

the benefit of all members that trade complex orders on the Exchange. The Exchange also believes that the corresponding increase to the complex order taker fee and complex order maker fee for trading against Priority Customer orders, as well as the fee for responses to complex crossing orders, is reasonable and equitable as the proposed fees are set at levels that the Exchange believes will continue to be attractive to market participants that trade on ISE, and that are competitive with fees charged by other options exchanges.

The Exchange notes that Priority Customer orders will continue to receive complex order rebates,¹⁷ while other market participants will continue to pay a fee. The Exchange does not believe that this is unfairly discriminatory as a Priority Customer is by definition not a broker or 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). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers. The Exchange also notes that Market Maker orders will continue to be eligible for lower fees than other non-Priority Customer orders. The Exchange does not believe that it is unfairly discriminatory provide lower fees to Market Maker orders as Market Makers are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not.

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

In accordance with Section 6(b)(8) of the Act,¹⁸ the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed complex order fees and rebates remain competitive with fees and rebates offered on other options exchanges. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must

continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁹ and subparagraph (f)(2) of Rule 19b-4 thereunder,²⁰ because it establishes a due, fee, or other charge imposed by ISE.

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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-ISE-2015-27 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 20549-1090.

All submissions should refer to File Number SR-ISE-2015-27. 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-ISE-2015-27, and should be submitted on or before October 9, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75919]

Order Pursuant to Sections 15F(b)(6) and 36 of the Securities Exchange Act of 1934 Extending Certain Temporary Exemptions and a Temporary and Limited Exception Related to Security-Based Swaps

September 15, 2015.

I. Introduction

On June 15, 2011, the Securities and Exchange Commission ("Commission") issued an order granting temporary exemptions and exceptions from compliance with certain provisions of

¹⁷ With the exception of responses to complex crossing orders where Priority Customers are charged a fee like other market participants.

¹⁸ 15 U.S.C. 78f(b)(8).

¹⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁰ 17 CFR 240.19b-4(f)(2).

²¹ 17 CFR 200.30-3(a)(12).

the Securities Exchange Act of 1934 (“Exchange Act”)¹ applicable to security-based swaps (“SB swaps”), that were amended or added by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”).² The Temporary Exemptions Order provided, among other things, a temporary exemption from Section 3E(f) of the Exchange Act for security-based swap dealers and major security-based swap participants (together, “SBS Entities”), a temporary and limited exception from Section 15F(b)(6) of the Exchange Act with respect to persons then currently associated with SBS Entities, and temporary exemptions from Section 29(b) of the Exchange Act with respect to violations of Sections 3E(f) and 15F(b)(6) in connection with SB swap contracts entered into on or after July 16, 2011. The Commission is extending the exemption from Section 3E(f) and exception from Section 15F(b)(6) until the compliance date of rules we have adopted to establish a process by which SBS Entities can register (and withdraw from registration) with the Commission.³ In addition, the Commission is specifying when the related exemption for Section 29(b) with respect to SB swap contracts that involve violations of Sections 3E(f) or 15F(b)(6) will expire.

II. Background

Title VII of the Dodd-Frank Act amended the Exchange Act to establish a new regulatory framework for the security-based swap markets. The provisions of Title VII generally were effective as of July 16, 2011, unless a rulemaking or other Commission action is required. The Temporary Exemptions Order provided guidance with respect to the compliance dates of Exchange Act provisions added by Title VII. It also identified those provisions with which compliance was required by the effective date of the Title VII amendments to the Exchange Act and those with which compliance is triggered by registration, adoption of final rules, or other action by the Commission.⁴ Where compliance was required by the effective date of Title

VII, the Temporary Exemptions Order granted certain temporary exemptions and exceptions where necessary or appropriate in the public interest, and consistent with the protection of investors.⁵ The Temporary Exemptions Order included temporary exemptions from Sections 3E(f) and 29(b), and a temporary and limited exception from Section 15F(b)(6).⁶

