

has determined that it would be beneficial to customers and to the options market as a whole to approve on a permanent basis the provisions concerning early conclusion of the PIM. The Commission notes that there have been few instances of early termination of the PIM.

The Commission believes that, particularly for Auctions for fewer than 50 contracts when the bid/ask differential is wider than \$0.01, the data provided by the Exchange support its proposal to make the Pilot permanent. The data demonstrate that the Auction generally provides price improvement opportunities to orders, including orders of retail customers and particularly when the bid/ask differential is wider than \$0.01; that there is meaningful competition for orders on the Exchange; and that there exists an active and liquid market functioning on the Exchange outside of the Auction.³³ The Commission further believes that the proposed revisions to the eligibility requirements for orders of fewer than 50 contracts with respect to circumstances when the NBBO is no more than \$0.01 wide should help to enhance the operation of the Auction by providing meaningful opportunities for price improvement in such circumstances, and should benefit investors and others in a manner that is consistent with the Act.

The Commission further notes that, as discussed more fully above, ISE Mercury is initially proposing to implement a price improvement requirement for Agency Orders of fewer than 50 option contracts where the difference in the NBBO is \$0.01 with a member conduct standard.³⁴ As described in greater detail above, ISE Mercury proposes to enforce this requirement under ISE Rule 1614(d)(4). The Commission believes that ISE Mercury's proposed member conduct standard and ISE Rule 1614(d)(4) are reasonable means to implement the price improvement requirement until implementation of its proposed systems-based mechanism for this requirement, which will become effective following the migration of a symbol to INET, the platform operated by Nasdaq, Inc. that will also operate the PIM. The Commission further notes that the Exchange has represented that its proposed member conduct standard will be effective until the migration of all

symbols to the INET platform, which shall be no later than September 15, 2017.³⁵

Thus, the Commission has determined to approve the Exchange's proposed revisions to ISE Mercury Rule 723(b) and Supplementary Material .03 and .05 to ISE Mercury Rule 723, and to approve the Pilot, as proposed to be modified, on a permanent basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁶ that the proposed rule change (SR-ISEMercury-2016-25), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁷

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-01619 Filed 1-24-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79818; File No. SR-OCC-2017-001]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning The Options Clearing Corporation's Margin Coverage During Times of Increased Volatility

January 18, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 4, 2017, The Options Clearing Corporation ("OCC") 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 OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by OCC would modify the current process for systematically monitoring market conditions and performing adjustments to its margin coverage when current market volatility increases beyond historically observed levels.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

OCC's margin methodology, the System for Theoretical Analysis and Numerical Simulations ("STANS"), is OCC's proprietary risk management system that calculates Clearing Members' ³ margin requirements.⁴ STANS utilizes large-scale Monte Carlo simulations to forecast price movement and correlations in determining a Clearing Member's margin requirement.⁵ The STANS margin requirement is a portfolio calculation at the level of Clearing Member legal entity marginable net positions tier account (tiers can be customer, firm, or market marker) and consists of an estimate of 99% 2-day expected shortfall and an add-on for model risk (the concentration/dependence stress test charge).

The majority of risk factors utilized in the STANS methodology are total returns on individual equity securities. Other risk factors considered include: returns on equity indices; changes in the calibrated coefficients of a model describing the yield curve for U.S. government securities; "returns" on the nearest-to-expiration futures contracts of various kinds; and changes in foreign exchange rates. For the volatility of each risk factor, the Monte Carlo simulations use the greater of: (i) The short-term volatility level predicted by the model; and (ii) an estimate of its longer-run level. In between the monthly re-estimations of all the models, volatilities are automatically re-scaled to the greater of the short-term or the longer-run levels

³³ See Exhibit 3 to SR-ISEMercury-2016-25.

³⁴ The Exchange stated that it will conduct electronic surveillance of the PIM to ensure that members comply with the proposed price improvement requirements for option orders of fewer than 50 contracts. See Notice, *supra* note 3, at 91284.

³⁵ See Notice, *supra* note 3, at 91284 & n.7.

³⁶ 15 U.S.C. 78s(b)(2).

³⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See OCC By-Laws Article 1(C)(14).

