

eliminate the use of dividend plays in the accounts of market-makers in light of the identifiable improvements in the safety of its processes that are expected to result from the changes.

Through its internal governance process, OCC has determined that dividend play trades have the potential to pose certain risks to market participants, including OCC clearing members, and, in general, are not in the public interest. In making such a determination, OCC's proposed rule change will limit the use of dividend plays through the modification of the processing sequence by which these trades are cleared and settled at OCC. While the Commission acknowledges the point raised by Duane Morris and confirmed by OCC in its proposal, that dividend play trading does not present any current operational risk to OCC, the Commission believes that neither Section 17A of the Exchange Act nor Rule 17Ad-22 limit OCC to exclusively addressing risks that are currently present for the clearing agency alone. Given its important role in the national clearance and settlement system and its designation as a systemically important financial market utility by the Financial Stability Oversight Council in 2012, the Commission believes OCC is entitled under the Exchange Act to take into account the interests of its clearing members, as well as foreseeable effects of its actions on the financial system more generally, when reviewing and considering changes to its operational practices. There is a clearly articulated basis for believing the proposed action by OCC will improve the national clearance and settlement system by increasing the safety of the system in identifiable ways for at least a portion of OCC's membership as reflected in OCC's proposal and in the comment letters received, and the Commission believes such improvements are consistent with the relevant requirements of the Exchange Act. In particular, since the clearing of dividend play trades is not restricted based on clearing member capitalization and risk-management processes, the proposal serves to mitigate a foreseeable source of operational risk by precluding clearing members with less robust risk management processes from clearing such dividend trades in the future.

The Commission also finds that the proposal does not impose any burden on competition that is not necessary or appropriate in furtherance of the Exchange Act. The appropriate standard, as set forth in Section 17A(b)(3)(I) of the Exchange Act, requires that the rules of the clearing agency do not impose any burden on

competition not necessary or appropriate in furtherance of the Exchange Act.²⁸ The Commission believes that the proposed rule change does not impose a burden on competition that is not necessary or appropriate in furtherance of minimizing potential sources of operational risk and promoting the prompt and accurate clearance and settlement of securities transactions. Moreover, since the majority of dividend plays occur in market-maker accounts, there is a reasonable basis for OCC to believe it is prudent risk management to start curtailing dividend play trading in the types of accounts in which it primarily occurs. Furthermore, the Commission notes that the proposed changes by OCC would not have the effects of ending dividend plays entirely for market-makers or any other participants in the options market. A market-maker, for example, will still have the ability to participate in the capturing of dividend after the operational changes proposed by OCC are in effect by exercising long in-the-money call options on the day prior to the ex-dividend date, so long as its position in the particular option is net long. While some consequential effects would necessarily follow from OCC implementing the proposed changes in its operational practices, absent action to eliminate dividend plays entirely, at this time the Commission believes OCC's choice to consider the beneficial effects of its operational changes outweigh any negative effects to be consistent with Section 17A(b)(3)(I) of the Exchange Act.²⁹

Pursuant to Section 3(f) of the Exchange Act, in the review of a rule of a self-regulatory organization, the Commission shall consider whether the action will promote efficiency, competition, and capital formation.³⁰ As described above, Duane Morris argues that market efficiency is not advanced by the net long requirement for the processing of call options in Market-Maker accounts. Duane Morris appears to base its assertion on its belief that fraud and/or manipulation are not concerns with dividend play transactions, and that such trading imposes no harm to public investors.

²⁸ 15 U.S.C. 78q-1(b)(3)(I).

²⁹ Any additional proposed rule change by OCC expected to have the effect of eliminating the use of dividend play trades would also have to be presented to the Commission for consideration prior to taking effect. Points such as those made in the Duane Morris Letter regarding expected effects on competition and other consequences resulting from such a proposed change would necessarily be reconsidered by the Commission in light of the rationales presented by OCC at that time.

³⁰ 15 U.S.C. 78c(f).

