

Section 17A of the Act<sup>37</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that proposed rule change SR-NSCC-2017-001 be, and hereby is, *Approved*.<sup>38</sup>

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

**Eduardo A. Aleman,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80595; File No. SR-CBOE-2017-035]

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

May 4, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 21, 2017, 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 Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

<sup>37</sup> 15 U.S.C. 78q-1.

<sup>38</sup> In approving the proposed rule change, the Commission considered the proposals’ impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<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.

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

#### 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes changes to Rule 6.56 (Compression Forums) to: (1) Make all existing positions in series of S&P 500® Index (“SPX”) options<sup>5</sup> eligible to be identified as compression-list positions (and therefore eligible for a fee rebate if closed in open outcry in a compression forum); (2) change the way in which the Exchange will publish its compression-list positions file; (3) amend the rules with respect to requirements for solicited transactions executed through a compression forum; and (4) clarify additional portions of the rule text. The Exchange’s proposal is intended to make it easier for TPHs to efficiently close positions in series of SPX options at the end of each calendar month in order to mitigate the effects of capital constraints on market participants and help ensure continued depth of liquidity in the SPX options market.

###### Background

SEC Rule 15c3-1 (Net Capital Requirements for Brokers or Dealers) (“Net Capital Rules”) requires registered broker-dealers, unless otherwise excepted, to maintain certain specified minimum levels of capital.<sup>6</sup> The Net Capital Rules are designed to protect securities customers, counterparties, and creditors by requiring that broker-dealers have sufficient liquid resources on hand, at all times, to meet their financial obligations. Notably, hedged positions, including offsetting futures and options contract positions, result in certain net capital requirement reductions under the Net Capital Rules.<sup>7</sup>

<sup>5</sup> Including groups of series with both ticker symbols SPX and SPXW.

<sup>6</sup> 17 CFR 240.15c3-1.

<sup>7</sup> In addition, the Net Capital Rules permit various offsets under which a percentage of an option

position’s gain at any one valuation point is allowed to offset another position’s loss at the same valuation point (e.g. vertical spreads).

Subject to certain exceptions, CBOE Clearing Trading Permit Holders (“CTPHs”)<sup>8</sup> are subject to the Net Capital Rules. However, a subset of CTPHs are subsidiaries of U.S. bank holding companies, which, due to their affiliations with their parent U.S. bank holding companies, must comply with additional bank regulatory capital requirements pursuant to rulemaking required under the Dodd-Frank Wall Street Reform and Consumer Protection Act.<sup>9</sup> Pursuant to this mandate, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation have approved a regulatory capital framework for subsidiaries of U.S. bank holding company clearing firms.<sup>10</sup> Generally, these rules impose higher minimum capital requirements, more restrictive capital eligibility standards, and higher asset risk weights than were previously mandated for CTPHs that are subsidiaries of U.S. bank holding companies under the Net Capital Rules. Furthermore, the new rules do not permit deductions for hedged securities or offsetting options positions.<sup>11</sup> Rather, capital charges under these standards are, in large part, based on the aggregate notional value of short positions regardless of offsets. As a result, in general, CTPHs must hold substantially more bank regulatory capital than would otherwise be required under the Net Capital Rules. The impact of these regulatory capital rules are compounded

position’s gain at any one valuation point is allowed to offset another position’s loss at the same valuation point (e.g. vertical spreads).

<sup>8</sup> All CBOE CTPHs must also be clearing members of The Options Clearing Corporation (“OCC”).

<sup>9</sup> H.R. 4173 (amending section 3(a) of the Securities Exchange Act of 1934 (the “Act”) (15 U.S.C. 78c(a))).

<sup>10</sup> 12 CFR 50; 79 FR 61440 (Liquidity Coverage Ratio; Liquidity Risk Measurement Standards).

