

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁷

Cathy H. Ahn,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64699; File No. SR-CBOE-2011-056]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt the Selection Specifications and Content Outline for the Proprietary Traders Examination Program (Series 56)

June 17, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 16, 2011, Chicago Board Options Exchange, Incorporated (“CBOE” or the “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 CBOE. 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

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ the Exchange is filing with the Commission the content outline and selection specifications for the Proprietary Traders Qualification Examination (“Series 56”) program. CBOE is not proposing any textual changes to the Rules of CBOE. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.org/legal>), at the Exchange’s Office of the Secretary and at the Commission.

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

In its filing with the Commission, CBOE 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. CBOE 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, Proposed Rule Change

1. Purpose

Pursuant to Rule 15b7-1,² promulgated under the Exchange Act,³ “No registered broker or dealer shall effect any transaction in * * * any security unless any natural person associated with such broker or dealer who effects or is involved in effecting such transaction is registered or approved in accordance with the standards of training, experience, competence, and other qualification standards * * * established by the rules of any national securities exchange * * *.” CBOE Rule 3.6A sets forth the requirements for registration and qualification of individual Trading Permit Holders and individual associated persons. Specifically, CBOE Rule 3.6A provides that individual Trading Permit Holders and individual associated persons that are “engaged or to be engaged in the securities business of a Trading Permit Holder or TPH organization shall be registered with the Exchange in the category of registration appropriate to the function to be performed as prescribed by the Exchange.” Further, Rule 3.6A requires, among other things, that an individual Trading Permit Holder or individual associated person submit an application for registration and pass the appropriate qualification examination before the registration can become effective.

In accordance with Interpretation and Policy .06 to Rule 3.6A, those individuals shall be considered to be “engaged in the securities business of a Trading Permit Holder or TPH organization” and subject to the registration requirements and successful completion of Series 56 if (i) the individual Trading Permit Holder or associated person conducts proprietary trading, acts as a market-maker, effects transactions on behalf of a broker-dealer account, supervises or monitors proprietary trading, market-making or brokerage activities on behalf of the broker-dealer, supervises or conducts training for those engaged in proprietary trading, market-making or brokerage activities on behalf of a broker-dealer

account; or (ii) the individual Trading Permit Holder or associated person engages in the management of any individual Trading Permit Holder or individual associated person identified in (i) above as an officer, partner or director.⁴

The Series 56 examination tests a candidate’s knowledge of proprietary trading generally and the industry rules applicable to trading of equity securities and listed options contracts. The Series 56 examination covers, among other things, recordkeeping and recording requirements, types and characteristics of securities and investments, trading practices and display execution and trading systems. While the examination is primarily dedicated to topics related to proprietary trading, the Series 56 examination also covers a few general concepts relating to customers.⁵

The Series 56 examination program is shared by CBOE and the following Self-Regulatory Organizations (“SROs”): Boston Options Exchange; C2 Options Exchange, Incorporated; Chicago Stock Exchange, Incorporated; International Securities Exchange, LLC; NASDAQ OMX, BX; NASDAQ OMX, PHLX; NASDAQ Stock Market LLC; National Stock Exchange, Incorporated; New York Stock Exchange, LLC; NYSE AMEX, Incorporated; and NYSE ARCA, Incorporated.

Upon request by the SROs referenced above, FINRA staff convened a committee of industry representatives, CBOE staff and staff from the other SROs referenced above, to develop the criteria for the Series 56 examination program. As a result, CBOE is proposing to set forth the content of the examination. The qualification examination consists of 100 multiple choice questions. Candidates will have 150 minutes to complete the exam. The content outline describes the following topical sections comprising the examination: Personnel, Business Conduct and Recordkeeping and Reporting Requirements, 9 questions; Markets, Market Participants, Exchanges, and Self Regulatory Organizations, 8 questions; Types and Characteristics of Securities and Investments, 20 questions; Trading Practices and Prohibited Acts, 50

⁴ In accordance with Rule 3.6A, an individual Trading Permit Holder or individual associated person that is engaged in the supervision or monitoring of proprietary trading, market-making or brokerage activities and/or that is engaged in the supervision or training of those engaged in proprietary trading, market-making or brokerage activities with respect to those activities will be subject to heightened qualification requirements, as prescribed by the Exchange.

