

and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form 18 (17 CFR 249.218) is a registration form used for by a foreign government or political subdivision to register securities for listing on a U.S. exchange. The information collected is intended to ensure that the information required by the Commission to be filed permits verification of compliance with securities law requirements and assures the public availability of the information. The information provided is mandatory and all information is made available to the public upon request. Form 18 takes approximately 8 hours per response and is filed by approximately 5 respondents for a total of 40 annual burden hours. It is estimated that 100% of the total reporting burden is prepared by the company.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

November 7, 2012.

**Kevin M. O'Neill,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68171; File No. SR-CBOE-2012-087]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of Proposed Rule Change to Amend Rule 17.2 Regarding Requests for Data Related to Exchange Reviews

November 6, 2012.

#### I. Introduction

On September 4, 2012, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend Exchange Rule 17.2 (Complaint and Investigation) regarding the furnishing of data requested with respect to any review conducted by the Exchange pursuant to that Rule. The proposed rule change was published for comment in the **Federal Register** on September 24, 2012.<sup>3</sup> The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

#### II. Description of the Proposed Rule Change

The Exchange proposes to amend Rule 17.2 (Complaint and Investigation) to address the furnishing of data to the Exchange by a Trading Permit Holder ("TPH") in connection with a regulatory review conducted by the Exchange. Specifically, the Exchange proposes to add Interpretations and Policies .04, which provides that "[i]n addition to the existing obligation under Exchange rules regarding the production of books and records, each TPH or TPH organization shall furnish upon request, in the manner and standard electronic format prescribed by the Exchange, data concerning orders, transactions, and positions, including related hedges and offsets, in relation to a regulatory review conducted by the Exchange."

In the Notice, the Exchange stated that it currently requests and receives certain trade data from TPHs and TPH organizations on an ad hoc basis in connection with its regulatory responsibilities as a registered exchange. TPHs and TPH organizations provide such data to the Exchange in a variety

of different manners and formats, and sometimes in a piecemeal manner.<sup>4</sup> Because the form of the submitted information can be highly variable and the manner of submission is not standard, the Exchange represented that the Exchange's Regulatory Division expends considerable resources in re-organizing and systematizing the information in order to be able to perform its review and analysis. In order to address this inefficiency, the Exchange now proposes to require TPHs to furnish, upon request, data in a standard manner and format as prescribed by the Exchange.

In the Notice, the Exchange represented that this change would allow the Exchange to develop uniform procedures and forms for the submission of data concerning orders, transactions, and positions, including related hedges and offsets.<sup>5</sup> The Exchange stated that the existence of a standard format for the submission of the data would allow the TPHs to better prepare for regulatory responses and would allow the Exchange regulatory staff to review and analyze the requested data in a more efficient and organized manner which in turn will expedite such review and analysis.<sup>6</sup> Pursuant to the new rule provision, the Exchange will publish by Regulatory Circular the required layout for the data that would be submitted to the Exchange.<sup>7</sup>

#### III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act<sup>8</sup> and the rules and regulations thereunder applicable to a

<sup>4</sup> According to the Exchange, the data which the Exchange currently receives is provided in a comma-separated values format, and includes, when applicable, separate data fields for trade date, order entry time (milliseconds), cancel time (milliseconds), execution time (milliseconds), unique ticker symbol, side, execution price, event type, unique account identification, user ID, order ID, broker location, quantity, locate source for short sale, number of shares remaining after a partial execution, and the code of the exchange to which an order was routed.

<sup>5</sup> See Notice, *supra* note 3, at 58898.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* The Exchange represented that it will not enforce compliance with Interpretations and Policies .04 until the Exchange has announced an implementation plan, including a subsequent compliance date, to its members, and that the Exchange expects to announce such implementation plan via a Regulatory Circular during the fourth calendar quarter of 2012. *Id.* The Exchange believes that the intervening period between the announcement of the implementation plan and the compliance date will allow TPHs time to prepare to comply. *Id.*

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

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

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

<sup>3</sup> See Securities Exchange Act Release No. 67879 (September 18, 2012), 77 FR 58897 ("Notice").

national securities exchange.<sup>9</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>10</sup> which requires, among other things, that the Exchange's rules 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 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.

The Commission believes that CBOE's proposed rule change is designed to facilitate the production of uniform data by TPHs, which will permit the Exchange's regulatory staff to make use of the data more readily than is currently the case. In particular, Exchange staff will no longer have to take time to reconcile data that is submitted in disparate formats. In turn, this should benefit the Exchange's regulatory reviews by permitting more efficient use of Exchange resources. To this extent, the rule change is designed to help prevent fraudulent and manipulative practices, consistent with the Act, because obtaining data from TPHs in a uniform format will aid the Exchange's regulatory staff in the exercise of its regulatory authority. New Interpretations and Policies .04 should help facilitate the Exchange's decision making regarding determining causes of action and considering the appropriate regulatory response to a complaint or investigation, which will further the Act's goal of promoting just and equitable principles of trade.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-CBOE-2012-087) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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<sup>9</sup>In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

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

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68174; File No. SR-NYSEArca-2012-118]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Options Regulatory Fee and To Revise the Circumstances Under Which NYSE Arca, Inc. Will Collect the Options Regulatory Fee

November 7, 2012.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on November 1, 2012, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 the Substance of the Proposed Rule Change

The Exchange proposes to increase its Options Regulatory Fee ("ORF") and to revise the circumstances under which the Exchange will collect the ORF. The text of the proposed rule change is available on the Exchange's Web site 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 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 Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to increase its ORF and to revise the circumstances under which the Exchange will collect the ORF.

##### Background

The ORF, which is currently \$0.004 per contract, is assessed by the Exchange on each OTP Holder or OTP Firm for all options transactions executed or cleared by the OTP Holder or OTP Firm that are cleared by The Options Clearing Corporation ("OCC") in the customer range, i.e., transactions that clear in the customer account of the OTP Holder's or OTP Firm's clearing firm at OCC, regardless of the marketplace of execution.<sup>4</sup> In other words, the Exchange imposes the ORF on all customer-range transactions executed by an OTP Holder or OTP Firm even if the transactions do not take place on the Exchange. In the case where an OTP Holder or OTP Firm executes a transaction and a different OTP Holder or OTP Firm clears the transaction, the ORF is assessed to the OTP Holder or OTP Firm who executes the transaction. In the case where a non-OTP Holder or non-OTP Firm executes a transaction and an OTP Holder or OTP Firm clears the transaction, the ORF is assessed to the OTP Holder or OTP Firm who clears the transaction.

The dues and fees paid by OTP Holders and OTP Firms go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation. In particular, the ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of OTP Holder and OTP Firms, including performing routine surveillance and investigations, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange monitors the amount of revenue collected from the ORF so that, in combination with other regulatory fees and fines, it does not exceed regulatory costs. The ORF is collected indirectly from OTP Holders and OTP Firms through their clearing firms by OCC on behalf of the Exchange.

##### Proposed Change

The Exchange proposes to (1) increase the ORF from \$0.004 per contract to

<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.

<sup>4</sup> See Securities Exchange Act Release No. 64399 (May 4, 2011), 76 FR 27114 (May 10, 2011) (SR-NYSEArca-2011-20).