<sup>11</sup> Many options strategies, including relatively simple strategies often used by retail customers and more sophisticated strategies used by market-makers and institutions, are risk-limited strategies or options spread strategies that employ offsets or hedges to achieve certain investment outcomes. Such strategies typically involve the purchase and sale of multiple options (and may be coupled with purchases or sales of the underlying securities), executed simultaneously as part of the same strategy. In many cases, the potential market exposure of these strategies is limited and defined. Whereas regulatory capital requirements have historically reflected the risk-limited nature of carrying offsetting positions, these positions may now be subject to higher regulatory capital requirements. Various factors, including administration costs; transaction fees; and limited market demand or counterparty interest, however, may discourage market participants from closing these positions even though many market participants likely would prefer to close the positions rather than carry them to expiration.

in the SPX options market due to the large notional value of SPX contracts.

The Exchange believes that these higher regulatory capital requirements have the potential to impact liquidity in the SPX options market by limiting the amount of capital CTPHs can allocate to their clients' transactions. Specifically, the rules may cause CTPHs to impose stricter position limits on their client clearing members, which include CBOE Market-Makers. Such position limits may impact the liquidity Market-Makers might supply in the SPX market, and this impact may be compounded when a CTPH has multiple Market-Maker client accounts, each having largely risk-neutral portfolio holdings.<sup>12</sup> The Exchange believes that permitting Market-Makers and Floor Brokers (for their own proprietary accounts or for the account of another on an agency basis) to efficiently close existing SPX options positions through modified open outcry trading procedures on the Exchange floor may assist CTPHs and TPHs to address bank regulatory capital requirements and would likely have a beneficial effect on continued liquidity in the SPX options market without adversely affecting market quality.

In order to mitigate the potential negative effects of these additional bank regulatory capital requirements and foster continued liquidity in the SPX options market in a manner consistent with the requirements, the Exchange recently adopted Rule 6.56 pursuant to which TPHs can reduce (or "compress") existing positions in SPX at the end of each calendar month more efficiently through trading in an open outcry compression forum.<sup>13</sup> The Exchange believes that making available these periodic trading forums, which allow for closing transactions in SPX options series to occur at reduced transaction fees likely contributes to additional liquidity and continued competitiveness in the SPX market and promotes more efficient capital deployment in light of bank regulatory capital requirements.

Under current Rule 6.56, on the final three business days of each calendar month, the Exchange holds compression forums in the SPX trading crowd. Beforehand, in order to facilitate TPHs finding counterparty offsets against which they can trade closing positions,

currently, TPHs may submit lists of existing SPX positions (with either a required capital charge equal to the minimum capital charge under the risk-based haircut calculator provided by the OCC or comprised of option series with a delta of ten (10) or less) to the Exchange that they wish to close during a compression forum. The Exchange then aggregates these positions into a single list containing the series in which opposite (long/short) interest was submitted to the Exchange. Prior to the open of trading on the third-to-last business day of each calendar month (*i.e.* the first day of the month on which a compression forum is held), the Exchange makes available to all TPHs on its Web site the aggregate two-sided list of compression-list positions for those series ("compression-list positions file"). In addition, TPHs that submit compression positions list to the Exchange receive a compression-list positions file containing the names of the TPHs that contributed to the file, including contact information for each TPH's designated point of contact. This list does not identify the specific positions that any TPH has submitted to the Exchange.

The Exchange then holds open outcry "compression forums" in which all TPHs may participate whether or not they submitted positions for inclusion in the compression-list position file. Currently, trades executed during compression forums are subject to trading rules applicable to trading in SPX during Regular Trading Hours, including manner of bids and offers and allocation and priority rules, except: (1) Only closing transactions in SPX options (including compression-list positions) may be executed during a compression forum; and (2) the minimum increment for each series is \$0.01 during a compression forum. TPHs that trade positions previously submitted to the Exchange on a compression list may then take advantage of the compression-list position fee rebate on portions of a transaction that involve their compression-list positions, which are executed through a compression forum.

