to quote at price levels that are closer to the National Best Bid and National Best Offer if it elects to do so. To use this functionality, a market maker must designate the desired offset upon order entry.[15] Thereafter and unlike the default [16] Market Maker Peg Order, a Market Maker Peg Order with a market maker-designated offset will have its price automatically adjusted on a tick-by-tick basis by the System to maintain the market maker-designated offset from the National Best Bid or National Best Offer until the order is executed or cancelled.[17] In the absence of a National Best Bid or National Best Offer, Market Maker Peg Orders with a market maker-designated offset will be cancelled or rejected. In the event that pricing the Market Maker Peg Order at the market maker-designated offset away from the then current National Best Bid and National Best Offer would result in the order exceeding its limit price, the order will be cancelled or rejected.[18]

NASDAQ claims that this order-based approach is superior in terms of the ease in complying with the requirements of the Market Access Rule and Regulation SHO while also providing similar quote adjusting functionality to its market makers.[19] NASDAQ also states that market makers would have control of order origination, as required by the Market Access Rule, while also allowing market makers to make marking and locate determinations prior to order entry, as required by Regulation SHO. The Exchange claims that this will allow market makers to fully comply with the requirements of the Market Access Rule and Regulation SHO, as they would when placing any order, while also meeting their Exchange market making obligations.[20]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[21] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[22] which requires, among other things, the rules of an exchange 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. The Commission finds that the proposed rule change also is designed to support the principles of Section 11A(a)(1) [23] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets.

The Commission finds that the Exchange's proposal is consistent with the Act because it provides a means through which market makers may meet their minimum quoting requirements, which may assist in the maintenance of fair and orderly markets, provide additional liquidity to the Exchange, and prevent excessive volatility. At the same time, the proposal is reasonably designed to assist market makers in complying with the regulatory requirements of the Market Access Rule and Regulation SHO. The Commission notes, however, that the Market Maker Peg Order, like the current AQ system, does not ensure that the market maker is satisfying the requirements of the Market Access Rule or Regulation SHO, including the satisfaction of the locate requirement of Rule 203(b)(1) or an exception thereto. The Commission also notes that, in the event a Market Maker Peg Order is executed against such that the Market Maker Peg Order is reduced in size to below one round lot, the market maker would need to perform the necessary regulatory checks pursuant to the Market Access Rule and Regulation SHO prior to entering a new Market Maker Peg Order.

The Commission also believes that providing Exchange market makers with a transition period, during which they may adequately test the new functionality of the Market Maker Peg Order, will serve to minimize the potential market impact caused by the implementation of that order type. In addition, by allowing market makers to enter a Market Maker Peg Order that is priced more aggressively than the Designated Percentage, the proposed rules are reasonably designed to provide that quotations submitted by market makers to the Exchange, and displayed to market participants, bear some relationship to the prevailing market price.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change, as modified by Amendment No. 1, (SR–NASDAQ–2012–066) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

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[15] If a market maker wishes, it can designate a more aggressive bid while using the Defined Percentage and Defined Limit for its offer, or vice versa.

[16] In the absence of an offset designation, a Market Maker Peg Order will default to using the Defined Percentage and Defined Limit, and the repricing process whereby, upon reaching the Defined Limit, the price of a Market Maker Peg Order bid or offer will be adjusted by the System to the Designated Percentage away from the then current National Best Bid or National Best Offer, or, if no National Best Bid or National Best Offer, to the Designated Percentage away from the last reported sale from the responsible single plan processor.

[17] Market Maker Peg Orders with a market maker-designated offset may be able to qualify as bona-fide market making for purposes of Regulation SHO, depending on the facts and circumstances. A market maker entering such an order must consider the factors set forth by the Commission in determining whether reliance on the exception from the ''locate'' requirement of Rule 203 for bona-fide market making is appropriate with respect to the particular Market Maker Peg Order and its designated offset. *See supra* note 11.

[18] The Market Maker Peg Order will be accepted and executable during System hours. During pre and post-market hours, the wider Designated Percentage and Defined Limit associated with the 9:30 a.m.–9:45 a.m. and 3:35 p.m.–4:00 p.m. periods under Rule 4613(a)(2)(D) and (E) will be applied.

[19] *See* Notice, *supra* note 3 at 37088.

[20] *See id.*

[21] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78k–1(a)(1).

