

consistent with that of functionality offered by the Exchange's competitors.<sup>7</sup> The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning the ability to display an attributed order on an exchange.

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

The Exchange does not believe that the proposed rule change imposes any burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not 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>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest because it would permit the Exchange to immediately implement the proposed rule change that would allow the Exchange to compete with other exchanges that offer a similar optional attribution of quotations functionality.<sup>10</sup> The Exchange represented that the proposed rule is substantially similar to and based on rules of other exchanges and that the waiver of the 30-day operative delay would help ensure uniformity across market centers concerning the display of attributed quotations. Further, the

Exchange believes that because the attribution functionality is optional, there will be no need for a phased implementation as Users that do not wish to avail themselves of the options functionality would not have to make any systems changes. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Such waiver would allow the Exchange to offer a functionality to market participants that is substantially similar to other exchanges without delay. The Commission notes that the proposed rule change is based on and similar to NASDAQ Rule 4751(e)(1) and (2).<sup>11</sup> Additionally, the Commission notes that this attribution functionality is optional. Therefore, the Commission designates the proposal operative upon filing.<sup>12</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.

### 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-BATS-2012-016 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 20549-1090.

All submissions should refer to File Number SR-BATS-2012-016. 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

<sup>11</sup> See *supra* note 3.

<sup>12</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).

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 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 publicly available. All submissions should refer to File Number SR-BATS-2012-016 and should be submitted on or before May 29, 2012.

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

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

[FR Doc. 2012-10880 Filed 5-4-12; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66889; File No. SR-ISE-2012-22]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Add an Index Option Product for Trading on the Exchange

May 1, 2012.

On March 9, 2012, International Securities Exchange, LLC ("Exchange") 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 list and trade options on the ISE Max SPY index. The proposed rule change was published for comment in the **Federal Register** on March 22,

<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.

<sup>7</sup> See *supra* note 4.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</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>10</sup> See SR-BATS-2012-016, Item 7.

2012.<sup>3</sup> The Commission received three comment letters on this proposal.<sup>4</sup>

Section 19(b)(2) of the Act<sup>5</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is May 6, 2012. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, which would allow the listing of a new option product, the comment letters that have been submitted in connection with this proposed rule change, and any response to the comment letters submitted by the Exchange.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> designates June 20, 2012 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-ISE-2012-22).

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

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

[FR Doc. 2012-10878 Filed 5-4-12; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>3</sup> See Securities Exchange Act Release No. 66614 (March 16, 2012), 77 FR 16883.

<sup>4</sup> See letters to Elizabeth M. Murphy, Secretary, Commission, from Janet McGinness, EVP & Corporate Secretary, NYSE Euronext, dated April 2, 2012; Kenneth M. Vittor, Executive Vice President and General Counsel, McGraw-Hill Companies, Inc., dated April 11, 2012; and Edward T. Tilly, President and Chief Operating Officer, Chicago Board Options Exchange, Incorporated, dated April 13, 2012.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(31).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66888; File No. SR-CBOE-2012-038]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

May 1, 2012.

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 April 20, 2012, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III 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 amend its Fees Schedule. 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'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

On November 23, 2011, the Exchange amended its Fees Schedule to provide

that FLEX Options<sup>3</sup> transactions for the account of non-Trading Permit Holder broker-dealers (which use the "C" order origin code) would be subject to the same transaction fee rates that are applicable to public customers (which also use the "C" order origin code).<sup>4</sup> The rationale behind that change was that FLEX Options transactions for the account of non-Trading Permit Holder broker-dealers were being identified using the same "C" origin code as such transactions for public customers, so the Exchange wanted to avoid any potential billing discrepancies.<sup>5</sup>

Beginning as soon as April 24, 2012, the Exchange will begin rolling out its newly-enhanced FLEX Hybrid Trading System (the "CFLEX System") for FLEX Options trading. The Exchange intends to transition a few classes at a time and anticipates full implementation within approximately one to three weeks of the initial transition. This enhanced CFLEX System will allow for the entry of non-Trading Permit Holder broker-dealer transactions using a different order origin code than the "C" origin code used for public customers (and currently, for non-Trading Permit Holder broker-dealers). As such, the Exchange proposes deleting from the Fees Schedule the language that states that for FLEX Options only, customer transaction fees apply to non-Trading Permit Holder broker-dealer orders (orders with "C" origin code), as those fees are only applicable for non-Trading Permit Holder broker-dealer executions on the old CFLEX System. Going forward as FLEX Options are rolled out to the newly-enhanced CFLEX System, broker-dealer fees would apply to non-Trading Permit Holder broker-dealer FLEX Options transactions, as they do for all other non-Trading Permit Holder broker-dealer transactions, and as they

<sup>3</sup> Flexible Exchange Options ("FLEX Options") provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices. FLEX Options can be FLEX Index Options or FLEX Equity Options. In addition, other products are permitted to be traded pursuant to the FLEX trading procedures. For example, credit options are eligible for trading as FLEX Options pursuant to the FLEX rules in Chapters XXIVA and XXIVB. See CBOE Rules 24A.1(e) and (f), 24A.4(b)(1) and (c)(1), 24B.1(f) and (g), 24B.4(b)(1) and (c)(1), and 28.17. The rules governing the trading of FLEX Options on the FLEX Request for Quote ("RFQ") System platform (which is limited to open outcry trading only) are contained in Chapter XXIVA. The rules governing the trading of FLEX Options on the FLEX Hybrid Trading System platform (which combines both open outcry and electronic trading) are contained in Chapter XXIVB. The Exchange notes that, currently, all FLEX Options are traded on the FLEX Hybrid Trading System platform.

<sup>4</sup> See Securities Exchange Act Release No. 65875 (December 2, 2011), 76 FR 76783 (December 8, 2011) (SR-CBOE-2011-112).

<sup>5</sup> *Id.*

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

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