The Exchange proposes to amend Rule 6.56 to enhance the effectiveness and utility of its compression forums based on research, past compression forum results, and anecdotal evidence, the Exchange believes that the number of SPX contracts closed in past compression forums is only a small fraction of the number of SPX contracts that TPHs would like to close out because of bank regulatory capital-related restraints. This is due, at least in

part, to TPHs submitting compression-list positions that include fewer than the total SPX contracts they would like to close. These limited TPH compression-list positions yield fewer series in which the Exchange has received two-sided interest (for publication in the compression-list positions file), and only a fraction of that two-sided interest has been closed out during previous compression forums.<sup>14</sup> The Exchange believes that TPHs are not taking advantage of the compression forum process, in part, because the process is too limited in terms of which positions have been determined to be eligible compression-list positions (and therefore eligible for the related fee rebate). Accordingly, the Exchange proposes certain amendments to Rule 6.56 to increase the efficiency and effectiveness of the compression forums process.

#### Proposal

The Exchange proposes to amend Rule 6.56 to remove the requirement that compression-list positions must be positions with either: (1) A required capital charge equal to the minimum capital charge under the risk-based haircut calculator provided by the OCC or (2) comprised of option series with a delta of ten (10) or less. In addition, the Exchange proposes to change the manner in which it publishes the compression-list positions file and amend the rules with respect to requirements for solicited transactions executed through a compression forum. Finally, the Exchange proposes to make certain non-substantive changes to clarify the text of Rule 6.56. The Exchange believes that these proposed amendments to Rule 6.56 would enhance the effectiveness and utility of its compression forums process.

Under current Rule 6.56(a)(1), prior to the close of Regular Trading Hours on the fourth to last business day of each calendar month, in a manner and format determined by the Exchange, a TPH may provide the Exchange with a list of open SPX options positions with either a required capital charge equal to the minimum capital charge under the risk-based haircut calculator provided by the OCC or comprised of option series with a delta of ten (10) or less that it would like to close during the compression forum for that calendar month ("compression-list positions"). Compression-list positions may consist

<sup>12</sup> Several TPHs have indicated to the Exchange that the heightened bank regulatory requirements could impact their ability to provide consistent liquidity in the SPX options market unless they are able to efficiently close their positions in SPX.

<sup>13</sup> See Securities Exchange Act Release No. 79610 (December 20, 2016), 81 FR 95219 (December 27, 2016) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Compression of S&P 500(R) Index Options Positions) (SR-CBOE-2016-090).

<sup>14</sup> In the months since the adoption of Rule 6.56, of the compression-list positions submitted to the Exchange, less than 16% had offsetting interest, and of those positions, less than 10% were actually closed in transactions through a compression forum.

of multi-legged positions in series of SPX options, which satisfy these conditions. In turn, the Exchange rebates transaction fees for trading these positions against other closing SPX options positions in a compression forum so long as a rebate request form is submitted by the TPH in compliance with the parameters outlined in the Exchange's Fees Schedule.<sup>15</sup>

The Exchange proposes to amend the definition of compression-list positions to include any SPX option position submitted to the Exchange pursuant to Rule 6.56(a)(1) that a TPH wishes to close through a compression forum. Specifically, the Exchange proposes to remove the text from paragraph (a)(1) of Rule 6.56 that requires a compression-list position to either have a required capital charge equal to the minimum capital charge under the risk-based haircut calculator provided by the OCC or be comprised of an option series with a delta of ten (10) or less. Accordingly, the proposed rule text of the first sentence of Rule 6.56(a)(1) would provide that prior to the close of Regular Trading Hours on the fourth to last business day of each calendar month, in a manner and format determined by the Exchange, a TPH may provide the Exchange with a list of open SPX options positions that it would like to close through the compression forum for that calendar month ("compression-list positions").

This proposed change would also obviate the need for the provision that compression-list positions may consist of multi-legged positions in series of SPX options, which satisfy the conditions set forth in paragraph (a)(1) of Rule 6.56. Under the current rule, TPHs may use offsetting positions to create a multi-leg position with a required capital charge equal to the minimum capital charge under the risk-based haircut calculator provided by the OCC. If the requirement that the position have a required capital charge equal to the minimum capital charge under the risk-based haircut calculator provided by the OCC were eliminated, then there would be no need to submit a multi-leg position to make it qualify as a compression-list position under Rule

6.56(a)(1); any leg of any SPX position on its own would qualify without exception. Thus, under the proposed rule, TPHs may simply submit a list of single-leg positions to the Exchange in order to qualify for a rebate of the fees for any associated transactions.

