

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

Robert W. Errett, Deputy Secretary.

[FR Doc. 2015-12146 Filed 5-19-15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74963; File No. SR-CBOE-2015-012]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to Trading Permit Holder Qualifications

May 14, 2015.

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 May 4, 2015, 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.

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

The Exchange proposed to amend its rules related to Trading Permit Holder requirements and direct access to the Exchange's Hybrid Trading System (the "System"). The text of the proposed rule change is provided below.

(Additions Are Italicized; Deletions Are [Bracketed])

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Chicago Board Options Exchange, Incorporated Rules

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Rule 3.4. Foreign Trading Permit Holders

[(a)]A Trading Permit Holder that does not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the Securities and Exchange Commission and the Exchange must:

[(i)a] prepare all such reports, and maintain a general ledger chart of

account and any description thereof, in English and U.S. dollars;

[(ii)b] reimburse the Exchange for any expense incurred in connection with examination of the Trading Permit Holder to the extent that such expenses exceed the cost of examining a Trading Permit Holder located within the continental United States; and

[(iii)c] ensure the availability of an individual fluent in English knowledgeable in securities and financial matters to assist the representatives of the Exchange during examinations.

Rule 3.4A. Additional Trading Permit Holder Qualifications

(a) In addition to the qualifications set forth in Rules 3.2 through 3.4, a Trading Permit Holder applicant:

(i) must be domiciled in (with respect to individuals), or organized under the laws of (with respect to organizations), a jurisdiction expressly approved by the Exchange. When determining whether to approve a jurisdiction, the Exchange will consider whether:

(A) The applicant will be able to supply the Exchange with such information with respect to its dealings with the Exchange as set forth in the Rules;

(B) the Exchange will be able to examine the applicant's books and records to verify the accuracy of any information so supplied;

(C) approval of the applicant as a Trading Permit Holder will comply with all applicable laws, rules and regulations; and

(D) other factors that the Exchange reasonably and objectively determines may impact the applicant's ability to comply with the Rules and the Act or the Exchange's ability to accept Trading Permit Holders from the applicable jurisdiction.

This approval may be limited to one or more specified categories of Trading Permit Holders or Trading Permit Holder activities in a jurisdiction or be contingent upon the satisfaction of specified conditions by all applicants from a jurisdiction to the extent such limits or conditions are necessary to satisfy clauses (A) through (D);

(ii) will be subject to the jurisdiction of the federal courts of the United States and the courts of the state of Illinois; and

(iii) prior to acting as agent for a customer, must be able to provide information regarding the customer and the customer's trading activities to the Exchange in response to a regulatory request for information pursuant to the Rules. To the extent an individual or organization is required by an

applicable law, rule or regulation to obtain written consent from a customer to permit the provision of this information to the Exchange, the applicant must obtain such consent.

(b) The Exchange may at any time determine that a Trading Permit Holder can no longer comply with this Rule 3.4A. In that event, the Trading Permit Holder will have three months following the date of that determination to come into compliance with this Rule 3.4A. If a Trading Permit Holder does not come into compliance during that time period, the Exchange may terminate the Trading Permit Holder's status as a Trading Permit Holder.

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Rule 6.20A. Sponsored Users

(a)-(b) No change.

(c) A Sponsoring Trading Permit Holder must ensure that a Sponsored User satisfies the requirements set forth in Rule 3.4A(a) and only directly accesses the System from an approved jurisdiction as set forth in Rule 6.23A(d).

. . . Interpretations and Policies:

.01 No change.

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Rule 6.23A. Trading Permit Holder Connectivity

(a)-(c) No change.

(d) The Hybrid Trading System shall be available for entry and execution of orders only to Trading Permit Holders, [and]persons associated with Trading Permit Holders, and Sponsored Users (pursuant to Rule 6.20A) with authorized access. Such persons may only directly access the System from a jurisdiction expressly approved by the Exchange pursuant to Rule 3.4A(a). The Exchange will require a Trading Permit Holder to enter into a software user or license agreement with the Exchange in such form or forms as the Exchange may prescribe in order to obtain authorized access to the Hybrid Trading System, if the Trading Permit Holder elects to use an API for which the Exchange has determined such an agreement is necessary.