⁵ The Commission notes that proprietary trading firms do not have customers.

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 C.F.R. [sic] 240.15b7-1.

³ 15 U.S.C. 78a *et seq.*

questions; and Display, Execution and Trading Systems, 13 questions. Representatives from the applicable self-regulatory organizations shall meet on a periodic basis to evaluate and, as necessary, update, the Series 56 examination program.

CBOE understands that the other applicable SROs will also file with the Commission similar filings regarding the Series 56 examination program. CBOE proposes to implement the Series 56 examination program upon availability in WebCRD. The Exchange shall announce all relevant dates with respect to the Series 56 examination program through a Regulatory Circular. The selection specifications for the Series 56 examination, which CBOE has submitted under separate cover to the Commission with a request for confidential treatment pursuant to the Commission's confidential treatment procedures under the Freedom of Information Act,⁶ describe additional confidential information regarding the examination.

As noted in Item 2 of this filing, CBOE is filing the proposed rule change for immediate effectiveness. CBOE will announce the implementation date of the proposed rule change in a Regulatory Circular. The implementation date of the proposed rule change will coincide with a new release of the WebCRD.⁷

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(1)⁹ of the Act in particular, in that it is designed to enforce compliance by Exchange members and persons associated with its members with the rules of the Exchange. The Exchange also believes the proposed rule change furthers the objectives of Section 6(c)(3)¹⁰ of the Act, which authorizes CBOE to prescribe standards of training, experience and competence for persons associated with CBOE members, in that this filing comprises the content outline and relevant specifications for the Series 56 examination program. CBOE believes the Series 56 examination program establishes the appropriate qualifications for an individual Trading Permit Holder and individual associated person that is required to register as a Proprietary Trader under Exchange Rule

3.6A, including, but not limited to, Market-Makers, proprietary traders and individuals effecting transactions on behalf of other broker-dealers. The Series 56 addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for individuals required to register as a Proprietary Trader. CBOE will continue to educate its Trading Permit Holders and nominees of requirements that are unique to CBOE through its Trading Permit Holder orientation program.

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 purposes of the Act.

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

Because the foregoing proposed rule does not (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

The Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay. The Series 56 exam will be available as of June 20, 2011, so waiver of the 30-day operative delay will enable associated persons of CBOE firms to take the exam as soon as it becomes available. For

these reasons, the Commission hereby waives the 30-day operative delay.¹³

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2011-056 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-CBOE-2011-056. 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 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and

¹³ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 17 C.F.R. [sic] 200.83.

⁷ See Securities Exchange Act Release No. 63314 (November 12, 2010), 75 FR 70957 (November 19, 2010) (SR-CBOE-2010-084).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(1).

¹⁰ 15 U.S.C. 78f(c)(3).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 C.F.R. [sic] 240.19b-4(f)(6).

copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2011-056 and should be submitted on or before July 14, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Cathy H. Ahn,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64700; File No. SR-NASDAQ-2010-134]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Disapproving Proposed Rule Change To Adopt Additional Criteria for Listing Companies That Have Indicated Their Business Plan Is To Buy and Hold Commodities

June 17, 2011.

I. Introduction

On October 15, 2010, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt additional criteria for listing companies that have indicated their business plan is to buy and hold commodities. The proposed rule change was published for comment in the **Federal Register** on November 3, 2010.³ On December 9, 2010, the Commission extended the time period in which to either approve the proposed rule change or to institute proceedings to determine whether to disapprove the proposed rule change, to February 1, 2011.⁴ The Commission received one comment letter on the proposal.⁵ On January 31,