The Commission believes that Duane Morris has not provided ample evidence to support the assertion that the proposed rule change does not advance market efficiency.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act³¹ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,³² that the proposed rule change (File No. SR-OCC-2014-15) be and hereby is approved.³³

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.³⁴

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73439; File No. SR-CBOE-2014-082]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the CBOE Trade Match System

October 27, 2014.

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 October 24, 2014, 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, 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.

³¹ 15 U.S.C. 78q-1.

³² 15 U.S.C. 78s(b)(2).

³³ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

³⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt a new rule related to its existing CBOE Trade Match System functionality. 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 is proposing to adopt new Rule 6.67 related to its existing CBOE Trade Match System ("CTM") functionality. CTM is a systems user interface provided by the Exchange in which authorized Trading Permit Holders ("TPHs") may receive copies of trade records and add and/or update their trade records. Although references to CTM exist within Regulatory and Information Circulars, as well as technical specifications, the functionality is not currently described in Exchange rules. The Exchange believes it would be beneficial to address and provide further detail in its rules regarding the CTM functionality and permitted uses.

Exchange rules currently contemplate post trade modifications.³ Such modifications may be effected via the CTM system. A rule explicitly detailing the modification process and defining what permitted modifications are allowed however does not currently exist in the Exchange's rules. The

³ See, e.g., CBOE Rule 6.61 which provides that a Trading Permit Holder "shall be obligated to reconcile all unmatched trades . . . and to report all reconciliations and corrections to the Exchange or the Clearing Trading Permit Holder responsible for submission to the Exchange."

Exchange believes it would be useful to explicitly reference within the rule text the term "CTM" and codify what post trade modifications via CTM are permitted to reduce confusion and add additional transparency to the rules regarding CBOE's systems.

First, the Exchange proposes to explicitly reference and describe "CTM." Specifically, CTM is a system in which authorized TPHs may enter and report transactions that have been effected on the Exchange in accordance with Exchange rules (e.g., Cabinet Trades⁴ or other trades that have been transacted on the Exchange in accordance with Exchange rules, but were not processed through the Hybrid System⁵) or to correct bona fide errors (e.g., a situation in which a transaction was reported using the wrong strike). Documentation requirements related to changes made through the use of CTM will be announced via a Regulatory Circular.

By way of background, CBOE Rule 6.51 requires that for all transactions made on the Exchange, TPHs must file with the Exchange certain trade information⁶ in order to allow the Exchange to properly match and clear trades. This information is used to provide the comparison of the two sides (i.e., buy and sell) of a transaction. When the two sides match, the trade is successfully compared and will move on to the Options Clearing Corporation ("OCC") for clearance. For trades that do not match (i.e., trade information from each side do not match) TPHs and their respective representatives must make reasonable efforts to resolve unmatched trades on trade day.⁷ The Exchange notes that unmatched trades may be a result of software problems or systemic problems that cause incorrect information to be filed or a result of other errors such as "key punch" errors which result from manual data entry (i.e., trade information outside the written order instructions may have been mistakenly keyed in during user input). The Exchange notes that CTM

⁴ See CBOE Rule 6.54.

⁵ For example, a TPH may not have been able to enter its side of a transaction due to a system issue with the trade match record entry process.

⁶ See CBOE Rule 6.51(d).

⁷ See CBOE Rule 6.61. See also, CBOE Rule 6.60. On each business day the Exchange shall match the trade information submitted by TPHs on that day and issue Unmatched Trade Reports to each Clearing Trading Permit Holder, ("CTPH") which contains a list of such CTPH's trades for that day which the Exchange did not receive matching trade data from another CTPH (called "unmatched trades"). Upon receipt of an Unmatched Trade Report, a TPH must reconcile all unmatched trades and report all reconciliations and corrections to the Exchange or the CTPH responsible for submission to the Exchange.

may be used by TPHs to change certain fields on a trade record for which it has authority to correct, in order to update a trade record or correct an unmatched field to resolve an out-trade. The Exchange proposes to codify what post trade modifications via CTM are permitted and further specify which changes will require notification to the Exchange.