(e)-(f) No change.

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The text of the proposed rule change is also 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.

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 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 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 amend its rules related to Trading Permit Holder requirements and direct access to the System. The Exchange recently launched Extended Trading Hours.³ To accommodate the potential interest of non-U.S. persons or organizations to become Trading Permit Holders or Trading Permits Holders to access the System from other jurisdictions in connection with the launch of Extended Trading Hours, the proposed rule change adds Rule 3.4A to set forth additional qualifications applicable to all Trading Permit Holder applicants, amends Rule 6.20A to add a requirement regarding access by Sponsored Users and amends Rule 6.23A to add a requirement regarding access to the System.

Rules 3.2 and 3.3 set forth qualifications for individuals and organizations, respectively, to become Trading Permit Holders. For an individual to be a Trading Permit Holder, Rule 3.2 requires the individual to (i) be at least 21 years of age, (ii) be registered as a broker or dealer pursuant to Section 15 of the Act or be associated with a Trading Permit Holder organization that is registered as a broker or dealer pursuant to Section 15 of the Act, and (iii) meet the other qualification requirements for being a Trading Permit Holder under the Exchange's bylaws and rules. Similarly, for an organization to be a Trading Permit Holder, Rule 3.3 requires the organization to (i) be a corporation, partnership, or limited liability company, (ii) be registered as a broker or dealer pursuant to Section 15 of the

Act, and (iii) meet the other qualification requirements for being a Trading Permit Holder under the Exchange's bylaws and rules. Each individual and organization must be approved to engage in an authorized trading function.

Rule 3.4 imposes additional qualifications on Trading Permit Holders that do not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the Commission and the Exchange. Under Rule 3.4, these foreign Trading Permit Holders must (i) prepare all such reports, and maintain a general ledger chart of account and any description thereof, in English and U.S. dollars, (ii) reimburse the Exchange for any expense incurred in connection with examination of the Trading Permit Holder to the extent that such expenses exceed the cost of examining a Trading Permit Holder located within the United States, and (iii) ensure the availability of an individual fluent in English knowledgeable in securities and financial matters to assist the representatives of the Exchange during examinations.⁴

Proposed Rule 3.4A(a) provides that in addition to the qualifications set forth in Rules 3.2 through 3.4, a Trading Permit Holder applicant:

- Must be domiciled in (with respect to individuals), or organized under the laws of (with respect to organizations), a jurisdiction expressly approved by the Exchange.⁵ When determining whether to approve a jurisdiction, the Exchange will consider whether: (i) The applicant will be able to supply the Exchange with such information with respect to the applicant's dealings with the

⁴ The proposed rule change makes nonsubstantive changes to Rule 3.4. It deletes the paragraph letter (a) from the introductory paragraph, as there is no paragraph (b). The proposed rule change then revises the paragraph markings of subparagraphs (i) through (iii) to (a) through (c) to be consistent with the lettering and numbering system generally used throughout the Rules.

⁵ Proposed Rule 3.4A(b) allows the Exchange to determine at any time that a Trading Permit Holder can no longer comply with proposed Rule 3.4A (for example, if the laws in an applicable jurisdiction change). In that event, the Trading Permit Holder will have three months following the date of this determination to come into compliance with Rule 3.4A. If the Trading Permit Holder does not come into compliance during that time period, the Exchange may terminate the Trading Permit Holder's status as a Trading Permit Holder. This proposed rule change is consistent with Rule 3.5(d), which, among other things, permits the Exchange to determine not to permit a Trading Permit Holder to continue being a Trading Permit Holder if it fails to meet any qualification requirements for being a Trading Permit Holder after approval as a Trading Permit Holder.