⁴ See Securities Exchange Act Release No. 53322 (February 15, 2006), 71 FR 9403 (February 23, 2006) (SR-OCC-2004-20). A detailed description of the STANS methodology is available at <http://optionsclearing.com/risk-management/margins/>.

⁵ See OCC Rule 601.

to mitigate pro-cyclicality⁶ in the margin levels. (This daily volatility measure is called the “uniform scale factor.”) The uniform scale factor is a multiplier used in connection with STANS calculations to account for, among other things, the difference between short-term and long-term volatility forecasts for equities. It is specifically defined as the ratio of long-run volatility (10Y+) over short-run volatility (2Y). It is used to “scale up” the short-run volatility of the securities (e.g., IBM) that are subject to monthly update, in order to estimate long-run volatility. It is also used to capture data gaps between monthly updates.

An approach employed by OCC to mitigate pro-cyclicality within STANS is to estimate market volatility based on current market conditions (“current market estimate”) and compare this current market estimate to a long-run estimate of market volatility (“long-run market estimate”). This comparison utilizes certain market benchmarks (or factors), which serve as proxies for the overall volatility of an asset class or group of products. If the long-run market estimate for a factor is found to be greater than the current market estimate, the volatility estimates for all products tied to that factor are adjusted (or scaled) up in a manner proportionate to the relationship between the current market volatility and the long-run market volatility for that factor.

Current STANS includes a single factor (“uniform scale factor”), which serves as the proxy for the equity asset class. This uniform scale factor is calibrated based on changes in the volatility of the Standard & Poor’s 500® Index (“SPX”) and applied to all “equity-based products” in the manner described above. Currently, the uniform scale factor is the only scale factor used in STANS. The proposed change is intended to enhance the STANS margin calculations by providing for the capability to increase the number of scale factors used within STANS in cases where a more appropriate proxy has been identified for a particular asset class or group of products to measure the relationship between current vs. long-run market volatility.

Summary of the Proposed Changes

OCC proposes a number of enhancements to its STANS margin methodology that are designed to more accurately compute Clearing Member margin requirements to reflect the risk of Clearing Member portfolios.

⁶ A quality that is positively correlated with the overall state of the economy is deemed to be procyclical.

Specifically, OCC proposes to: (1) Adjust the longer-run volatility forecast used in OCC’s computation of the uniform scale factor so that it would rely only on post-1957 price information (i.e., price information since the introduction of the SPX) in order to more accurately account for the behavior of SPX returns only since the inception of the index; (2) expand the number of scale factors used for equity-based products to more accurately measure the relationship between current and long-run market volatility with proxies that correlate more closely to certain products carried within the equity asset class; (3) apply relevant scale factors to the greater of (i) the estimated variance of 1-day return scenarios or (ii) the historical variance of the daily return scenarios of a particular instrument, as a floor to mitigate procyclicality; and (4) implement processing changes that would update the statistical models for common factors related to Treasury securities on a daily basis. The proposed changes are discussed in more detail below.

OCC believes that the current approach to scale factors in STANS would be improved by providing the functionality to establish multiple scale factors intended to more accurately measure the relationship between current and long-run market volatility with proxies that correlate more closely to groups of products within an asset class (e.g., Russell 1000 Index and Russell 1000 ETFs), which would enhance the accuracy of the margin requirements in STANS.⁷ By incorporating this process to scale margin coverages when current market volatility exceeds historically heightened levels that have been established to mitigate pro-cyclicality, OCC’s margin methodology is able to expeditiously respond to severe changes in market volatility and thus better protect the integrity of our financial markets.

