

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

Kevin M. O'Neill,

Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68607; File No. SR-NYSE-2012-80]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Increasing the Fees Paid by Participants in the Exchange's Medallion Signature Program From \$1,000 per Year to \$1,300 per Year

January 9, 2013.

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 December 28, 2012, New York Stock Exchange LLC (the "Exchange" or "NYSE") 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 increase the fees paid by participants in the Exchange's medallion signature program from \$1,000 per year to \$1,300 per year. 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.

<sup>19</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.

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 change the application and annual charge to be paid by participants in the medallion signature program ("MSP") maintained by the NYSE from \$1,000 to \$1,300 per year. In 1992, the Securities and Exchange Commission ("Commission") approved NYSE's conversion of its existing signature service program to a signature guarantee program, now referred to as the MSP.<sup>3</sup> At that time, the NYSE specified that participants in the MSP would bear the administrative expenses in connection with the program, which at that time was a charge of \$300 to be paid upon filing an application to the program and annually thereafter. The \$300 charge to participants in the MSP was increased to \$1,000 as of January 1, 2005.<sup>4</sup>

The Exchange has recently entered into a new agreement with the outside vendor that administers the MSP and the fees paid by the Exchange to that outside vendor have increased significantly. In addition, the Exchange's internal administrative and regulatory costs in relation to the MSP have increased significantly since the fees were last increased eight years ago. Consequently, effective January 1, 2013, the Exchange will increase the charge to members participating in the MSP to \$1,300. This charge will be payable upon a participant's filing of an application to the MSP and annually thereafter. The NYSE will bill MSP participants the increased fee for 2013 in January 2013.

The proposed changes are not otherwise intended to address any other problem, and the Exchange is not aware of any significant problem that the affected market participants would have in complying with the proposed changes.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

<sup>3</sup> See Securities Exchange Act Release No. 31388 (October 30, 1992), 57 FR 53366 (November 9, 1992) (SR-NYSE-92-16) (order approving implementation of a signature guarantee program). The MSP is governed by NYSE Rule 200.

<sup>4</sup> See Securities Exchange Act Release No. 51190 (February 11, 2005), 70 FR 8867 (February 23, 2005) (SR-NYSE-2005-06).

Section 6(b)<sup>5</sup> of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Sections 6(b)(4)<sup>6</sup> and 6(b)(5)<sup>7</sup> of the Act, in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers. The Exchange believes that the proposed fee is equitable and not unfairly discriminatory in that it is charged only to those member organizations that voluntarily participate in the MSP. The Exchange believes that the proposed fee is reasonable in that it is closely related to the Exchange's actual costs in administering the program.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. In particular, the proposed fee only will be charged to those member organizations that voluntarily participate in the MSP. In addition, the increased fee amount correlates to the increased costs to the Exchange for administering the program.

#### 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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>8</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>9</sup> thereunder, because it establishes a due, fee, or other charge imposed by NYSE.

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.

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78a.

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

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

#### 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-NYSE-2012-80 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-NYSE-2012-80. 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 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-NYSE-2012-80 and should be submitted on or before February 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68606; File No. SR-CBOE-2012-131]

#### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending Rule 5.5.04 To Permit the Exchange To List Additional Strike Prices Until the Close of Trading on the Second Business Day Prior to Monthly Expiration in Unusual Market Conditions**

January 9, 2013.

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 December 28, 2012, the 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 Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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**

CBOE proposes to amend Interpretation and Policy .04 to CBOE Rule 5.5 to permit the Exchange to list additional strike prices until the close of trading on the second business day prior to the expiration of a monthly, or standard, option in the event of unusual market conditions. 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 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 the Statutory Basis for, the Proposed Rule Change*

###### 1. Purpose

The purpose of this filing is to amend Interpretation and Policy .04 to CBOE Rule 5.5 to permit the Exchange to add additional strikes until the close of trading on the second business day prior to a monthly expiration in the event of unusual market conditions.

This is a competitive filing that is based on two recently approved filings submitted by NYSE MKT LLC ("NYSE MKT") and NYSE, Arca, Inc. ("NYSE Arca").<sup>5</sup> The NYSE MKT and NYSE Arca filings both made changes to their respective rules governing the last day on which strikes may be added for individual stock and exchange-traded fund ("ETF") options. Similar to CBOE Rule 5.5.04, NYSE MKT and NYSE Arca had rules that permitted the opening of additional series of individual stock and ETF options until the first calendar day of the month in which the option expires or until the fifth business day prior to expiration if unusual market conditions exist. NYSE MKT and NYSE Arca both amended their rules to permit the opening of additional series of individual stocks and ETF options until the close of trading on the second business day prior to the expiration of a monthly, or standard, option in the event of unusual market conditions.

Options market participants generally prefer to focus their trading in strike prices that immediately surround the price of the underlying security. However, if the price of the underlying stock or ETF moves significantly, there

<sup>10</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>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

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

<sup>5</sup> See Securities Exchange Act Release Nos. 68460 (December 18, 2012), (SR-NYSEMKT-2012-41) (approval order) ("NYSE MKT filing") and 68461 (December 18, 2012) (SR-NYSEArca-2012-94) (approval order) ("NYSE Arca filing").