article 21, Rule 6(a)(3). The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

received on the proposed rule change. The text of those 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 parts of such statements.

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

1. Purpose

Pursuant to a filing submitted by the Exchange,<sup>4</sup> for a temporary period that began on April 20, 2020 and ends on the earlier of the reopening of all the options trading floors or after the end of the day on May 15, 2020, the Exchange has extended the time within which Institutional Brokers<sup>5</sup> are required to report non-tape, clearing-only submissions into the Exchange’s systems pursuant to Article 21, Rule 6(a)(3). The Exchange provided this temporary relief due to changes in work flow in the post-trade processing of transactions in the cash equity leg of stock-option orders that are a consequence of the precautionary measures to prevent the spread of COVID-19 taken by options exchanges and their members and by Institutional Brokers.

Given that the majority of the options trading floors continue to remain closed,<sup>6</sup> the Exchange is proposing to extend the relief granted in the Temporary Relief Filing until the remaining options floors reopen or after the end of the day on June 30, 2020. As represented in

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<sup>4</sup> See Securities Exchange Act Release No. 88714 (April 21, 2020), 85 FR 23384 (April 27, 2020) (SR-NYSECHX-2020-11) (“Temporary Relief Filing”)

<sup>5</sup> The term “Institutional Broker” is defined in Article 1, Rule 1(n) to mean a member of the Exchange who is registered as an Institutional Broker pursuant to the provisions of Article 17 and has satisfied all Exchange requirements to operate as an Institutional Broker on the Exchange. There are currently five Institutional Brokers on the Exchange.

<sup>6</sup> On April 28, 2020, NYSE Arca Options announced the partial reopening of its trading floor. See <https://www.nyse.com/trader-update/history#110000241246>. See also <https://www.nyse.com/publicdocs/nyse/markets/arca-options/rule-interpretations/2020/Arca%20RB-20-02%20-%204.28.20%20-%20Final.pdf>.

the Temporary Relief Filing, the proposed rule change would have no impact on trade reporting or clearing of trades, as all trades would have already been reported to the Consolidated Tape in accordance with applicable trade reporting rules of the Trade Reporting Facility (“TRF”) and submitted to the Deposit Trust Clearing Corporation (“DTCC”) for clearing. The Exchange is not proposing any other change to the application of Article 21, Rule 6(a)(3), other than to extend the effectiveness of the temporary relief granted in the Temporary Relief Filing.

Accordingly, the Exchange proposes that until the earlier of the reopening of all the options trading floors or after the end of the day on June 30, 2020, Institutional Brokers may enter non-tape, clearing-only submissions into Brokerplex<sup>7</sup> for non-Exchange transaction by 8:00 p.m. ET of the day of the trade, rather than within three hours as required under the rule. To reflect this change, the Exchange proposes amend Commentary .05 to Article 21, Rule 6 that sets forth the proposed rule text that would replace Article 21, Rule 6(a)(3) during a temporary period that began on April 20, 2020, and ends on the earlier of the reopening of all the options trading floors or after the end of the day on June 30, 2020. The Exchange believes that this temporary relief will permit Institutional Brokers to comply with the reporting requirements in Article 21, Rule 6(a) during a period when their staff and staff of options floor traders are working from home and completing such tasks within three hours is less straightforward and more complex.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it is

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<sup>7</sup> Brokerplex is an order entry, management and recordation system provided by the Exchange for use by Institutional Brokers. See Article 17, Rule 5.

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

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

designed to promote just and equitable principles of trade; 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. As a result of uncertainty related to the ongoing spread of the COVID-19 virus, three major options trading floors temporarily remain closed. In addition, social-distancing measures have been implemented throughout the country to reduce the spread of COVID-19, resulting in staff of options floor traders and Institutional Brokers working from home.

The proposed rule change would allow the Exchange to temporarily extend the time by which Institutional Brokers would be required to report non-tape, clearing-only submissions into the Exchange's systems for a given non-Exchange transaction to 8:00 p.m. ET of the day on which the execution of such transaction occurred rather than within three (3) hours of the execution of such transaction. The Exchange believes that this temporary relief is necessary and appropriate in the public interest, and is consistent with the protection of investors, given the changes to workflow that increase the time it takes for Institutional Brokers to obtain complete information about counterparties for such trades during a period when options trading floors are closed and both options floor traders and Institutional Brokers are working from home as precautionary measures to protect the health and safety of their employees and to prevent the spread of COVID-19. In particular, this proposed rule change would have no impact on trade reporting or clearing of trades, as all trades would be reported to the Consolidated Tape in accordance with applicable trade reporting rules of the TRF and submitted to DTCC for clearing in a timely manner.

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

The Exchange does not believe that the proposed rule change will impose any burden on

competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather to extend the time of the temporary relief provided to Institutional Brokers that are required to comply with Article 21, Rule 6(a)(3) during a temporary period when the options trading floors are closed and staff of options floor traders and Institutional Brokers are working from home.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup> Because the 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 prior to 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>12</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>13</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied this requirement.

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

19b4(f)(6)(iii),<sup>14</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The proposal would extend the temporary relief granted by the Exchange to provide additional time to institutional brokers to report certain transactions while the options trading floors are closed and market participants' staff are working from home. The Commission notes that the proposal extends the temporary measure designed to respond to current, unprecedented market conditions. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>15</sup>

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

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<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</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).

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-NYSECHX-2020-16 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-NYSECHX-2020-16. 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, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-

NYSECHX-2020-16, 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>16</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12) and (59).