Scale Factor for Equity-Based Products

Current Uniform Scale Factor for Equity-Based Products

The uniform scale factor for the SPX roughly represents the ratio of OCC’s

⁷ In this case, accuracy is measured against backtesting results. Pursuant to OCC’s Model Risk Management Policy, an accurate 99% value-at-risk model should expect exceedances at a rate of 1% per independent trial. If the exceedance rate is too high, the model is missing key risks; if the exceedance rate is too low, the model is not consistent with the organization’s risk appetite. To the extent that the conditional variances of not all relevant risk factors move in lock-step to the conditional variance of SPX, multiple scale factors offers the opportunity to be more accurate.

estimates of the long-run market volatility to the forecast market volatility determined by most recent 24-month daily historical returns.⁸ To determine the estimate of current market volatility, OCC relies on daily pricing information for equity securities and exchange-traded funds over a twenty-four month period ending with the last day of the immediately preceding month. To populate this twenty-four month time series, OCC relies on external vendors, with which it maintains redundant relationships for resiliency,⁹ to adjust the daily pricing information to account for corporate actions involving these securities. This daily pricing information is received from its vendor(s) after the close of each month, at which time OCC updates its twenty-four month time series adding the new month and dropping the last month of data. This process of updating the time series on a monthly basis is referred to as a “pending” time series due to the batch process used to update the time series. The long-run time series used by the uniform scale factor is updated on a daily basis (i.e., non-pending update) with pricing information for the SPX dating back to January 1, 1946. OCC calculates the uniform scale factor each business day by comparing the current market volatility, using pending price updates to the long-run time series using non-pending, or current, market prices.

The uniform scale factor is applied to all equity products and is used to adjust individual equity current market volatility estimates on a daily basis based on the comparison of the current market volatility and the long-run volatility estimate, which is updated daily. Should it be observed that the current market volatility is less than the long-run volatility, all products tied to the uniform scale factor will be adjusted higher based on the ratio of the long-run volatility estimate to the current market volatility estimate to account for the observed change in volatility. In addition, the uniform scale factor is also used to account for the fact that the distribution of returns for the SPX has a “fat tail”¹⁰ because the scale factor

⁸ The uniform scale factor has been a part of STANS since it was installed in 2006. See Securities Exchange Act Release No. 53322 (February 15, 2006), 71 FR 9403 (February 23, 2006) (SR-OCC-2004-20).

⁹ Specifically, OCC maintains both a primary and backup data center that receive live price feeds from multiple price vendors. In the event of service disruption OCC is able to transition to an alternate data center and/or pricing vendor, as applicable.

¹⁰ A fat-tailed distribution is a probability distribution that exhibits large skewness or kurtosis. Compared with a standard normal distribution or

seeks to match estimates of expected margin shortfalls under the scenarios in STANS for a hypothetical long position in the SPX.

The uniform scale factor resulting from the calculations described above is applied as a multiplier to hypothetical returns on a long portfolio of equities produced during the Monte Carlo market scenarios run within STANS. By “scaling up” hypothetical returns in this way, the uniform scale factor relies on an assumption that more recent behavior of SPX returns will provide an appropriate proxy for the volatility in equity price returns that occur between monthly updates of price data for the pending short-run time series. Accordingly, the uniform scale factor helps OCC set margin requirements that account for this proxy to ensure that Clearing Members maintain margin assets that would be sufficient in light of historical volatility of the SPX.

Proposed Changes to the Uniform Scale Factor for Equity-Based Products

The average longer-run volatility forecast used in OCC’s computation of the uniform scale factor currently relies on daily pricing information for component securities of the SPX dating back to January of 1946. This time series predates, however, the 1957 introduction of the SPX. To accurately account for the behavior of SPX returns only since the inception of the index, OCC proposes to adjust the longer-run volatility forecast so that it would rely only on the post-1957 information. OCC believes that this approach would reduce model risk¹¹ and improve the quality of the data by avoiding the need to make assumptions related to the composition of the index before its actual development.¹²

Proposed New Scale Factors for Equity-Based Products

To more accurately measure the relationship between current and long-run market volatility with proxies that correlate more closely to certain products carried within the equity asset class, OCC proposes to expand the

number of scale factors to include: (1) Russell 2000® Index (12/29/1978); (2) Dow Jones Industrial Average Index (9/23/1997); (3) NASDAQ-100 Index (2/4/1985) and (4) S&P 100 Index (1/2/1976).¹³ While the SPX scale factor will continue to serve as the default scale factor for most equity products, the index options, futures and ETFs which map to these indexes will be assigned to these scale factors and whose current volatility estimates will be adjusted based on the aforementioned methodology.