Exchange as set forth in the Rules,⁶ (ii) the Exchange will be able to examine the applicant's books and records to verify the accuracy of any information so supplied, (iii) approval of such application will comply with all applicable laws, rules and regulations, and (iv) other factors that the Exchange reasonably and objectively determines may impact the applicant's ability to comply with the Rules and the Act or the Exchange's ability to accept Trading Permit Holders from the applicable jurisdiction. This approval may be limited to one or more specified categories of Trading Permit Holders or Trading Permit Holder activities in a jurisdiction or be contingent upon the satisfaction of specified conditions by all applicants from a jurisdiction to the extent such limits or conditions are necessary to satisfy clauses (i) through (iv);

- will be subject to the jurisdiction of the federal courts of the United States and the courts of the state of Illinois; and

- prior to acting as agent for a customer, must be able to provide information regarding the customer and the customer's trading activities to the Exchange in response to a regulatory request for information pursuant to the Rules. To the extent an individual or organization is required by an applicable law, rule or regulation to obtain written consent from a customer to permit the provision of this information to the Exchange, the applicant must obtain such consent.⁷

CBOE intends to initially notify market participants of approved jurisdictions by Regulatory Circular (which are publicly available on CBOE's Web site). CBOE also intends to have a Web page that lists then-currently approved jurisdictions. To the extent CBOE no longer intends to issue Regulatory Circulars to announce changes to the list of approved jurisdictions and only update the Web page, CBOE will issue a Regulatory Circular stating that fact.⁸

The Exchange believes the proposed Trading Permit Holder qualifications in

⁶ Rule 1.1(c) defines the term "Rules" to mean the Rules of CBOE.

⁷ The proposed rule change makes a corresponding change to Rule 6.20A to provide that Sponsoring Trading Permit Holders must ensure that Sponsored Users also satisfy these requirements, as Sponsored Users may enter orders, and the Exchange would similarly need the same information from Sponsored Users as it would from Trading Permit Holders.

⁸ See Regulatory Circular RG15-014 (question #5 includes a current list of approved jurisdictions (British Virgin Islands, Cayman Islands, Gibraltar, Ireland, Isle of Jersey, Luxembourg, Poland, United Kingdom and United States), subject to approval of this proposed rule change).

³ See Securities Exchange Act Release No. 34-73704 (November 28, 2014), 79 FR 72044 (December 4, 2014) (SR-CBOE-2014-062) (approval of rules adopting Extended Trading Hours).

proposed Rule 3.4A are reasonable for the following reasons:

- Proposed Rule 3.4A(a)(i) is intended to ensure that the Exchange can comply with applicable regulatory requirements in jurisdictions in which Trading Permit Holders are located and obtain the information necessary to perform its self-regulatory obligations. With respect to the factors the Exchange will consider when determining whether to approve a jurisdiction, the Exchange needs sufficient information to monitor Trading Permit Holders' compliance with the Rules and the Act.

- The Exchange understands that laws in certain jurisdictions may limit market participants' ability to share, or a foreign entity's ability to access, certain information. In order to perform its self-regulatory obligations, CBOE needs to ensure it has a complete audit trail and sufficient access to information with respect to all Trading Permit Holders. Proposed paragraphs (a)(i)(A) and (B) are intended to ensure that CBOE will be able to obtain this information regarding a Trading Permit Holder to properly conduct its surveillances and other regulatory functions.

- Additionally, the Exchange understands that certain jurisdictions require a foreign exchange to receive certain authorization to permit direct access (including exchange membership) to an exchange. Proposed paragraph (a)(i)(C) is intended to ensure CBOE's compliance with all applicable laws, rules and regulations, including such restrictions on exchange membership.

- Legal and regulatory requirements related to the securities industry, including exchanges, and international business relationships are constantly changing, which changes could impact a Trading Permit Holder applicant's ability to comply with the Rules and the Act or the Exchange's ability to permit Trading Permit Holders from a particular jurisdiction. For example, a country may adopt telecommunication laws that restrict market participants from complying with Exchange system requirements to establish a connection. A jurisdiction may also impose obligations on CBOE as a foreign exchange that may conflict with its self-regulatory obligations under the Act or may not have a regulatory framework in place that the Exchange believes provides sufficient local oversight and protection over market participants. Additionally, the Exchange believes it may be reasonable to consider other factors when determining whether to approve a jurisdiction, such as if necessary to maintain a fair and orderly

market or to address other circumstances. For example, the U.S. government may restrict U.S. businesses from doing business in a jurisdiction, or may not officially recognize the government of another jurisdiction. CBOE believes it is reasonable to comply with these governmental restrictions and not approve any such jurisdiction. Proposed paragraph (a)(i)(D) provides CBOE with the flexibility to consider these changes or circumstances when determining whether to approve a jurisdiction.