The Exchange first seeks to specify which fields may be changed by TPHs through the use of CTM without notice to the Exchange. Those fields are: (1) Executing Firm and Contra Firm; (2) Executing Broker and Contra Broker; (3) CMTA;⁸ (4) Market-Maker Account and Sub Account; (5) Customer ID; (6) Position Effect (open/close); (7) Optional Data and/or (8) Origin Code (provided the change is not from a customer origin code to any other origin code). The Exchange notes that the information contained in these fields does not affect the terms of a contract or the Consolidated Tape. Rather, the Exchange views these changes to be non-critical backoffice changes and as such, the Exchange does not believe it needs notice from the TPH making the change. The Exchange also notes that such changes would be captured in the Exchange's audit trail.

Next, the Exchange proposes to specify which fields may be changed by TPHs through the use of CTM that require TPHs to give notice to the Exchange in a form and manner determined by the Exchange. Specifically, those fields are: (1) Series; (2) Quantity; (3) Buy or Sell; (4) Premium Price and/or (5) Origin Code (if changing origin code from customer (C) to any other origin code). The Exchange notes that these fields, with the exception of origin code, do change the terms of the contract and additionally affect the Consolidated Tape. As such, the Exchange proposes to require notice and further documentation as to why such a change is being made in order to monitor such changes, as well as take the necessary steps to ensure that any such changes are properly reflected in the Consolidated Tape. As to changes from a Customer (C) origin code to any other origin code, the Exchange notes that while such change does not affect the Consolidated Tape or terms of a

⁸ Under a Clearing Member Trade Agreement ("CMTA"), an Options Clearing Corporation ("OCC") clearing member ("carrying clearing member") authorizes another clearing member ("executing clearing member") to give up the name of the carrying clearing member with respect to any trade executed on a specific exchange (i.e., the re-assignment of a trade to a different Clearing firm occurs post-trade at the OCC).

contract, such changes may affect other substantive aspects of how a trade was processed, including whether a trade should have been given order priority. Accordingly, the Exchange believes that TPHs making changes to these fields should be required to provide to the Exchange notice and documentation relating to the change. The Exchange proposes to require that notification of the change be made as soon as practicable, but no later than fifteen (15) minutes after the change has been made. The Exchange notes that it will not be authorizing any changes prior to the TPH making changes to any of the above-mentioned fields (i.e., the Exchange will not expressly indicate whether or not a change identified in a TPH's notice is in conformity with Exchange rules prior to the change being made). Rather, due to inherent time constraints, such changes will be reviewed by Exchange personnel after the fact, and a TPH that is found to have made an improper modification may be subject to appropriate disciplinary action in accordance with the Rules of the Exchange as described more fully below.

The Exchange lastly proposes to adopt Interpretation and Policy .01 to provide that any action taken by the Exchange pursuant to proposed Rule 6.67(b) and (c) does not constitute a determination by the Exchange that the transaction was effected in conformity with Exchange Rules.⁹ As noted above, any improper change made through CTM shall be processed and given effect, but the TPH may be subject to appropriate disciplinary action in accordance with Exchange rules. Additionally, the Exchange notes that nothing in proposed Rule 6.67 is intended to define or limit the ability of the Exchange to sanction or take other remedial action pursuant to other Exchange rules for rule violations or other activity for which remedial measures may be proposed. The Exchange notes that given the inherent time constraints in making various changes to exchange transactions, the Exchange would not be able to adequately consider the above-mentioned requirements and make a determination within the time required as to whether a change was improper or not. As such the Exchange will not prevent any changes from being processed and given effect, but will review such changes after the fact to ensure compliance with Exchange rules.

