

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-Phlx-2014-18 and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71774; File No. SR-CBOE-2014-020]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Certain CBOE Real-Time Data Feeds and a New Book Depth Data Feed

March 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 11, 2014, 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 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

Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") proposes to (i) update the description of the data included in certain CBOE real-time data feeds and (ii) offer a book depth data feed for CBOE listed options. The text of the proposed rule change is available on the Exchange's Web site (<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. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of the proposed rule change is to (i) update the description of the data included in the following CBOE real-time data feeds: BBO Data Feed, Complex Order Book ("COB") Data Feed and Flexible Exchange option ("FLEX") Data Feed, and (ii) offer a book depth data feed for CBOE listed options.

###### BBO, COB and FLEX Data Feeds

The BBO Data Feed is a real-time, low latency data feed that includes CBOE "BBO data" and last sale data.<sup>3</sup> The BBO and last sale data contained in the BBO Data Feed is identical to the data that CBOE sends to the Options Price Reporting Authority ("OPRA") for redistribution to the public.<sup>4</sup> The BBO Data Feed is made available by CBOE's affiliate Market Data Express, LLC ("MDX").

The BBO Data Feed also includes certain data that is not included in the data sent to OPRA, namely, (i) totals of customer versus non-customer contracts at the BBO, (ii) All-or-None contingency

orders priced better than or equal to the BBO, (iii) BBO data and last sale data for complex strategies (e.g., spreads, straddles, buy-writes, etc.), (iv) BBO data and last sale data for FLEX options traded on the CBOE FLEX Hybrid Trading System, including BBO data and last sale data for FLEX complex strategies (collectively, "FLEX BBO data"), and (v) expected opening price ("EOP") and expected opening size ("EOS") information that is disseminated prior to the opening of the market and during trading rotations (collectively, "EOP/EOS data").

The COB Data Feed is a real-time data feed that includes data regarding the Exchange's Complex Order Book and related complex order information. The COB Data Feed includes BBO quotes and identifying information for all CBOE-traded complex order strategies, as well as all executed CBOE complex order trades (and identifies whether the trade was a customer trade, or whether a complex order in the COB is a customer order).<sup>5</sup> The FLEX Data Feed is a real-time data feed that includes FLEX BBO data, as described above.<sup>6</sup> The COB and FLEX Data Feeds are both made available by MDX and are subsets of the BBO Data Feed.

The Exchange, through MDX, plans to make additional data available in the BBO, COB and FLEX Data Feeds and therefore proposes to update the description of the data included in the feeds. Specifically, the Exchange proposes to add end-of-day ("EOD") summary messages and recap messages to the feeds. EOD summary messages are messages that will be disseminated after the close of a trading session that will include summary information about trading in CBOE listed options. Such information includes product name, opening price, high and low price during the trading session and last sale price. Recap messages are messages that will be disseminated during a trading session any time there is a change in the open, high, low or last sale price of a CBOE listed option. In addition to open, high, low and last sale prices, such messages will also include product name and total volume traded in the product during the trading session.

At this time, the Exchange does not intend to amend the fees for the BBO and COB Data Feeds. The FLEX Data Feed is currently made available at no charge.

<sup>3</sup> The BBO Data Feed includes the "best bid and offer," or "BBO", consisting of all outstanding quotes and standing orders at the best available price level on each side of the market, with aggregate size ("BBO data," sometimes referred to as "top-of-book data"). Data with respect to executed trades is referred to as "last sale" data. See Securities Exchange Act Release No. 69438 (April 23, 2013), 78 FR 25334 (April 30, 2013).

<sup>4</sup> The Exchange notes that MDX makes available to Customers the BBO data and last sale data that is included in the BBO Data Feed no earlier than the time at which the Exchange sends that data to OPRA. A "Customer" is any entity that receives the BBO Data Feed, either directly from MDX's system or through a connection to MDX provided by an approved redistributor (i.e., a market data vendor or an extranet service provider) and then distributes it externally or uses it internally.

<sup>5</sup> See Securities Exchange Act Release No. 70118 (August 5, 2013), 78 FR 48757 (August 9, 2013).

<sup>6</sup> See Securities Exchange Act Release No. 69438 (April 23, 2013), 78 FR 25334 (April 30, 2013).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

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

## Book Depth Data Feed

The Exchange proposes to make available, through MDX, a real-time, low latency data feed that includes all outstanding quotes and standing orders up to the first five price levels on each side of the market, with aggregate size ("Book Depth Data Feed").<sup>7</sup> The Book Depth Data Feed will also include all of the other data contained in the BBO Data Feed (as described above), including last sale data and BBO and book depth data for complex strategies.<sup>8</sup> The data in the Book Depth Data Feed would be refreshed periodically during the trading session.