- The proposed rule change that permits CBOE to limit the categories or activities of a Trading Permit Holder from a jurisdiction or impose conditions will allow the Exchange to comply with any laws, rules or regulations in a jurisdiction that may permit only certain activities on the Exchange by market participants in that jurisdiction. For example, local laws or regulations may restrict market participants from quoting as market-makers or from submitting orders as agent for customers. In such a case, this rule change permits the Exchange to comply with such laws or regulations while permitting Trading Permit Holders from a jurisdiction on a restricted basis.

- Proposed Rule 3.4A(a)(ii) will ensure CBOE can enforce the Rules and any agreements it has with Trading Permit Holders in U.S. and Illinois courts.

- The Exchange understands that certain jurisdictions have privacy laws that restrict broker-dealers from sharing certain information regarding their customers. CBOE believes such information is necessary to regulate its market. Similar to proposed Rule 3.4A(a)(i)(A) and (B), proposed Rule 3.4A(a)(iii) is intended to ensure CBOE has a complete audit trail and sufficient access to information with respect to all Trading Permit Holders and the orders they represent on the Exchange (including those from customers) in order to properly conduct its surveillances and other regulatory functions.

These requirements will ultimately enhance the Exchange's regulatory oversight of its Trading Permit Holders' trading activity.

The Exchange also believes these additional requirements for all Trading Permit Holders are objective and nondiscriminatory. Proposed Rule 3.4A(a) sets forth explicit requirements that all Trading Permit Holder applicants must satisfy. With respect to approved jurisdictions, the Exchange will consider all of the factors included in proposed Rule 3.4A(a)(i) for all

jurisdictions in the same manner. The Exchange's consideration of the factors in subparagraph (A) through (C) generally will include reviews of the applicable laws, rules and regulations of a jurisdiction in consideration to determine whether those factors can be satisfied in that jurisdiction. Proposed Rule 3.4A(a)(i)(D) explicitly states that the Exchange will determine "other factors" objectively, and CBOE will consider them in the same manner for all jurisdictions it considers. The proposed rule change that indicates the Exchange may limit approval to categories of Trading Permit Holders or activities in a jurisdiction or impose other conditions specifies that such limits or conditions will be imposed on all applicants from the same jurisdiction, and the Exchange represents it will determine in the same manner for all jurisdictions whether to impose any such limits or conditions on Trading Permit Holders from a jurisdiction.⁹

The proposed change to Rule 6.23A provides that persons with authorized access to the System (Trading Permit Holders, persons associated with Trading Permit Holders and Sponsored Users)¹⁰ only directly access the System from an approved jurisdiction. The Exchange has determined that laws, rules and regulations related to exchange membership (that may restrict persons or entities domiciled in or organized under the laws of, as applicable, a specific jurisdiction from, for example, supplying an exchange with certain trading information or providing an exchange with access to its books and records) apply in the same manner to persons or entities accessing an exchange from the applicable jurisdiction.¹¹ For example, if an office

⁹ The Exchange notes that this does not prevent the Exchange from imposing conditions or restrictions on individual Trading Permit Holders pursuant to other Rules. *See, e.g.*, Rules 3.5(c) (permits the Exchange to condition a person from becoming a Trading Permit Holder on satisfaction of requirements set forth in that paragraph); Rule 8.2(b) (permits the Exchange to suspend or terminate a Trading Permit Holder's registration as a Market-Maker); and Rule 8.90 (permits the Exchange to terminate, place conditions upon or otherwise limit a TPH organization's approval to act as Designated Primary Market-Maker under certain circumstances).

¹⁰ Rule 6.20A provides that Sponsored Users may be authorized to electronically access the System subject to the requirements set forth in that Rule. The proposed rule change adds Sponsored Users to the list of persons that may have authorized access to the System pursuant to Rule 6.23A to be consistent with Rule 6.20A, which were inadvertently omitted from that list.