⁹ For example, if the Exchange provides a TPH the ability to make a change via CTM, such action should not be construed as a determination by the Exchange that the transaction proposed is in conformity with Exchange Rules.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange views CTM as an important tool that allows TPHs to receive copies of trade records and add and/or update trade records. Specifically, as described above, Exchange rules contemplate post trade modifications and also require that TPHs resolve unmatched trades. The Exchange believes CTM provides TPHs an effective mechanism to make such changes and reconcile out-trades due to bona fide errors, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and protecting investors and the public interest. Additionally, CTM provides a mechanism to enter trade records for trades effected on the Exchange in accordance with Exchange rules, but that were not processed through the Hybrid System and would otherwise be processed outside of CBOE's systems.

The Exchange also believes that clearly defining in the rules existing system functionality (i.e., CTM) provides additional transparency in the rules and provides market participants an additional avenue to easily understand the system and processes CBOE offers. The Exchange believes additional transparency removes a potential impediment to and perfecting the mechanism for a free and open market and a national market system,

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² *Id.*

and, in general, protecting investors and the public interest. Additionally, the Exchange believes that requiring certain changes made through the CTM system allows the Exchange to receive from TPHs information in a uniform format, which aids the Exchange's efforts to monitor and regulate CBOE's markets and TPHs and helps prevent fraudulent and manipulative practices.

Finally, the Exchange believes that the proposed rule changes are designed to not permit unfair discrimination among market participants. For example all TPHs may request access to CTM. Additionally, all TPHs will be subject to the same limitations as to the permitted uses of CTM functionality.

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 purposes of the Act. The Exchange believes that proposed Rule 6.67 will promote competition by making the CTM functionality more understandable to users and the general public. The Exchange believes that by better explaining its CTM functionality to TPHs and codifying the permitted uses of CTM, TPHs will better understand the Exchange's systems. The Exchange believes that additional clarity and transparency in the Rules will make it easier for market participants to compete with one another on equal footing in the markets and ultimately benefits all investors.

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 written 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:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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 Act¹³ and Rule 19b-4(f)(6)¹⁴ thereunder. At any time within 60 days

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

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. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

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. Please include File Number SR-CBOE-2014-082 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-CBOE-2014-082. 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 such filing also will be available for inspection and copying at the principal offices 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-2014-082, and should be submitted on or before November 21, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2014-25880 Filed 10-30-14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73433; File No. SR-NYSEArca-2014-122]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Use of Derivative Instruments by the AdvisorShares Global Echo ETF

October 27, 2014.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on October 23, 2014, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") 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 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

The Exchange proposes to reflect a change to the means of achieving the investment objective applicable to the AdvisorShares Global Echo ETF ("The Fund") relating to its use of derivative instruments. The text of the proposed rule change is available on the Exchange's Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 Commission has approved listing and trading on the Exchange of shares ("Shares") of the Fund under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange.⁴ The Shares are offered by AdvisorShares Trust ("Trust"), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.⁵

The investment adviser to the Fund is AdvisorShares Investments, LLC ("Adviser"). The Fund's sub-advisers ("Sub-Advisers" and each a "Sub-Adviser"), which provide day-to-day portfolio management of the Fund, are First Affirmative Financial Network LLC; Reynders, McVeigh Capital Management, LLC; Baldwin Brothers Inc.; and Community Capital Management Inc.

In this proposed rule change, the Exchange proposes to change the description of the Fund's use of

⁴ The Commission originally approved the listing and trading of the Shares on the Exchange on May 16, 2012. See Securities Exchange Act Release No. 67003 (May 16, 2012), 77 FR 30345 (May 22, 2012) (SR-NYSEArca-2012-24) ("Prior Order"). See also Securities Exchange Act Release No. 66696 (March 30, 2012), 77 FR 20660 (April 5, 2012) (SR-NYSEArca-2012-24) ("Prior Notice").

⁵ The Trust is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act"). On July 15, 2011, the Trust filed with the Commission Post-Effective Amendment No. 32 to Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333-157876 and 811-22110) ("Registration Statement"). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 29291 (May 28, 2010) (File No. 812-13677) ("Exemptive Order").