Consistent with OCC’s existing Margin Policy,¹⁴ OCC will evaluate the performance and use of these scale factors and determine if changes to the mapping of products to scale factors or the addition of new scale factors are warranted. Prior to any changes being implemented OCC would present its findings to the Enterprise Risk Management Committee and obtain approval to make the recommended enhancements.

Proposed Anti-Procyclical Measure for Equity-Based Scale Factors

In order to mitigate against procyclicality, OCC intends to apply the relevant scale factor to the greater of (i) the estimated variance of the 1-day return scenarios or (ii) the historical variance of the daily return scenarios of a particular instrument, as a floor. OCC believes this floor would mitigate procyclicality in the relevant return scenarios because it would result in a higher estimate of volatility during periods of relatively lower market volatility than if only the estimated variance in (i) above was used.

Proposed Daily Statistical Updates for the Treasury Yield Curve Model

In addition to implementing the scale factors described above, OCC is also proposing to implement processing changes that would update the statistical models for common factors related to Treasury securities on a daily basis. These model changes would allow OCC to monitor and respond to material changes in the volatility of Treasury securities while also mitigating procyclicality without implementing a scale factor specific to Treasury securities. OCC believes that updating its Treasury securities models on a daily basis is a more appropriate way to monitor and respond to material changes in the volatility of Treasury

securities while also mitigating procyclicality since the Treasury yield curve model is relatively less complex, with only three factors, and the structure of the Treasuries securities model does not lend itself to a returns-based scale factor (as is used with equity and volatility derivatives, as described above).

Specifically, OCC is proposing to enhance its existing yield curve model that OCC uses to project U.S. Treasury security returns, which is updated monthly. The model contains underlying data set and time series information for Treasury securities, which run from February 4, 2008 (based on available historical data) and, after implementing the proposed enhancements, the model would be updated on a daily basis as new data and time series information becomes available. The proposed enhancements would promote a more accurate approach to margining within STANS, as it relates to Treasury securities, particularly when markets are volatile because the daily statistical updates would prevent the model from becoming stale between monthly updates.

Impact Analysis and Outreach

Based on simulation testing for the period from January 14, 2015, to March 6, 2015, risk margins (*i.e.*, expected shortfall plus the concentration/dependence add-on) would have been approximately 5.2% higher in aggregate as a consequence of these changes. This is mostly due to higher coverage for the Russell 2000 Index and index ETF products under the new methodology.

In order to inform Clearing Members of the proposed change, OCC provided a general update at a recent OCC Roundtable¹⁵ meeting and would continue to provide updates at Roundtable meetings on a quarterly basis going forward. In addition, OCC would publish an Information Memorandum to all Clearing Members describing the proposed change and will provide additional periodic Information Memoranda updates prior to the implementation date. OCC would also provide at least thirty days prior notice to Clearing Members before implementing the change. Additionally, OCC would perform targeted and direct outreach with Clearing Members that

bell curve, it has a higher probability of occurrence of extreme events.

¹¹ OCC defines “model risk” as the potential for adverse consequences of incorrect or misused model outputs and reports.

¹² As defined in OCC’s Model Risk Management Policy, Model Risk, in the sense of material exposure to the consequences of poor assumptions, is reduced by making models adhere accurately to observed phenomena. In this case, by reducing the role of the uniform scale factor as a proxy between monthly updates of univariate models for risk factors and by allowing certain risk factors to bypass the monthly update process, as described below, OCC believes that this proposed change would reduce model risk.

¹³ The dates in parentheses are the dates from which OCC has historical data on the specified index.

¹⁴ OCC’s Margin Policy describes OCC’s approach to prudently managing market and credit exposures presented by its Clearing Members.