¹¹ The proposed rule change makes a corresponding change to Rule 6.20A to provide that Sponsoring Trading Permit Holders must ensure that Sponsored Users directly access the System

of a Trading Permit Holder organization that is organized in the United States is located in a foreign jurisdiction, as a Trading Permit Holder (organized in an approved jurisdiction) it is authorized to directly access the System for trading purposes. However, the laws of that jurisdiction may prevent the Exchange from obtaining necessary information related to the trading activity on the Exchange originating in such office (in accordance with proposed Rule 3.4A(a)). Therefore, the Exchange would not permit this direct System access from such jurisdiction for the same purposes as it would not approve a Trading Permit Holder applicant domiciled in or organized under the laws of such jurisdiction. Currently, the Exchange has authority under Rule 6.23A(e) to prescribe technical specifications regarding the establishment of an electronic connection to the System. While the proposed rule change is not a technical, system specification, the Exchange believes that imposing requirements on the location of the connection is similar to a "specification," because this location requirement will be part of the same process that otherwise imposes these technical specifications with which the Trading Permit Holder must comply when establishing a connection with the Exchange.

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.¹² Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ 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)¹⁴ requirement that

the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, proposed Rule 3.4A, which imposes additional qualifications on Trading Permit Holder applicants, including the requirement that the Exchange may determine in which jurisdiction Trading Permit Holder applicants may be domiciled in or organized under (and the ability of the Exchange to determine that a Trading Permit Holder no longer complies with this proposed requirement), is similar to Section 6(c)(3)(C) of the Act. That section of the Act allows the Exchange to deny persons from becoming associated with Trading Permit Holders if they are unable to supply the Exchange with such information with respect to its relationship and dealings with such persons or entities and unable to permit the Exchange to examine their books and records due to the jurisdiction (and any applicable laws, rules and regulations of that jurisdiction) in which they are domiciled or under the laws of which they are organized. While that Section of the Act applies to associated persons and not Trading Permit Holders, the Exchange believes it is appropriate to impose those requirements on Trading Permit Holders as well to ensure it has access to sufficient information to perform its self-regulatory obligations. Additionally, the Rules (which have been approved by the Commission and deemed to be in accordance with the Act) currently provide that an applicant must meet the qualification requirements under the Exchange's Bylaws and Rules (including obtaining a Trading Permit)¹⁵ and deny a person from becoming (or condition being) a Trading Permit Holder for such other cause as the Exchange reasonably may decide.¹⁶

The Exchange believes the additional qualifications set forth in proposed Rule 3.4A are reasonable and consistent with these current rules. Please see the "Purpose" section above (beginning on page 29) for a discussion regarding the reasonability of these qualifications. The Exchange notes that the membership qualifications, and reasons an exchange may deny membership to a party, set forth in Section 6(b) and (c) of the Act are not meant to be exhaustive, and that it is reasonable for an Exchange to have requirements for exchange membership beyond those contained in the Act.¹⁷

The Commission has previously approved rules that impose additional membership requirements, including additional qualifications for foreign organizations.¹⁸

The proposed changes to Rules 6.20A and 6.23A regarding access are similar to current Rule 6.23A(e) (previously approved by the Commission as consistent with the Act), which permits the Exchange to impose specific requirements related to connectivity to the Exchange. As discussed above, while the proposed rule change is not a technical specification, the access location requirement is part of the entire process a Trading Permit Holder must satisfy in order to establish a connection with the Exchange. Additionally, requiring Sponsored Users to satisfy the requirements in proposed Rule 3.4A(a) is consistent with Rule 6.20A(b)(1)(C), which provides that a Sponsored User will be bound by and comply with Exchange Rules as if the Sponsored User were a Trading Permit Holder. The proposed rule change makes explicit in the Rules that proposed Rule 3.4A(a) is one of those rules to which the Sponsored User must agree to be bound. Additionally, the proposed rule change to require the Sponsoring Trading

proposed rule change to require Trading Permit Holders of the CBOE Stock Exchange, LLC (CBSX), a stock trading facility of CBOE, to be members of a national securities association). In that approval order, the Commission stated that "the proposed rule change is consistent with Section 6(b)(2) and Section 6(c) of the Act. While Section 6(c) specifies certain bases upon which a national securities exchange can deny membership to, among other entities, a broker or a dealer, Section 6(c) is not intended to provide an exclusive list of reasons a national securities exchange can deny membership to a party. National securities exchanges may have requirements for exchange membership beyond those contained in the Act so long as they are consistent with the Act." *Id.* at 8772.