The Exchange believes that the proposed change would encourage more market participants to close out SPX positions through compression forums and help ensure continued depth of liquidity in the SPX options market. Based on the Exchange's understanding of the number of SPX contracts that TPHs would like to close out each month for bank regulatory capital-related purposes, the comparatively small numbers of contracts submitted to the Exchange on average per month as compression-list positions, and the even smaller number of SPX contracts closed during compression forums, the Exchange believes that the definition of compression-list positions ought to be expanded to include any open SPX options positions that a TPH wishes to close during a compression forum (and thus be eligible for a fee rebate). Although the parameters in current Rule 6.56(a)(1) were put in place as a mechanism for market participants to close out-of-the-money ("OTM") positions that might be held until expiration because of the cost of trading out of them and despite the large capital charges associated with such positions, the Exchange believes that market participants and, in particular, Market-Makers have a need for a mechanism that allows them to easily close other less deep OTM SPX positions and even in-the-money ("ITM") positions at month's end in order to free up capital that could then be deployed to provide additional liquidity in the SPX options market.

The Exchange also proposes to make changes to paragraph (a)(2) of Rule 6.56 regarding the dissemination of the compression-list positions file. Under current Rule 6.56, prior to the open of Regular Trading Hours on the third to last business day of each calendar month, the Exchange makes available to all TPHs an aggregate two-sided (long/short) list including each series for

which both long and short positions have been submitted to the Exchange pursuant to paragraph (a)(1) and the size on each side in each of those series ("compression-list positions file"). Based on anecdotal evidence, the Exchange believes that TPHs are submitting fractions of positions that they would like to compress to the Exchange as compression-list positions because of the format in which the Exchange publishes the compression-list positions file. Specifically, the Exchange believes TPHs are concerned about revealing large position imbalances and thus are hesitant to submit their full eligible compression-list positions to the Exchange. This results in an overall lowering of the compression forum efficiency, fewer SPX positions closed, and less reduced capital that could be used to create and maintain greater liquidity in the SPX options market.

If the Exchange were to only publish the offsetting size of long and short positions in each series, however, these concerns would be alleviated. Accordingly, the Exchange proposes to amend paragraph (a)(2) to provide that it will publish only up to the size of the offsetting compression-list positions in each series for which both long and short positions have been submitted to the Exchange. Specifically, the Exchange proposed to amend paragraph (a)(2) of Rule 6.56 to provide that prior to the open of Regular Trading Hours on the third to last business day of each calendar month, the Exchange will make available to all TPHs a list including each series for which both long and short compression-list positions have been submitted to the Exchange and the size of the offsetting compression-list positions in those series. The difference between the current and proposed compression-list positions file publication methodologies can be demonstrated through the following example, which assumes that prior to the close of trading on the fourth to last business day of a particular calendar month, the Exchange receives the following compression-list positions from TPHs XYZ, ABC, and 123:

Market participant	Symbol	Expiration date	Strike	Call/put	Size
XYZ TRADING .....	SPXW	6/2/2017	2000	C	- 125
XYZ TRADING .....	SPXW	6/2/2017	2005	P	2500
XYZ TRADING .....	SPXW	6/2/2017	2110	P	- 75
XYZ TRADING .....	SPXW	6/2/2017	2200	P	- 166
XYZ TRADING .....	SPXW	6/2/2017	2210	C	250
XYZ TRADING .....	SPXW	6/2/2017	2220	C	2000

<sup>15</sup> See Securities Exchange Act Release No. 79745 (January 5, 2017), 82 FR 3379 (January 11, 2017)

(Notice of Filing and Immediate Effectiveness of a

Proposed Rule Change To Amend the Fees Schedule) (SR-CBOE-2016-094).