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67581; File No. SR–CBOE–2012–074]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish a Rule Regarding Records of Written Complaints for the CBOE Stock Exchange

August 2, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 31, 2012, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 establish a rule regarding records of written complaints that is specific to the CBOE Stock Exchange (''CBSX''). 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 Exchange proposes to establish Rule 53.7—CBSX Record of Written Complaints to formally establish a record keeping procedure for complaints specific to CBSX. CBOE has the options-specific Rule 9.23—Customer Complaints. However, to date there has been no equities-specific customer complaint rule for CBSX. Historically, the majority of CBSX trading activity was proprietary. In recent months, CBSX has seen an increase in customer trading. As such, CBSX desires to adopt a rule regarding records of customer complaints that is specific to CBSX to assist the Exchange's Regulatory Services Division in investigations regarding CBSX-specific customer complaints. Therefore, CBSX proposes to establish Rule 53.7—CBSX Record of Written Complaints. This proposed rule is substantively identical to BATS Exchange, Inc. (''BATS'') Rule 4.3—Record of Written Complaints,[3] with one exception (discussed below). The substance of proposed Rule 53.7 is nearly identical to that of BATS Rule 4.3 (which is very similar to record of written complaints rules on other exchanges) so that market participants trading on multiple stock exchanges can follow as uniform as possible a set of rules regarding records of written complaints.

Paragraph (a) of Rule 53.7 will establish that each CBSX Trader shall keep and preserve for a period of not less than five years a file of all written complaints of customers and action taken by the CBSX Trader in respect thereof, if any. Further, for the first two years of the five-year period, the CBSX Trader shall keep such file in a place readily accessible to examination or spot checks. This paragraph (a) of CBOE Rule 53.7 is substantively identical to BATS Rule 4.3(a).

Paragraph (b) of Rule 53.7 will establish that upon request by CBSX, a CBSX Trader shall forward promptly to CBSX any written complaints requested and a report of the action taken thereon. BATS Rule 4.3 has no provision requiring BATS members to forward written complaints to BATS upon request. However, CBSX desires to include such a stipulation in order to ensure CBSX has access to such complaints for regulatory purposes.

Paragraph (c) of Rule 53.7 will establish that a ''complaint'' shall mean any written statement of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of a CBSX Trader or persons under the control of the CBSX Trader in connection with either the solicitation or execution of any transaction conducted or contemplated to be conducted through the facilities of the CBSX, or the disposition of securities or funds of that customer which activities are related to such a transaction. This paragraph (c) of CBOE Rule 53.7 is substantively identical to BATS Rule 4.3(b).

The proposed Rule 53.7 encompasses electronically submitted complaints (including email). CBSX will issue a Regulatory Circular providing instructions on how to forward formal written complaints specific to CBSX.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[5] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, establishing a CBSX-specific rule regarding records of written complaints will assist CBSX's regulatory processes by ensuring that customer complaints are kept by CBSX Traders and are available to be forwarded to CBSX for regulatory purposes. This helps ensure that customer complaints are adequately addressed, thereby removing impediments to, and perfecting the mechanism for a free and open market and a national market system and, in general, protecting investors and the public interest.

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.

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 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[6] and Rule 19b–4(f)(6) thereunder.[7]

The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange believes that the

[3] *See* BATS Rule 4.3.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 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.

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 CBSX to begin ensuring that customer complaints are adequately kept and addressed by CBSX Traders.[8] 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, without delay, to require CBSX Traders to establish a process to maintain, and make available to CBSX upon request, certain customer complaints. The Commission notes that the proposed rule change is based on and similar to BATS Rule 4.3.[9] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[10]

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 Exchange 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.* Please include File Number SR–CBOE–2012–074 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–CBOE–2012–074. 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 a.m. and 3 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; 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–2012–074 and should be submitted on or before August 29, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

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[8] *See* SR–CBOE–2012–074, Item 7.

[9] *See supra* note 3.

[10] 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).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67577; File No. SR–NSX–2012–10]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Rules To Extend Pilot Program Regarding Trading Pauses in Individual Securities Due to Extraordinary Market Volatility

August 2, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on July 25, 2012, the National Stock Exchange, Inc. ("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

National Stock Exchange, Inc. ("NSX®" or "Exchange") is proposing to amend its rules to extend a certain pilot program regarding trading pauses in individual securities due to extraordinary market volatility.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nsx.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 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 self-regulatory organization 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

With this rule change, the Exchange is proposing to extend a pilot program currently in effect regarding trading pauses in individual securities due to extraordinary market volatility under NSX Rule 11.20B. Currently, unless otherwise extended or approved permanently, this pilot program will expire on July 31, 2012. The instant rule filing proposes an extension to the pilot program until February 4, 2013.

NSX Rule 11.20B (Trading Pauses in Individual Securities Due to Extraordinary Market Volatility) was approved by the Securities and Exchange Commission (the "Commission") on June 10, 2010 on a pilot basis to end on December 10, 2010.[3] The pilot program end date was subsequently extended until April 11,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–NSX–2010–05).