¹⁸ See, e.g., Securities Exchange Act Release No. 34-43056 (July 19, 2000), 65 FR 46524 (July 28, 2000) (SR-CBOE-1999-15) (order approving proposed rule change to, among other things, impose additional membership qualifications on foreign organizations (including that such organizations must be organized under laws of a country that satisfies certain criteria set forth by the Exchange in the proposed rule)). In that approval order, the Commission stated that it "believes that it is reasonable for the CBOE to clarify that, in addition to satisfying the requirements of CBOE Rule 3.4, a foreign organization must satisfy the other membership qualification requirements under the CBOE's rules and Constitution, as well [as] any additional requirements that the CBOE reasonably deems appropriate. The Commission believes that these provisions will clarify that a foreign organization, like a U.S. applicant for membership, must satisfy all of the CBOE's membership qualification requirements and provide the CBOE with flexibility to impose additional requirements that the CBOE reasonably believes are necessary with respect to foreign members." *Id.* at 46534. The Exchange notes that SR-CBOE-1999-15 imposed more restrictive membership requirements on foreign organizations than the proposed rule change in this filing.

only from an approved jurisdiction, as these laws, rules and regulations apply to any persons that directly access the Exchange from the applicable jurisdiction.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ *Id.*

¹⁵ See Rules 3.2(a)(iii) and 3.3(a)(iii).

¹⁶ See Rule 3.5(c)(iv).

¹⁷ See, e.g., Securities Exchange Act Release No. 34-71513 (February 7, 2014), 79 FR 8771 (February 13, 2014) (SR-CBOE-2013-100) (order approving

Permit Holder to ensure the Sponsored Users satisfaction of the proposed jurisdiction requirements is consistent with Rule 6.20A, which generally makes the Sponsoring Trading Permit Holder responsible for the Sponsored User's actions. Rule 6.20A currently sets forth a number of requirements with respect to the Sponsoring Trading Permit Holder/Sponsored User relationship, and this rule filing imposes proposed requirements applicable to all Trading Permit Holders on that relationship as well.

This proposed rule change will promote compliance by the Exchange with regulatory requirements of governments and regulatory authorities outside of the United States related to exchange memberships and access, which promotes just and equitable principles of trade and fosters cooperation and coordinates with other regulatory authorities. The proposed rule change enhances the Exchange's ability to satisfy its self-regulatory obligations by ensuring it is able to receive sufficient information to conduct its surveillances and investigations, which prevents fraudulent and manipulative acts and practices and removes impediments to and perfects the mechanism of a free and open market and a national market system, which ultimately protects investors.

Additionally, this proposed rule change is not unfairly discriminatory, as the proposed additional qualifications and access requirements will apply to all Trading Permit Holders and applicants. When determining whether to approve a jurisdiction, the Exchange will consider the proposed factors in the same manner for each jurisdiction. The Exchange believes that individuals or organizations within a specific jurisdiction are similarly situated, and thus it may allow individuals or organizations from one jurisdiction to become Trading Permit Holders but not from another based on the objective criteria set forth in the proposed rule. The objective criteria will ensure that the Exchange determines approved jurisdictions in a fair, reasonable manner that is not unfairly discriminatory. Please see the "Purpose" section above (beginning on page 32) for additional discussion regarding how the proposed qualifications, including factors to be considered when the Exchange is determining whether to approve a jurisdiction, will be applied in an objective and nondiscriminatory manner.

The proposed changes to Rule 3.4 are nonsubstantive and merely intended to

eliminate any potential confusion resulting from the mislettering of the paragraphs of that rule.

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. The proposed rule change imposes additional Trading Permit Holder qualifications and access requirements for CBOE, and thus does not raise any competitive issues. The proposed Trading Permit Holder qualifications and access requirements apply equally to all Trading Permit Holders and individuals and organizations seeking to become Trading Permit Holders. As discussed above, the Exchange will consider all factors in an objective and nondiscriminatory manner. The proposed rule change is intended to promote compliance by the Exchange with regulatory requirements of governments and regulatory authorities outside of the United States and enhance the Exchange's ability to satisfy its self-regulatory obligations and regulate its markets.

