

Exchange believes that the Financial Industry Regulatory Authority, Inc. ("FINRA") and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistent rules across market centers.

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

Written comments on the proposed rule change were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the proposed rule change 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>12</sup>

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.<sup>13</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 No. SR-NSX-2013-19 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 No. SR-NSX-2013-19. 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 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 available publicly. All submissions should refer to File No. SR-NSX-2013-19 and should be submitted on or before November 12, 2013.

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

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

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-70613; File No. SR-FINRA-2013-036]

**Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Relating to Wash Sale Transactions and FINRA Rule 5210 (Publication of Transactions and Quotations)**

October 4, 2013.

**I. Introduction**

On August 15, 2013, Financial Industry Regulatory Authority, Inc. ("FINRA") 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 amend FINRA Rule 5210. The proposed rule change was published for comment in the **Federal Register** on September 4, 2013.<sup>3</sup> The Commission received five comments on the 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,

<sup>14</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> See Securities Exchange Act Release No. 70276 (August 28, 2013), 78 FR 54502 ("Notice").

<sup>4</sup> See letter from Anonymous to Elizabeth M. Murphy, Secretary, Commission, dated September 9, 2013; letter from William A. Jacobson, Clinical Professor of Law, and Director, Cornell Securities Law Clinic, and Jimin Lee, Cornell University Law School, to Elizabeth M. Murphy, Secretary, Commission, dated September 25, 2013; letter from Stuart J. Kaswell, Executive Vice President, Managing Director and General Counsel, Managed Funds Association, to Elizabeth M. Murphy, Secretary, Commission, dated September 25, 2013; letter from Manisha Kimmel, Executive Director, Financial Industry Forum, to Elizabeth M. Murphy, Secretary, Commission, dated September 25, 2013; and letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, to Elizabeth M. Murphy, Secretary, Commission, dated October 4, 2013.

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

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

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

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 October 19, 2013.

The Commission is hereby extending the 45-day period for Commission action on the proposed rule change. The Commission has determined that it is appropriate to designate a longer period within which to take action on the proposed rule change. In particular, the extension of time will ensure that the Commission has sufficient time to consider and take action on FINRA's proposal in light of, among other things, the comments received on the proposal.

Accordingly, pursuant to Section 19(b)(2)(A)(ii)(I) of the Act<sup>6</sup> and for the reasons stated above, the Commission designates December 3, 2013, 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-FINRA-2013-036.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70644; File No. SR-Topaz-2013-06]

### Self-Regulatory Organizations; Topaz Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Market Maker Risk Parameters

October 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 September 30, 2013, the Topaz Exchange, LLC (d/b/a ISE Gemini) (the "Exchange" or "Topaz") 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 changes to mitigate market maker risk by requiring market makers to enter values in the Exchange-provided risk parameters.

The text of the proposed rule change is available on the Exchange's Internet Web site at <http://www.ise.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, Proposed Rule Change

###### 1. Purpose

Pursuant to Topaz Rule 804, the Exchange currently provides functionality that will automatically remove a market maker's quotes in all series of an options class when certain parameter settings are triggered. Specifically, there are four parameters that can be set by market makers on a class-by-class basis. These parameters are available for market maker quotes in single options series. Market makers establish a time frame during which the system calculates: (1) the number of contracts executed by the market maker in an options class; (2) the percentage of the total size of the market maker's quotes in the class that has been executed; (3) the absolute value of the net between contracts bought and contracts sold in an options class; and (4) the absolute value of the net between (a) calls purchased plus puts sold, and (b) calls sold plus puts purchased. The market maker establishes limits for each of these four parameters, and when the limits are exceeded within the

prescribed time frame, the market makers quotes are removed.<sup>3</sup>

The purpose of this functionality is to allow market makers to provide liquidity across potentially hundreds of options series without being at risk of executing the full cumulative size of all such quotes before being given adequate opportunity to adjust their quotes. For example, if a market maker can enter quotes with a size of 20 contracts in 150 series of an options class, its total potential exposure is 3000 contracts in the options class. To mitigate the risk of executing all 3000 contracts without evaluating its positions, the market maker risk functionality will automatically remove its quotes in all series of the options class after it has executed a specified number of contracts (e.g., 100) in series of that options class during a specified time period (e.g., 5 seconds).

To assure that all quotations are firm for their full size, the parameter calculations occur after an execution against a market maker's quote takes place. For example, if a market maker has set a parameter of 100 contracts during a 5 second interval for an options class, and has executed a total of 95 contracts in the options class within the previous 3 seconds, a quote in a series of that class with a size of 20 contracts continues to be firm for all 20 contracts. In this example, an incoming order could execute all 20 contracts of the quote, and following the execution, the total size parameter would add 20 contracts to the running total of 95. Since the total size executed within the 5 second time frame exceeds the 100 contracts established by the market maker for the options class, all of the market maker's quotes in the options class would be removed. The market maker would then enter new quotes in the class.

Use of these risk management tools is voluntary under the rules. Similarly, from a technical perspective, market makers currently do not need to enter

<sup>3</sup> The Exchange is proposing certain non-substantive changes to the text of Rule 804 for clarity. The changes shorten the first sentence in Rule 804 by deleting "if the market maker trades, in the aggregate across all series of an options class during a specified time period" and to delete "(established by the market maker), within a time frame specified by the market maker" as the text might be confusing in its current form and is redundant with other text within the Rule. To assure clarity, the Exchange also proposes to specify that the first parameter is a number of "total" contracts "in the class," and to specify that the fourth parameter is a net value based on puts and calls purchased and sold "in the class." Finally, the Exchange proposes to use a uniform construction of "the specified . . ." for each of the four parameters. The Exchange is not proposing to alter the operation of the functionality, other than to make use of the parameters mandatory.

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

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

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

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