¹⁵ The OCC Roundtable was established to bring Clearing Members, exchanges and OCC together to discuss industry and operational issues. It is comprised of representatives of the senior OCC staff, participant exchanges and Clearing Members, representing the diversity of OCC’s membership in industry segments, OCC-cleared volume, business type, operational structure and geography.

would be most impacted by the proposed change and OCC would work closely with such Clearing Members to coordinate the implementation and associated funding for such Clearing Members resulting from the proposed change.¹⁶ Finally, OCC would discuss the proposed change with its cross-margin clearing house partners to ensure they are aware of the proposed change.¹⁷

2. Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act¹⁸ because it would assure the safeguarding of securities and funds in the custody and control of OCC by enhancing the current approach for monitoring market conditions and performing adjustments to OCC's margin coverage on equity and Treasury-based products for which OCC provides clearance and settlement services when current volatility increase beyond historically observed levels. OCC uses the margin it collects from a defaulting Clearing Member to protect other Clearing Members from loss as a result of the defaulting Clearing Member. By more accurately computing Clearing Member margin requirements OCC can assure the safeguarding of securities and funds in its custody and control.

The proposed model changes described above would enhance the manner in which OCC computes margin requirements for Clearing Members. Specifically, the proposed changes to the uniform scale factor for equity-based products to rely only on post-1957 information would reduce model risk and improve the quality of data by avoiding unnecessary assumptions related to the composition of the SPX before its inception. The proposed four new scale factors for equity-based products would more accurately measure the relationship between current and long-run market volatility with proxies that are correlated more closely to certain products within the equity asset class. The proposed daily statistical updates for the Treasury yield curve model would allow OCC to monitor and respond to material changes in the volatility of Treasury securities while also mitigating procyclicality. Taken together, the changes

to the uniform scale factor, the addition of new equity-based scale factors, and the introduction of daily statistical updates for the Treasury yield curve model would cause STANS to more accurately compute Clearing Member margin requirements to reflect the risk of Clearing Member portfolios thereby reducing the risk that Clearing Member margin assets would be insufficient should OCC need to use such assets to close-out the positions of a defaulted Clearing Member. Further, the proposed rule change would make it less likely that the default of a Clearing Member would stress the financial resources available to OCC, which include mutualized resource funds deposited by non-defaulting Clearing Members as Clearing Fund.

OCC believes that the proposed rule change is also consistent with Rule 17Ad-22(b)(2)¹⁹ because it would limit OCC's credit exposures to its participants under normal market conditions and use risk-based models and parameters to set OCC's margin requirements. As described above, the risk-based model and parameter changes to the uniform scale factor, the addition of new equity-based scale factors, and the introduction of daily statistical updates for the Treasury yield curve model cause STANS to more accurately compute Clearing Member margin requirements. By more accurately computing Clearing Member margin requirements, OCC reduces its credit exposure to its Clearing Members.

The proposed rule changes are not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impact or impose any burden on competition.²⁰ The proposed rule change would allow OCC to adjust Clearing Member margin requirements when current volatility increases beyond historical levels. While as a result of the proposed rule change Clearing Members may experience daily margin fluctuations of up to ten percent, such fluctuations are equal in amount to fluctuations Clearing Members typically experience as a result of changes in market price, volatility or interest rates. Therefore, OCC believes that the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user. In addition,

the proposed rule change would be applied uniformly to all Clearing Members in establishing their margin requirements.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impact or impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received

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 self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove the 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-OCC-2017-001 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-OCC-2017-001. 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

¹⁶ Specifically, OCC will discuss with those Clearing Members how they plan to satisfy any increase in their margin requirements associated with the proposed change.

¹⁷ Cross-margin accounts are not uniquely affected by the proposed change and would be affected by the proposed change in the same manner as any other type of OCC account.

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

¹⁹ 17 CFR 240.17Ad-22(b)(2).

²⁰ 15 U.S.C. 78q-1(b)(3)(I).

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 OCC and on OCC's Web site at http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_17_001.pdf.

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-OCC-2017-001 and should be submitted on or before February 15, 2017.

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

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-01605 Filed 1-24-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79836; File No. SR-CBOE-2016-084]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rules Related to the Automated Improvement Mechanism

January 18, 2017.