The Exchange notes that current Trading Permit Holders are all domiciled in or organized under the laws of the United States and satisfy these requirements (and thus need to take no additional action). Any potential burden that these qualifications and requirements may impose on Trading Permit Holders and applicants are far outweighed the Exchange's need to receive sufficient information to conduct its surveillances and investigations in order to ensure it can continue to effectively regulate its markets, which enhanced regulation will ultimately benefit all market participants. Please see the "Purpose" and "Statutory Basis" sections above (beginning on pages 29 and 35, respectively) for additional discussion regarding the reasonableness and objectivity of the proposed rule change.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period

up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be 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-2015-012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR-CBOE-2015-012. 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 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-2015-012 and should be submitted on or before June 10, 2015.

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

Robert W. Errett,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74971; File No. SR-ISE Gemini-2015-09]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees To Introduce a New “Retail” Designation for Priority Customer Orders

May 14, 2015.

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 April 29, 2015, ISE Gemini, LLC (the “Exchange” or the “ISE Gemini”) 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 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

ISE Gemini proposes to amend the Schedule of Fees to introduce a new “Retail” designation for Priority Customer orders. The text of the proposed rule change is available on the Exchange’s Web site (<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 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 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

The Exchange proposes to amend the Schedule of Fees to introduce a new “Retail” designation for Priority Customer orders. A “Priority Customer” is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Rule 100(a)(37A). This market participant type is one of six currently recognized for purposes of determining applicable fees and rebates, along with: Market Maker,³ Non-ISE Gemini Market Maker,⁴ Firm Proprietary,⁵ Broker-Dealer,⁶ and Professional Customer.⁷ The Priority Customer designation was adopted by the Exchange to provide competitive pricing and market structure advantages to retail investors, and to level the playing field between retail investors and market professionals. As such, Priority Customer orders executed on the Exchange are generally afforded more favorable fees and rebates than other market participants, including Professional Customers. The Exchange now believes that it is appropriate to introduce a further distinction between market participants that fall within the definition of Priority Customer.

In particular, the Exchange proposes to introduce a new “Retail” designation for Priority Customer orders for the purpose of determining applicable fees and rebates. As proposed, a Retail order is a Priority Customer order that originates from a natural person,

³ The term “Market Makers” refers to “Competitive Market Makers” and “Primary Market Makers” collectively. See Rule 100(a)(25).

⁴ A “Non-ISE Gemini Market Maker” is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange. See Schedule of Fees, Preface.

⁵ A “Firm Proprietary” order is an order submitted by a member for its own proprietary account. See Schedule of Fees, Preface.

⁶ A “Broker-Dealer” order is an order submitted by a member for a broker-dealer account that is not its own proprietary account. See Schedule of Fees, Preface.

⁷ A “Professional Customer” is a person or entity that is not a broker/dealer and is not a Priority Customer. See Schedule of Fees, Preface.

provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. The proposed definition of a Retail order is designed to mirror a similar concept introduced by the New York Stock Exchange (“NYSE”), NYSE Amex (“Amex”), and other equities exchanges to promote price improvement for orders submitted by retail investors.⁸ The proposed rule change, however, is intended to provide benefits to retail options investors in the form of more favorable pricing rather than market structure changes.⁹ While the Exchange is not amending fees and rebates applicable to Priority Customer orders that are designated Retail at this time, the Exchange intends to introduce special fees and rebates for Retail orders at a later date, such that Retail orders will potentially be entitled to the most favorable fees and rebates available on the Exchange. Until such time, Retail orders will be charged the same fees and provided the same rebates as other Priority Customer orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.¹⁰ In particular, the proposal is consistent with Section 6(b)(5) of the Act,¹¹ because is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the proposed rule change will allow the Exchange to potentially offer more favorable fees and rebates to Retail orders that originate from natural

⁸ See Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (SR-NYSE-2011-55; SR-NYSEAmex-2011-84) (Approval Order). See also NYSE and Amex Rule 107C(a)(3).

NYSE and Amex define a “Retail Order” as an agency order or a riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.

⁹ In addition, the Exchange notes that unlike the related equities programs, all members will be eligible to mark orders as Retail provided that the orders meet the requirements discussed above.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.