Market participant	Symbol	Expiration date	Strike	Call/put	Size
XYZ TRADING .....	SPXW	6/2/2017	2300	C	2500
XYZ TRADING .....	SPXW	6/2/2017	2350	C	- 652
XYZ TRADING .....	SPXW	6/2/2017	2360	C	- 1425

Market participant	Symbol	Expiration date	Strike	Call/put	Size
ABC TRADING .....	SPXW	6/2/2017	2000	C	- 76
ABC TRADING .....	SPXW	6/2/2017	2005	P	- 105
ABC TRADING .....	SPXW	6/2/2017	2050	P	- 166
ABC TRADING .....	SPXW	6/2/2017	2250	C	- 4000
ABC TRADING .....	SPXW	6/2/2017	2360	C	1322
ABC TRADING .....	SPXW	6/2/2017	2500	P	- 50

Market participant	Symbol	Expiration date	Strike	Call/put	Size
123 TRADING .....	SPXW	6/2/2017	2000	C	50
123 TRADING .....	SPXW	6/2/2017	2110	P	- 105
123 TRADING .....	SPXW	6/2/2017	2220	C	- 200
123 TRADING .....	SPXW	6/2/2017	2250	P	- 400
123 TRADING .....	SPXW	6/2/2017	2250	C	107
123 TRADING .....	SPXW	6/2/2017	2300	C	- 200
123 TRADING .....	SPXW	6/2/2017	2350	P	- 62
123 TRADING .....	SPXW	6/2/2017	2360	C	- 5000
123 TRADING .....	SPXW	6/2/2017	2500	P	- 300

Assuming that each of the positions listed above qualify as compression-list positions under Rule 6.56(a)(1), under

the current rule, the Exchange would compile the compression-list positions file by aggregating the long and short

positions in each series for which both long and short positions had been submitted to the Exchange as follows:

Symbol	Expiration date	Strike	Call/put	Long size	Short size
SPXW .....	6/2/2017	2000	C	50	- 201
SPXW .....	6/2/2017	2005	P	2500	- 105
SPXW .....	6/2/2017	2220	C	2000	- 200
SPXW .....	6/2/2017	2250	C	107	- 4000
SPXW .....	6/2/2017	2300	C	2500	- 200
SPXW .....	6/2/2017	2360	C	1322	- 6425

Under the Exchanges' proposal to show only up to the offsetting size in each series for which both long and

short positions have been submitted to the Exchange, assuming the same compression-list positions above were

submitted to the Exchange, the Exchange would publish the following compression-list positions filing:

Symbol	Expiration date	Strike	Call/put	Size
SPXW .....	6/2/2017	2000 .....	C	50
SPXW .....	6/2/2017	2005 .....	P	105
SPXW .....	6/2/2017	2200 [sic] .....	C	200
SPXW .....	6/2/2017	2250 .....	C	107
SPXW .....	6/2/2017	2300 .....	C	200
SPXW .....	6/2/2017	2360 .....	C	1322

As demonstrated in the examples above, using the current method for compiling the compression-list positions file, several large position imbalances would be shown to market participants, whereas under the proposed method for compiling the compression-list positions file, only the net size would be shown.

The Exchange also proposes to amend Rule 6.56(c) to provide that TPHs may solicit a TPH or a non-TPH customer or broker-dealer to transact through a compression forum in accordance with

the provisions of this Rule and the solicited transaction requirements contained in Rule 6.9 and that trades executed through a compression forum pursuant to Rule 6.56 and otherwise in compliance with the Rules, including, but not limited to Rule 6.9 will not be deemed prearranged trades. Currently, Rule 6.56(c) provides that TPHs may communicate with other TPHs to determine: (1) A TPH's open single-legged or multi-legged SPX position, including side and size, and/or (2) whether a TPH anticipates participating