Section 3E of the Exchange Act, added by Section 763(d) of the Dodd-Frank Act, regulates the collection and handling of collateral for SB swaps, and sets out certain rights of the counterparties who deliver such collateral.⁷ Section 3E(f) requires SBS Entities to segregate initial margin amounts delivered by their counterparties in uncleared SB swap transactions if requested to do so by such counterparties.⁸ The statutory compliance date for Section 3E(f) was July 16, 2011. As explained in the Temporary Exemptions Order, the segregation required under Section 3E(f) will require expenditures of resources and time, such as the establishment of accounts and the adoption of policies and procedures setting forth the proper collection and maintenance of collateral. The Commission found that a temporary exemption from Section 3E(f) for SBS Entities was necessary or appropriate in the public interest, and was consistent with the protection of investors because it would allow persons to register as an SBS Entity in accordance with the applicable registration requirements, once established, prior to expending resources to comply with the provisions of Section 3E(f), and because it would give SBS Entities additional time to establish the necessary accounts and adopt the policies and procedures required by Section 3E(f).⁹ Under the Temporary Exemption Order, the temporary exemption from Section 3E(f) would expire on the date upon which the rules adopted by the Commission to register SBS Entities become effective.

⁵ See *id.*

⁶ Section 36(c) of the Exchange Act, 15 U.S.C. 78mm(c), limits the Commission’s exemptive authority with respect to certain provisions of the Exchange Act added by Title VII, including Section 15F. However, Section 15F(b)(6) expressly authorizes the Commission to establish exceptions to this provision by rule, regulation, or order.

⁷ 15 U.S.C. 78c–5.

⁸ 15 U.S.C. 78c–5(f).

⁹ See Temporary Exemptions Order n. 98 (providing that, “Notwithstanding the exemption granted, market participants in uncleared SB swaps may continue to voluntarily negotiate for and receive similar protections to those provided in section 3E(f) of the Exchange Act, 15 U.S.C. 78c–5(f), until compliance with such section 3E(f) is required.”).

Section 15F of the Exchange Act, added by Section 764(a) of the Dodd-Frank Act, establishes the regulatory framework for SBS Entities.¹⁰ Section 15F(b)(6) provides that “except to the extent otherwise provided by rule, regulation or order of the Commission,” it shall be unlawful for an SBS Entity to permit an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on its behalf, if the SBS Entity knew or should have known of the statutory disqualification.¹¹ In the Temporary Exemptions Order, the Commission exercised its authority under Section 15F(b)(6) to provide a temporary and limited exception for SBS Entities from the application of the prohibition in that section. Specifically, the Temporary Exemptions Order provides that persons subject to a statutory disqualification who were, as of July 16, 2011, associated with an SBS Entity and who effected or were involved in effecting security-based swaps on behalf of such SBS Entity could continue to be associated with an SBS Entity until the date upon which rules adopted by the Commission to register SBS Entities become effective. In providing this exception, the Commission explained that it intended to separately consider issues related to how an associated person that is subject to a statutory disqualification may be involved in the security-based swap business of the SBS Entity.¹² The Commission also noted that existing business relationships and market activity could be unnecessarily disrupted if market participants were required to comply with Section 15F(b)(6) before the Commission considers, through notice and comment rulemaking, whether to adopt a procedure for potential modifications of the effect of statutory disqualifications under Title VII of the Dodd-Frank Act for SBS Entities and what any such procedure would require.¹³

Section 29(b) of the Exchange Act generally provides that contracts made in violation of any provision of the Exchange Act, or the rules thereunder, shall be void “(1) as regards the rights of any person who, in violation of any such provision, . . . shall have made or engaged in the performance of any such contract, and (2) as regards the rights of any person who, not being a party to such contracts, shall have acquired any right thereunder with actual knowledge of the facts by reason of which the

¹⁰ 15 U.S.C. 78o–10.

¹¹ 15 U.S.C. 78o–10(b)(6).

¹² See Temporary Exemptions Order at 36301.

¹³ See *id.*

¹ 15 U.S.C. 78a *et seq.*

² See Temporary Exemptions and Other Temporary Relief, Together With Information on Compliance Dates for New Provisions of the Securities Exchange Act of 1934 Applicable to Security-Based Swaps, Exchange Act Release No. 64678 (June 15, 2011), 76 FR 36287 (June 22, 2011) (“Temporary Exemptions Order”).