2011, the Commission issued an order instituting proceedings to determine whether to disapprove the proposed rule change (“Order Instituting Disapproval Proceedings”).⁶ The Commission received no comments on the proceedings to determine whether to disapprove the proposed rule change, and Nasdaq did not provide a response to the Commission’s grounds for disapproval under consideration as set forth in the Order Instituting Disapproval Proceedings. On April 8, 2011, the Commission extended the time period for Commission action on the proceedings to determine whether to disapprove the proposed rule change, to July 1, 2011.⁷ This order disapproves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to adopt additional listing standards for companies that have indicated that their business plan is to purchase and stockpile raw materials or other commodities (“commodity stockpiling companies”). Under the proposal, such companies are required to meet all other applicable Nasdaq initial listing requirements, as well as the following additional listing standards. First, within 18 months of the effectiveness of its initial public offering registration statement, or such shorter period as the company specifies in the registration statement, the company would be required to invest at least 85% of the net proceeds of the initial public offering in the raw material or commodity identified in the registration statement, or return the unused amount pro rata to its shareholders.⁸

Second, the company would be required to publish, or facilitate access to, at no cost and in an easily accessible manner, regular pricing information regarding the raw material or other commodity from a reliable, independent source, at least as frequently as current industry practice but no less than twice per week.⁹

Third, the company would be required to publish its net market value on a daily basis, or where pricing information for the raw material or other commodity is not available on a daily basis, no less frequently than twice per week.¹⁰ If the spot price of the raw

material or commodity fluctuates by more than 5%, the company shall publish the net market value within one business day of the fluctuation.

Fourth, the company would be required to publish the quantity of the raw material or other commodity held in inventory, the average price paid, and the company’s net market value within two business days of any change in inventory held.¹¹ Where the company contracts to purchase or sell a material quantity of the raw material or commodity, such information would be required to be disclosed in a Form 8-K filing within four business days.

Fifth, the company would be required to employ the services of one or more independent third party storage facilities to safeguard the physical holdings of the raw material or commodity.¹² Finally, the company would be required to create a committee comprised solely of independent directors who shall consider, at least quarterly, whether the company’s purchasing activities have had a measurable impact on the market price of the raw material or other commodity and shall report such determinations and make subsequent recommendations to the company’s board of directors.¹³

Nasdaq also is proposing to adopt additional audit committee requirements applicable to commodity stockpiling companies. In addition to the existing audit committee requirements in Nasdaq rules, audit committees for commodity stockpiling companies would be required to establish procedures for the identification and management of potential conflicts of interest, and would be required to review and approve any transactions where such

otherwise relied upon by the company, plus cash and other assets, less any liabilities.

¹¹ See proposed Nasdaq IM-5101-3(c).

¹² See proposed Nasdaq IM-5101-3(e). Under the proposed rule language, the facility “should provide services consistent with those provided by custodians and these must include: storage and safeguarding; insurance; transfer of the raw material or other commodity in and out of the facility; visual inspections, spot checks and assays; confirmation of deliveries to supplier packing lists; and reporting of transfers and of inventory to the [commodity stockpiling company] and its auditors.” The company must oversee the third party storage facility with its committee of independent directors.

¹³ See proposed Nasdaq IM-5101-3(f). The independent directors may rely upon and shall have the authority to engage and pay an industry expert in conducting this review. If the company’s board of directors disagrees with or does not accept the recommendations of the committee, the company will be required to file a Form 8-K with the Commission outlining the relevant events, the committee’s determinations and recommendations, and the rationale for the board of directors’ determination.

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 63207 (October 28, 2010), 75 FR 67788.

⁴ See Securities Exchange Act Release No. 63508 (December 9, 2010), 75 FR 78300 (December 15, 2010).

⁵ See Letter from Edward H. Smith, Jr. to Florence E. Harmon, Deputy Secretary, Commission, dated January 18, 2011.

⁶ See Securities Exchange Act Release No. 63804 (January 31, 2011), 76 FR 6506 (February 4, 2011).

⁷ See Securities Exchange Act Release No. 64259 (April 8, 2011), 76 FR 20760 (April 13, 2011).

⁸ See proposed Nasdaq IM-5101-3(a).

⁹ See proposed Nasdaq IM-5101-3(b).

¹⁰ See proposed Nasdaq IM-5101-3(d). Net market value would be determined by multiplying the volume of the raw material or commodity held in inventory by the last spot price published or