in a compression forum at a particular date and time, but that during these communications, TPHs may not discuss the price of a potential transaction involving these positions during a compression forum. This restriction is stricter than the Exchange's normal trading rules, which, under Rule 6.9 (Solicited Transactions), permit price discovery. The Exchange believes permitting solicited transactions that include discussion of price in accordance with Rule 6.9 may enhance the compression forum process. The

proposed rule change also harmonizes the compression forum rules with requirements for solicited transactions under Rule 6.9 and the provision of Rule 6.56(b), which provides that trades executed through compression forums are subject to normal SPX trading rules, apart from the specifically enumerated exceptions as provided in Rule 6.56(b)(1) and (2). The Exchange believes that this amendment would further align the compression forum trading rules with normal SPX trading rules, which would clarify the Rules and eliminate both potential confusion and regulatory discrepancy.

The Exchange proposes to further amend the text of Rule 6.56(c) to provide that trades executed through a compression forum pursuant to Rule 6.56 and otherwise in compliance with the Rules, including but not limited to Rule 6.9 (including a discussion of price as permitted by that rule), will not be deemed prearranged trades.<sup>16</sup> The Exchange proposes to make corresponding changes to Rule 6.56(b) to make clear that all normal SPX trading rules apply to transactions executed through compression forums, including but not limited to the solicited transaction rules in Rule 6.9.

The Exchange also proposes to make several clarifying changes to the rule text of Rule 6.56. In paragraphs (a)(1),

(b), (b)(1), and (c), the Exchange proposes to change the word “during” to “through” to make clear that the rules apply to transactions executed through the compression forum process, rather than transactions in series of SPX options that may be executed during the hours in which a compression forum is taking place, but outside of the compression forum process.

The Exchange proposes to amend Rule 6.56(a)(4) to delete the word “conduct” and replace it with the words “make available.” Currently, Rule 6.56(a)(4) provides that the Exchange will conduct an open outcry “compression forum” in which all TPHs may participate on each of the last three business days of every calendar month at a location on the trading floor determined by the Exchange. The Exchange, however, does not conduct or participate in the compression forum process. Rather, the Exchange provides a locale for the compression forums or “makes available” compression forums to TPHs. Accordingly, the Exchange proposes changes to Rule 6.56(a)(4) to make this point clear.

Finally, the Exchange proposes changes to paragraph (b)(2) of Rule 6.56 to make clear that the minimum increment for bids and offers represented in open outcry in a compression forum is \$0.01, both for single series positions and with respect to complex orders

## 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>17</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>18</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>19</sup> requirement that the rules of an exchange not be designed

to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change is reasonable, equitable, and does not unfairly discriminate against any market participants. The Exchange notes that all TPHs with open SPX positions submit compression-list positions (that would be eligible for a fee rebate) in accordance with the proposed rule change. In fact, the proposed rule change would encourage participation by additional participants as any market participant holding an SPX position could now submit positions eligible compression-list positions (that would therefore qualify for a fee rebate), rather than only those with positions meeting certain limiting criteria. Any market participant with an open SPX positions could participate in a compression forum (including customers through CBOE Floor Brokers), as they would for any other SPX trade. Participation in compression forums, as well as advanced submission of compression-list positions, is optional, and TPHs may also continue to trade open SPX positions during normal trading.

Furthermore, the Exchange believes that its proposal is consistent with the Act in that it seeks to foster liquidity in the SPX options market in light of the bank regulatory capital requirements. As described above, the Exchange believes that the new bank regulatory capital requirements could potentially limit the amount of capital CTPHs can allocate to their clients' transactions, which in turn, may impact liquidity, particularly in the SPX market. Specifically, the rules may cause CTPHs to impose stricter position limits on their clients, including Market-Makers. The Exchange believes that permitting TPHs to reduce open interest in offsetting SPX options positions in the manner set out in Rule 6.56 would likely contribute to the availability of liquidity in the SPX options. The Exchange believes that the proposed rule would serve to protect investors by helping to ensure consistent continued depth of liquidity in the SPX options market.