³ See Registration Process for Security-Based Swap Dealers and Major Security-Based Swap Participants, Exchange Act Release No. 75611 (Aug. 5, 2015), 80 FR 48964 (Aug. 14, 2015) (“Registration Adopting Release”).

⁴ See Temporary Exemptions Order.

making or performance of such contracts in violation of any such provision”¹⁴ In the Temporary Exemptions Order, the Commission temporarily exempted any SB swap contract entered into on or after July 16, 2011 from being void or considered voidable by reason of Section 29(b) because any person that is a party to a contract violated a provision of the Exchange Act that was amended or added by Title VII of Dodd-Frank and for which the Commission has taken the view that compliance will be triggered by registration of a person or by adoption of final rules by the Commission, or has provided an exception or exemption in the Temporary Exemptions Order, until such date as the Commission specifies. The temporary exemption from Section 29(b) applies to contracts that would otherwise involve violations of, among other provisions, Sections 3E(f) or 15F(b)(6) of the Exchange Act.

The Commission received several comments in response to the Temporary Exemptions Order.¹⁵ Although none of the commenters specifically referred to Sections 3E(f), 15F(b)(6), or 29(b), one commenter noted that the Temporary Exemptions Order was, in general, reasonable in terms of its scope and duration.¹⁶ In particular, the commenter stated that the exemption from specific requirements under the Dodd-Frank Act was appropriate where the Commission had not completed “other steps, such as finalizing rules, setting up the registration regime, or establishing infrastructure.”¹⁷ Another commenter urged the Commission “to align the implementation of the self-operative provisions with the provisions that are dependent on rulemaking to ensure a coherent realization of the new swaps regulatory regime.”¹⁸

¹⁴ 15 U.S.C. 78cc(b).

¹⁵ See Letter from American Bankers Association, Financial Services Roundtable, Futures Industry Association, Institute of International Bankers, International Swaps and Derivatives Association, Investment Company Institute, Securities Industry and Financial Markets Association, and U.S. Chamber of Commerce, (June 10, 2011); Letter from Jiri Król, Alternative Investment Management Association Limited (July 1, 2011); Letter from Bruce C. Bennett, Covington and Burling LLP (July 1, 2011); Letter from Dennis M. Kelleher, Stephen W. Hall, Better Markets, Inc. (July 6, 2011); Letter from Jeff Gooch, MarkitSERV (July 15, 2011); Letter from Kevin Gould, Markit North America, Inc. (July 26, 2011), available at <http://www.sec.gov/comments/s7-24-11/s72411.shtml>.

¹⁶ See Letter from Dennis M. Kelleher, Stephen W. Hall, Better Markets, Inc. (July 6, 2011), at 2, available at <http://www.sec.gov/comments/s7-24-11/s72411-3.pdf>.

¹⁷ See *id.*

¹⁸ See Letter from American Bankers Association, Financial Services Roundtable, Futures Industry Association, Institute of International Bankers,

III. Discussion

In August, 2015, the Commission adopted rules to establish a process by which SBS Entities can register (and withdraw from registration) with the Commission (“Registration Rules”).¹⁹ These rules will become effective October 13, 2015, but compliance with the Registration Rules will not be required until the later of: Six months after the date of publication in the **Federal Register** of final rules establishing capital, margin and segregation requirements for SBS Entities;²⁰ the compliance date of final rules establishing recordkeeping and reporting requirements for SBS Entities;²¹ the compliance date of final rules establishing business conduct requirements under Sections 15F(h) and 15F(k) of the Exchange Act;²² or the compliance date for final rules establishing a process for a registered SBS Entity to make an application to the Commission to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity’s behalf (“Registration Compliance Date”). At the same time, the Commission also proposed rules that would, if adopted, establish a process for an SBS Entity to make an application to the Commission to allow an associated person subject to statutory disqualification to effect or be involved in effecting security-based swaps on behalf of the SBS Entity.²³

International Swaps and Derivatives Association, Investment Company Institute, Securities Industry and Financial Markets Association, and U.S. Chamber of Commerce (June 10, 2011).

