

standard is an important element of market data reliability, and it may be sometime before the clock-synchronization requirements of the CAT NMS Plan take effect.<sup>24</sup> FINRA stated that it relies on the accuracy of market data to fulfill its regulatory obligations as a national securities association.<sup>25</sup> Accordingly, FINRA believes it has a current need to tighten the clock synchronization standard for events that must be recorded pursuant to the FINRA By-Laws or other FINRA Rules.<sup>26</sup>

Two commenters suggested that FINRA should consider differentiating between market participants when setting clock-synchronization standards.<sup>27</sup> For instance, one commenter stated that FINRA should recognize differences between extremely time-sensitive trading firms and other market participants, and suggested differentiating between co-located broker-dealers and others.<sup>28</sup> Similarly, one commenter suggested that firms that co-locate their equipment to or otherwise have access to an exchange datacenter should be held to tighter requirements.<sup>29</sup>

In the filing, FINRA stated that audit trail integrity relies on the ability to accurately sequence events for a given period of time, including events generated by firms that do not engage in high-frequency trading.<sup>30</sup> FINRA believes it is important to apply the same standard to all computer-related events, regardless of firm size or activity type.<sup>31</sup>

#### IV. Discussion and Commission Findings

After carefully considering the proposed rule change and the comment letters, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.<sup>32</sup> In particular, the

<sup>24</sup> In the Notice, FINRA also notes that the proposed clock synchronization standard is consistent with the 50 millisecond clock synchronization standard advanced by the CAT NMS Plan. See Notice, 81 FR at 9552.

<sup>25</sup> See *id.*

<sup>26</sup> *Id.*

<sup>27</sup> See Healthy Markets Letter and Kubitz Letter.

<sup>28</sup> See Healthy Markets Letter.

<sup>29</sup> See Kubitz Letter.

<sup>30</sup> See Notice, 81 FR at 9552.

<sup>31</sup> In the Notice, FINRA states that while it does not believe it is practicable to adopt different standards for market participants, as some commenters suggested, it is proposing to provide less automated firms with more time to adjust their systems to the new proposed standard. See Notice, 81 FR 9552 n.25.

<sup>32</sup> In approving the proposed rule change, the Commission has also considered the rule change's

Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.<sup>33</sup>

The Commission agrees with the commenter's observation that clock synchronization is a "critical component of today's market structure."<sup>34</sup> Tightening the clock synchronization requirement to 50 milliseconds will bolster FINRA's ability to meet its regulatory obligations as a national securities association. As the Commission has noted, time drift away from a universal, synchronized standard is an important issue to address to enhance the integrity of audit trail data.<sup>35</sup> The Commission agrees with the commenter's observation that updating clock synchronization standards is important to improve transparency and enhance surveillance and enforcement capabilities. Further, the Commission believes that FINRA's decision to have a consistent clock synchronization standard across the industry at this time is a reasonable decision. The Commission believes it is important to pursue a 50 millisecond standard at this time so that FINRA can compile more accurate audit trail data and conduct surveillance with more precise time-sequenced data, rather than waiting for the issue to be addressed by the CAT NMS Plan.<sup>36</sup> Tighter synchronization is critical to precisely reconstructing market events, as the commenter noted,<sup>37</sup> which will facilitate FINRA's efforts to detect and prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. In addition, the Commission notes that the proposed rule change does not alter the events that are covered by the clock synchronization requirement.

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with Section 15A of the Act.

impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>33</sup> 21 U.S.C. 78o-3(b)(6).

<sup>34</sup> See Healthy Markets letter at 1.

<sup>35</sup> See Rule 613 Adopting Release, 77 FR at 45774. The Commission notes that the FINRA proposal is consistent with the clock-synchronization standard advanced by the CAT NMS Plan.

<sup>36</sup> See *supra*, note 24.

<sup>37</sup> See Healthy Markets letter at 1.

#### V. Conclusion

*It is therefore ordered* pursuant to Section 19(b)(2) of the Act<sup>38</sup> that the proposed rule change (SR-FINRA-2016-005) be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>39</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77570; File No. SR-CBOE-2016-028]

#### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Rule 6.1A

April 8, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 4, 2016, Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposed to amend Rule 6.1A related to Extended Trading Hours. 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)-(j) No change.

(k) Index Values. *While it may not be calculated and disseminated at all times during Extended Trading Hours, current values of VIX will be widely disseminated at least once every fifteen*

<sup>38</sup> 15 U.S.C. 78s(b)(2).

<sup>39</sup> 17 CFR 200.30-3(a)(12).

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

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

(15) seconds by the Options Price Reporting Authority or one or more major market vendors during that trading session. [The Exchange will not report a]No current index value [of an index] underlying any other index option trading during Extended Trading Hours[, because the value of the underlying index] will [not be recalculated]be disseminated during or at the close of [Extended Trading Hours]that trading session.

\* \* \* \* \*

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.