The Exchange also believes the proposed rule change is consistent with the Act, because the proposed procedure is consistent with its current rules. The proposed rule would direct that all trading through compression forums be conducted in accordance with normal SPX trading rules and thus, in the same manner as transactions during normal SPX trading, except that they must be closing only and may be in penny increments. In particular, the proposed changes to Rule 6.56(b) and (c) would eliminate discrepancies in the

<sup>16</sup> Under the Exchange's policy concerning prearranged trading, TPHs are cautioned that any purchase or sale, transaction or series of transactions, coupled with an agreement, arrangement or understanding, directly or indirectly to reverse such transaction which is not done for a legitimate economic purpose or without subjecting the transactions to market risk, violates Exchange Rules and may be inconsistent with various provisions of the Act and rules thereunder. All transactions must be effected in accordance with applicable trading rules, must be subject to risk of the market, and must be reported for dissemination. In addition, under the Exchange's policy, TPHs are reminded that Section 9(a)(1) of the Act provides in relevant part that it shall be unlawful for any member of a national securities exchange, for the purpose of creating a false or misleading appearance of active trading in any security registered on a national securities exchange or a false or misleading appearance with respect to the market for any such security, (A) to effect any transaction in such security which involves no change in the beneficial ownership thereof, or (B) to enter an order or orders for the purchase of such security with the knowledge that an order or orders substantially the same size, at substantially the same time, and at substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties. See CBOE Regulatory Circular RG16-190 (Prearranged Trades). In this regard, Rule 6.56(c) is not intended as an absolute safe harbor from prearranged trading prohibitions, but is instead intended to provide that, the act of soliciting another party to transact through a compression forum will not be deemed to be prearranged trading provided that the transaction is otherwise executed in accordance with the Rules, including, but not limited to, the Exchange's solicitation rules and open outcry trading procedures, as modified by Rule 6.56(b).

<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> *Id.*

trading rules that apply to trading through compression forums and normal SPX trading rules by harmonizing the solicited transactions rules and making trading through compression forums subject to the rules set forth in Rule 6.9. Accordingly, the Exchange believes that the proposed rule changes to Rule 6.56 would eliminate potential confusion caused by regulatory discrepancies in the Rules and provide additional clarity, specifically with respect to the application of the solicited transaction rules. The Exchange believes that the adoption of clear, transparent, and consistent rules is in the best interests of both investors and the general public.

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

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the Act because it applies to all market participants with positions that meet the eligible criteria in the same manner. The proposed change would encourage the closing of positions, which, once closed, may serve to alleviate the capital requirement constraints on TPHs and improve overall market liquidity by freeing capital currently tied up in certain SPX positions. The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change applies only to the trading of SPX options, which are exclusively-listed on CBOE. To the extent that the proposed changes make the Exchange a more attractive marketplace for market participants at other exchanges, such market participants are eligible to participate through CBOE TPHs. Furthermore, as stated in Item 3(b) above, submission of lists of positions for compression is completely voluntary, open to all TPHs, and non-binding, in that submission of a list does not require a TPH to trade any position or even represent any position through a compression forum. Lists of positions will be made available to all TPHs simply alert TPHs to certain SPX positions that other TPHs are interested in closing at the end of each calendar month.

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

The Exchange neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing proposed rule change does not:

- A. Significantly affect the protection of investors or the public interest;
- B. impose any significant burden on competition; and
- C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>20</sup> and Rule 19b-4(f)(6)<sup>21</sup> thereunder. 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2017-035 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.

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. The Exchange has satisfied this requirement.

All submissions should refer to File Number SR-CBOE-2017-035. 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-2017-035, and should be submitted on or before May 31, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **Notice of Intent To Rule on Request To Release Airport Property at Walnut Ridge Regional Airport, Walnut Ridge, Arkansas**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of request to release airport property.

**SUMMARY:** The FAA proposes to rule and invites public comment on the release of land at Walnut Ridge Regional Airport under the provisions of Section 125 of the Wendell H. Ford Aviation

<sup>22</sup> 17 CFR 200.30-3(a)(12).