I. Introduction

On November 29, 2016, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission"), pursuant

to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to make permanent make permanent those aspects of its Automated Improvement Mechanism ("AIM" or "Auction") that are currently operating on a pilot basis. The proposed rule change was published for comment in the **Federal Register** on December 13, 2016.³ The Commission received no comments regarding the proposal. On January 6, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal

AIM exposes certain orders electronically to an auction process to provide these orders with the opportunity to receive an execution at an improved price.⁵ In addition, the AIM auction process for FLEX Options ("FLEX AIM") exposes certain FLEX Options orders electronically to an auction process to provide these orders with the opportunity to receive an execution at an improved price.⁶ The AIM and FLEX AIM auctions are available only for orders that a Trading Permit Holder represents as agent ("Agency Order") and for which a second order of the same size as the Agency Order (and on the opposite side of the market) is also submitted (effectively stopping the Agency Order at a given price).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 79499 (December 7, 2016), 81 FR 90012 ("Notice").

⁴ In Amendment No. 1, the Exchange described additional data relating to complex orders submitted through AIM and provided additional support for its proposal to approve the aspects of AIM currently operating on a pilot basis as applicable to complex orders. To promote transparency of its proposed amendment, when CBOE filed Amendment No. 1 with the Commission, it also submitted Amendment No. 1 as a comment letter to the file, which the Commission posted on its Web site and placed in the public comment file for SR-CBOE-2016-084 (available at <https://www.sec.gov/comments/sr-cboe-2016-084/cboe2016084-1475098-130456.pdf>). The Exchange also posted a copy of its Amendment No. 1 on its Web site (<http://www.cboe.com/aboutcboe/legal/submittedsecfilings.aspx>), when it filed it with the Commission.

⁵ See CBOE Rule 6.74A. See also Securities Exchange Release No. 53222 (February 3, 2006), 71 FR 7089 (February 10, 2006) (SR-CBOE-2005-60) ("AIM Approval Order").

⁶ See Securities Exchange Release No. 66702 (March 30, 2012), 77 FR 20675 (April 5, 2012) (SR-CBOE-2011-123) ("FLEX AIM Approval Order").

Three components of AIM were approved by the Commission on a pilot basis (the "Pilot"): (1) That there is no minimum size requirement for orders to be eligible for the AIM; (2) that the AIM will conclude prematurely anytime there is a quote lock on the Exchange pursuant to Rule 6.45A(d);⁷ and (3) that there is no minimum size requirement for orders to be eligible for the FLEX AIM.⁸ In connection with the Pilot, the Exchange has provided certain data to the Commission to provide supporting evidence that, among other things, there is meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the AIM.⁹ The Pilot is currently set to expire on January 18, 2017.¹⁰ The Exchange proposes to make the Pilot permanent.

A. No Minimum Size Requirement Pilot

In support of its proposal, and in addition to data submitted to the Commission on a monthly and confidential basis since the Pilot's inception, the Exchange has provided the Commission with data for AIM executions from January through June 2015 (the "Report").¹¹ The Exchange believes the data provides evidence that AIM offers meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of AIM.¹² The Exchange further notes that the data provided in the Report demonstrates the price improvement benefits of AIM.¹³ According to the Exchange, approving the no minimum size pilot on a permanent basis will allow AIM to continue to offer meaningful price improvement and will not have an adverse effect on the market functioning on the Exchange outside of AIM.¹⁴

Specifically, the Report contains eight categories of non-customer and customer auction data, as well as three categories of summary auction data, during the period from January through

⁷ A quote lock occurs when a CBOE Market-Maker's quote interacts with the quote of another CBOE Market-Maker (*i.e.*, when internal quotes lock).

⁸ The pilot for the FLEX AIM auction process was modeled after the pilot for non-FLEX Options. See FLEX AIM Approval Order, *supra* note 6.

⁹ See Interpretation and Policy .03 to CBOE Rule 6.74A and Interpretation and Policy .03 to CBOE Rule 24B.5A.

¹⁰ See Securities Exchange Act Release No. 78316 (July 13, 2016) 81 FR 46975 (July 19, 2016) (SR-CBOE-2016-056).

¹¹ See Exhibit 3 to SR-CBOE-2016-084.

¹² See Notice, *supra* note 3, at 90013-14.

¹³ See *id.* The Commission notes that AIM currently requires price improvement for Agency Orders of fewer than 50 contracts. See CBOE Rule 6.74A(a)(3).

¹⁴ See Notice, *supra* note 3, at 90014.

²¹ 17 CFR 200.30-3(a)(12).