The Exchange will file a separate proposed rule change to establish the fees to be charged by MDX for the Book Depth Data Feed.

## 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>9</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</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>11</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the enhanced BBO, COB and FLEX Data Feeds and the Book Depth Data Feed would be made available by MDX to any market participant that wishes to subscribe to any of the feeds.

In adopting Regulation NMS, the Commission granted self-regulatory

organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that this proposal is in keeping with those principles by promoting increased transparency through the dissemination of useful data and also by clarifying its availability to market participants. The Exchange believes that updating the description of the BBO, COB and FLEX Data Feeds will benefit users by making clearer what data is included in each feed. The Exchange believes offering the Book Depth Data Feed will increase transparency, help attract order flow and provide investors with additional information that may help to inform their trading 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 proposal to update the description of the BBO, COB and FLEX Data Feeds is intended not to address any competitive issue but rather to reflect the data that is included in the feeds. The Exchange notes other exchanges offer depth of market products similar to the Book Depth Data Feed. For example, BATS offers Multicast PITCH, which is their depth of market and last sale feed similar to the Book Depth Data Feed. The International Securities Exchange offers a data feed that shows the top five price levels entitled Depth of Market. NASDAQ OMX PHLX offers a Depth of Market data feed that includes full depth of quotes and orders and last sale data for options listed on PHLX. NASDAQ Options Market offers a product entitled "NASDAQ ITCH-to-Trade Options" (ITTO) that is similar to the Book Depth Data Feed. NYSE offers market data products entitled "NYSE ArcaBook for Amex Options" and "NYSE ArcaBook for Arca Options" that include top-of-book, last sale and depth of quote data. In addition, the OPRA data feed is a significant competitive alternative to both the BBO Data Feed and the Book Depth Data Feed.

The Exchange believes the enhanced BBO, COB and FLEX Data Feeds and the Book Depth Data Feed will help to attract new users and new order flow to the Exchange, thereby improving the Exchange's ability to compete in the market for options order flow and executions.

## 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:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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<sup>12</sup> and Rule 19b-4(f)(6)<sup>13</sup> thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has stated that it does not intend to amend the fees for the BBO and COB Data Feeds, that the FLEX Data Feed is currently made available at no charge, and that the proposed Book Depth Data Feed mostly includes data already made available by the Exchange through the BBO Data Feed. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because such waiver will enable market participants to receive more market data via the Exchange's new and existing data feeds at no charge. For this reason, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change to be operative upon filing.<sup>14</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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

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

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

<sup>14</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>7</sup> The Exchange notes that MDX will make available the BBO and last sale data that is included in the Book Depth Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

<sup>8</sup> With the introduction of the Book Depth Data Feed, the COB Data Feed would also be enhanced to include book depth data for complex strategies.

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

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

<sup>11</sup> *Id.*

#### 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2014-020 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-2014-020. This file number should be included on the subject line if email 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 Web site (<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 Web site 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 such filing also will be available for inspection and copying at the principal offices 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-2014-020, and should be submitted on or before April 18, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-71785; File No. SR-NASDAQ-2014-028]**

#### **Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Clearly Erroneous Rule**

March 24, 2014.

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 March 18, 2014, The NASDAQ Stock Market LLC ("NASDAQ" 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 Exchange. 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 pilot period of recent amendments to Rule 11890, concerning clearly erroneous transactions.

The text of the proposed rule change is available from NASDAQ's Web site at <http://nasdaq.cchwallstreet.com/Filings/>, at NASDAQ's principal office, 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. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

##### **1. Purpose**

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions. Portions of Rule 11890, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.<sup>3</sup> The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the "Limit Up-Limit Down Plan" or the "Plan"), including any extensions to the pilot period for the Plan.<sup>4</sup>

On September 10, 2010, the Commission approved, for a pilot period, a proposed rule change to Rule 11890 to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange.<sup>5</sup> The Exchange also adopted additional changes to Rule 11890 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 11890,<sup>6</sup> and in 2013, adopted a provision designed to address the operation of the Plan.<sup>7</sup>

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

##### **2. Statutory Basis**

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the

<sup>3</sup> Securities Exchange Act Release No. 70529 (Sept. 26, 2013), 78 FR 60977 (Oct. 2, 2013) (SR-NASDAQ-2013-127).

<sup>4</sup> Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

<sup>5</sup> Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010).

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

<sup>7</sup> Securities Exchange Act Release No. 68819 (Feb. 1, 2013), 78 FR 9438 (Feb. 8, 2013) (SR-NASDAQ-2013-022); see also Rule 11890(g).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

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

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