¹⁹ See Registration Adopting Release.

²⁰ The Commission previously has proposed rules to establish capital, margin and segregation requirements for SBS Entities. See Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers, Exchange Act Release No. 68071 (Oct. 18, 2012), 77 FR 70213 (Nov. 23, 2012).

²¹ The Commission previously has proposed rules to establish recordkeeping and reporting requirements for SBS Entities. See Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers; Capital Rule for Certain Security-Based Swap Dealers, Exchange Act Release No. 71958 (Apr. 17, 2014), 79 FR 25193 (May 2, 2014).

²² The Commission previously has proposed rules to establish business conduct standards for SBS Entities. See Business Conduct Standards for Security-Based Swap Dealers and Major Security-Based Swap Participants, Exchange Act Release No. 64766 (June 29, 2011), 76 FR 42395 (July 18, 2011).

²³ Applications by Security-Based Swap Dealers or Major Security-Based Swap Participants for Consent for Associated Persons to Effect or Be Involved in Effecting Security-Based Swaps, Exchange Act Release No. 75612 (Aug. 5, 2105), 80 FR 51683 (Aug. 25, 2015) (proposing new Rule of Practice 194).

Under the terms of the Temporary Exemptions Order, the temporary exemption from Section 3E(f) of the Exchange Act and exception from Section 15F(b)(6) of the Exchange Act will expire when rules adopted by the Commission to register SBS Entities become effective. Accordingly, absent an extension, the temporary exemption from the segregation requirements in Section 3E(f) and exception from the prohibition in Section 15F(b)(6) in the Temporary Exemptions Order will expire upon the effective date of the Registration Rules, even though SBS Entities would not be required to register until the Registration Compliance Date. As stated in the Temporary Exemptions Order, the Commission continues to believe that persons should be able to register in accordance with the applicable registration requirements prior to expending resources to comply with Section 3E(f). Therefore, the Commission is extending the temporary exemption from the requirements of Section 3E(f) until the Registration Compliance Date.²⁴

The Commission also continues to believe that existing business relationships and market activity may be unnecessarily disrupted if market participants were required to comply with Section 15F(b)(6) of the Exchange Act before the Commission considered, through notice and comment rulemaking, whether to adopt a procedure for potential modifications of the effect of statutory disqualifications under Title VII for SBS Entities, and what any such procedure would require.²⁵ As noted above, the Commission has proposed rules relating to the requirements of Section 15F(b)(6). The Registration Compliance Date will occur no earlier than final rules establishing a process for a registered

²⁴ The Commission also notes that this extension will allow persons to have the ability to review the final capital, margin and segregation rules before being required to comply with the requirements of Section 3E(f), as the compliance date of the Registration Rules will occur no earlier than six months after the date of publication in the **Federal Register** of final rules establishing capital, margin and segregation requirements for SBS Entities.

²⁵ See *supra* note 23. The Commission has provided guidance in the Registration Adopting Release regarding the dates on which SBS Entities will become subject to registration requirements based on their status as either a SBS Dealer or Major SBS Participant. See Registration Adopting Release, 80 FR at 48988. In accordance with this guidance, we do not believe that any entity will have the status of an SBS Entity prior to the Registration Compliance Date. However, for the avoidance of doubt and possible legal uncertainty, the Commission is extending the previously granted temporary exemption from Section 3E(f) and the temporary and limited exception from Section 15F(b)(6) until the Registration Compliance Date.

SBS Entity to make an application to the Commission to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity's behalf. Accordingly, the Commission is extending the temporary and limited exception from the requirements of Section 15F(b)(6) until the Registration Compliance Date.