## 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 Rule 6.1A regarding Extended Trading Hours.<sup>3</sup> Current Rule 6.1A(k) states the Exchange will not report a value of an index underlying an index option trading during Extended Trading Hours, because the value of the underlying index will not be recalculated during or at the close of Extended Trading Hours. Currently, there are two indexes underlying options approved for trading during Extended Trading Hours: the Standard & Poor's 500 ("S&P 500") (underlying options on the S&P 500 (SPX), p.m.-settled options on the S&P 500 (SPXPM) and options on the mini-SPX index (XSP)), and the CBOE Volatility Index ("VIX").<sup>4</sup> The reporting authorities for these indexes currently

do not calculate index values during Extended Trading Hours, and thus the Exchange determined it would not be useful or efficient to disseminate to Trading Permit Holders the same value repeatedly at frequent intervals. However, it is possible that one or more reporting authorities may begin to calculate and disseminate index values during these hours.

CBOE, in its capacity as reporting authority for VIX, recently announced plans to calculate and make available current values of VIX every 15 seconds during Extended Trading Hours in March 2016. In order to contemplate this Extended Trading Hours index calculation, the proposed rule change amends Rule 6.1A(k) to provide while it may not be calculated and disseminated at all times during Extended Trading Hours,<sup>5</sup> current values of VIX will be widely disseminated at least once every fifteen (15) seconds by the Options Price Reporting Authority ("OPRA")<sup>6</sup> or one or more major market vendors during that trading session.<sup>7</sup> To the extent the reporting authority for an index underlying an index option trading during Extended Trading Hours does not calculate or make available current values of that index during that trading session (or part thereof), no current index value will be disseminated during Extended Trading Hours (which is the case today).

The Exchange notes, pursuant to Rule 6.1A(j)(vi), Trading Permit Holders must continue to disclose to customers the risks associated with trading during Extended Trading Hours, including among other things the possibility of the absence of an updated underlying index

<sup>5</sup> There may be times when a current value is not available, such as if CBOE (as reporting authority) does not begin making current index values available until after a certain amount of time has passed following the open of the Extended Trading Hours trading session (for example, to ensure sufficient quotes in series used to calculate the index values) or if there are technical issues preventing CBOE (as reporting authority) from calculating index values. During the times the current value of VIX is not available (and thus not disseminated) during Extended Trading Hours, VIX options may continue to be listed for trading during that trading session (as they are today).

<sup>6</sup> CBOE does not expect to disseminate current VIX values during Extended Trading Hours through OPRA; however, this proposed reference is included to accommodate the possibility that changes in the future.

<sup>7</sup> Similarly, during Regular Trading Hours, Rule 24.2(f)(11), which describes listing standards for broad-based indexes (including VIX), states the current index value for an index must be widely disseminated at least once every 15 seconds by OPRA, CTA/CQ, NIDS, or one or more major market data vendors during the time options on the index are traded on the Exchange. CBOE understands that one or more major market data vendors (e.g. Bloomberg and Reuters) will widely disseminate current VIX values during Extended Trading Hours, as is the case during Regular Trading Hours.

and lack of regular trading in the securities underlying the index. No current index value underlying any other index option trading during Extended Trading Hours will be disseminated during or at the close of that trading session, as is the case today.

#### 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.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> 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)<sup>10</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change does not modify trading rules applicable to Extended Trading Hours. The proposed rule change contemplates the expected calculation of current values of VIX during Extended Trading Hours, which additional information regarding options trading during that trading session removes impediments to and perfect the mechanism of a free and open market and a national market system. The proposed rule change states that the current values of indexes underlying other options trading during Extended Trading Hours will continue to not be disseminated, and thus has no impact on those options.

### 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. This proposed rule change has no impact on the trading rules applicable to Extended Trading Hours; there will just be

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> *Id.*

<sup>3</sup> Currently, Extended Trading Hours are 2:00 a.m. to 8:15 a.m. Central time.

<sup>4</sup> Currently, SPX, SPXPM and VIX options are listed for trading during Extended Trading Hours (no XSP series are currently listed).

additional information available to market participants regarding one product that trades during that trading session. The proposed rule change merely reflects CBOE's plans (as reporting authority for VIX) to calculate and disseminate the current values of VIX during Extended Trading Hours. CBOE understands that one or more major market data vendors (e.g. Bloomberg and Reuters) will widely disseminate the current VIX values during Extended Trading Hours, providing Trading Permit Holders and other market participants with access to those values through those vendors. As CBOE is currently the only U.S. options exchange with Extended Trading Hours, and the only U.S. options exchange on which VIX options are listed for trading, the proposed rule change has no impact on intermarket competition.

*B. 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**

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative on the date that VIX values may become available during Extended Trading Hours, which is expected to be April 15, 2016. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposed rule change merely allows VIX values to be disseminated during Extended Trading Hours in the

same manner as during Regular Trading Hours and therefore, does not raise any unique or novel issues. Accordingly, the Commission designates the proposed rule change to be operative as of April 15, 2016.<sup>13</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2016-028 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-2016-028. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and

printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2016-028 and should be submitted on or before May 5, 2016.

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

**Robert W. Errett,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-77569; File No. SR-ISEMercury-2016-07]

**Self-Regulatory Organizations; ISE Mercury, LLC; Notice of Filing of Proposed Rule Change Related to Market Wide Risk Protection**

April 8, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on March 29, 2016, ISE Mercury, LLC (the "Exchange" or "ISE Mercury") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the 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 introduce new activity based order protections as described in more detail below. 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.

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

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

<sup>12</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

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