As discussed in the Temporary Exemptions Order, the Commission does not believe that Section 29(b) of the Exchange Act would apply to the provisions of Title VII for which the Commission has taken the view that compliance will either be triggered by registration of a person or by adoption of final rules by the Commission, or for which the Commission has provided an exception or exemption in that order. For the avoidance of doubt and to avoid possible legal uncertainty or market disruption, the Temporary Exemptions Order granted a temporary exemption from Section 29(b) until such date as the Commission specifies.²⁶ The Commission believes that the exemption from Section 29(b) provided under the Temporary Exemptions Order with respect to Sections 3E(f) and 15F(b)(6) of the Exchange Act will continue to apply during the period of time covered by the extensions in this Order. However, to avoid any doubt or possible legal uncertainty regarding the continuing availability of the temporary exemption from Section 29(b) with respect to Sections 3E(f) and 15(b)(6), the Commission is exercising its authority under Section 36 of the Exchange Act to continue the exemption from Section 29(b) with respect to Sections 3E(f) and 15(b)(6) until the Registration Compliance Date.

IV. Conclusion

It is hereby ordered, pursuant to Section 36 of the Exchange Act, that SBS Entities are exempt from the requirements of Section 3E(f) of the Exchange Act until the Registration Compliance Date.

It is hereby further ordered, pursuant to Section 15F(b)(6) of the Exchange Act, that SBS Entities are temporarily excepted from the prohibition of Section 15F(b)(6) with respect to persons subject

to a statutory disqualification who were associated with an SBS Entity as of July 16, 2011, and who effect or are involved in effecting SB swaps on behalf of such SBS Entity until the Registration Compliance Date.

It is hereby further ordered, pursuant to Section 36 of the Exchange Act, that no SB swap contract entered into on or after July 16, 2011 shall be void or considered voidable by reason of Section 29(b) of the Exchange Act because any person that is a party to the contract violated Section 3E(f) of the Exchange Act prior to the Registration Compliance Date.

It is hereby further ordered, pursuant to Section 36 of the Exchange Act, that no SB swap contract entered into on or after July 16, 2011 shall be void or considered voidable by reason of Section 29(b) of the Exchange Act because any person that is a party to the contract violated Section 15F(b)(6) of the Exchange Act prior to the Registration Compliance Date.

By the Commission.

Brent J. Fields,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75914; File No. SR-CBOE-2015-079]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List Two Additional Products During Extended Trading Hours

September 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 September 10, 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 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 to list two additional products during extended trading hours ("ETH"). The text of the proposed rule change is provided below.

(additions are *italicized*; deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated

Rules

* * * * *

Rule 6.1A. Extended Trading Hours

(a)-(b) No change.

(c) *Eligibility.* The Exchange may designate as eligible for trading during Extended Trading Hours any exclusively listed index option designated for trading under Rules 24.2 and 24.9. The following options are approved for trading on the Exchange during Extended Trading Hours:

(i) Standard & Poor's 500 Stock Index (SPX)

(ii) CBOE Volatility Index® (VIX®)

(iii) *Standard & Poor's 500 Stock Index (P.M.-Settled) (SPXPM)*

(iv) *Mini-SPX Index (XSP)*

Any series in these classes that are expected to be open for trading during Regular Trading Hours will be open for trading during Extended Trading Hours on that same trading day (subject to Rules 6.2B and 24.13, Interpretation and Policy .03). FLEX options (pursuant to Chapters XXIVA and XXIVB) will not be eligible for trading during Extended Trading Hours.

(d) No change.

(e) *Market-Makers.*

(i) *Appointments.* A Market-Maker's appointment to a class during Regular Trading Hours does not apply during Extended Trading Hours. Market-Makers may request appointments for Extended Trading Hours in accordance with Rule 8.3 and this subparagraph (i). Notwithstanding Rule 8.3(c), a Market-Maker can create a Virtual Trading Crowd ("VTC") appointment, which confers the right to quote electronically during Extended Trading Hours in the appropriate number of classes selected from the Extended Trading Hours tier and related appointment costs as follows:

Tier	Classes	Appointment cost
Extended Trading Hours	• Options on the CBOE Volatility Index (VIX)	[.5].4
	• Options on the Standard & Poor's 500 (SPX)	[.5].4
	• <i>Options on the Standard & Poor's 500 Stock Index (P.M.-Settled) (SPXPM)</i>	.1
	• <i>Options on the Mini-SPX Index (XSP)</i>	.1

²⁶ See Temporary Exemptions Order at 36305-06.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.