

offered by OPRA for a fee. Close substitute products also are offered by several competitors.<sup>31</sup> Because market data users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute one or more other sources of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing. As noted above, the proposed non-display fees are generally lower than the maximum non-display fees charged by other exchanges such as NASDAQ and Phlx, for comparable products.<sup>32</sup>

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid and inexpensive. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, and BATS. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008. Two new options exchanges have launched operations since December 2012.<sup>33</sup>

In establishing the proposed fees, the Exchange considered the competitiveness of the market for proprietary options market data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors, and has not considered irrelevant factors, in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>34</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>35</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>36</sup> of the Act 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-NYSEArca-2014-94 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-NYSEArca-2014-94. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's

Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2014-94 and should be submitted on or before October 2, 2014.

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

**Kevin M. O'Neill,**  
*Deputy Secretary.*

[FR Doc. 2014-21649 Filed 9-10-14; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-73009; File No. SR-CFE-2014-004]

**Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Position Limits for Individual Stock Based and Exchange-Traded Fund Based Volatility Index Security Futures**

September 5, 2014.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on August 26, 2014 CBOE Futures Exchange, LLC ("CFE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE. The Commission is publishing this notice to solicit comments on the proposed rule change

<sup>31</sup> See *supra* notes 15-18.

<sup>32</sup> *Id.*

<sup>33</sup> See *supra* note 28.

<sup>34</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>35</sup> 17 CFR 240.19b-4(f)(2).

<sup>36</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>37</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(7).

from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission (“CFTC”). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (“CEA”)<sup>2</sup> on August 26, 2014.

### **I. Self-Regulatory Organization’s Description of the Proposed Rule Change**

CFE proposes to amend the position limits for Individual Stock Based and Exchange-Traded Fund Based Volatility Index Security Futures (“Volatility Index security futures”) set forth in CFE Rule 1602(d).

The scope of this filing is limited solely to the application of the rule changes to security futures traded on CFE. The only security futures currently traded on CFE are traded under Chapter 16 of CFE’s Rulebook which is applicable to Volatility Index security futures.

The text of the proposed rule change is attached as Exhibit 4 to the filing submitted by the Exchange but is not attached to the published notice of the filing.

### **II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, CFE 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. CFE 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**

CFE is amending the three tiered position limit levels for Volatility Index security futures. CFE Rule 1602(d) currently provides that a person may not own or control:

(1) More than 50,000 contracts net long or net short in all Volatility Index security futures contracts on the same Volatility Index combined;

(2) more than 30,000 contracts net long or net short in the expiring security futures contract month for a Volatility Index security future; and

(3) more than 13,500 security contracts net long or net short in the expiring contract for a Volatility Index security future held during the last 5 trading days for the expiring Volatility Index security futures contract month.<sup>3</sup>

CFE periodically reviews position limit levels and has determined to make the following changes to the position limit levels for Volatility Index security futures as follows:

(1) Reduce the all months position limit from 50,000 contracts to 30,000 contracts;

(2) reduce the spot month position limit from 30,000 contracts to 10,000 contracts; and

(3) replace the 5 days-to-expiration spot position limit of 13,500 contracts with a 1 day-to-expiration spot position limit of 1,000 contracts.<sup>4</sup>

The Exchange will continue to periodically review position limit levels for Volatility Index security futures in order to determine whether the existing position limit levels should remain or be adjusted. Accordingly, the Exchange may determine to increase the position limit levels that are the subject of this filing in the future. Among other things, CFE will review trading volume data and liquidity in the applicable Volatility Index security futures contract, and may propose alternate position limit levels. Any such change would be accomplished by way of a rule filing with the Commission.

##### **2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with

<sup>3</sup> For the purposes of CFE Rule 1602(d), the positions of all accounts directly or indirectly owned or controlled by a person or persons, and the positions of all accounts of a person or persons acting pursuant to an expressed or implied agreement or understanding shall be cumulated.

The first and second tier position limit levels for Volatility Index security futures are equivalent to the first and second tier position limit levels for security options on these same Volatility Indexes. See Chicago Board Options Exchange, Incorporated Rule 24.4C. (Position Limits for Individual Stock or ETF Based Volatility Index Options). CFE adopted the third tier position limit level for Volatility Index security futures because it was required by CFTC Regulation § 41.25(a)(3)(i). In relevant part, CFTC Regulation § 41.25(a)(3)(i) requires a designated contract market to “adopt a net position limit no greater than 13,500 (100-share) contracts applicable to positions held during the last five trading days of an expiring contract month [ ]” for security futures contracts.

<sup>4</sup> The Exchange is replacing the 5-days-to-expiration limit with a 1-day-to-expiration limit because any potential pressures on liquidity are most acute on the day before expiration. In addition, this change is consistent with CFTC Regulation § 41.25(a)(3)(i) described in footnote 3 because the newly reduced spot month position limit of 10,000 contracts is applicable sooner than the “last five trading days of an expiring contract month” and is less than the statutory maximum of 13,500 contracts during that five-day period.

Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5)<sup>6</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in 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.

Specifically, the Exchange believes that the position limit level changes being made by this filing will diminish the opportunity to manipulate Volatility Index security futures and will protect against disruption in the underlying market.

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

CFE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed rule change will not burden competition because the new position limit levels will apply to all persons and the revised rule provisions do not discriminate between market participants.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The proposed rule change will become operative on September 11, 2014.

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.<sup>7</sup>

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

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 7 U.S.C. 7a-2(c).

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-CFE-2014-004 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-CFE-2014-004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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-CFE-2014-004, and should be submitted on or before October 2, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014-21648 Filed 9-10-14; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73011; File No. SR-NYSEARCA-2014-93]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Fees for Non-Display Use of NYSE Arca Integrated Fee, NYSE ArcaBook, NYSE Arca Trades, and NYSE Arca BBO, and To Establish a Fee for Managed Non-Services for NYSE Arca BBO

September 5, 2014.

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 August 25, 2014, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 amend its fees for non-display use of NYSE Arca Integrated Fee, NYSE ArcaBook, NYSE Arca Trades, and NYSE Arca BBO, and to establish a fee for managed non-services for NYSE Arca BBO, operative on September 1, 2014. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those 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 parts 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 to amend its non-display fees for NYSE Arca Integrated Feed, NYSE ArcaBook, NYSE Arca Trades, and NYSE Arca BBO, and to establish a fee for managed non-display services for NYSE Arca BBO, operative on September 1, 2014.<sup>3</sup> The Exchange also proposes corresponding changes to the Fee Schedule text to remove references to the current category descriptions.

The Exchange established the current non-display and managed non-display services fees for NYSE Arca Integrated Feed, NYSE ArcaBook, NYSE Arca Trades, and NYSE Arca BBO in April 2013.<sup>4</sup> The Exchange now proposes to change those fees and establish a fee for managed non-display services for NYSE Arca BBO.

Under the proposal, non-display use would continue to mean accessing, processing, or consuming an Exchange data product delivered via direct and/or Redistributor<sup>5</sup> data feeds for a purpose other than in support of a data recipient's display or further internal or external redistribution ("Non-Display Use"). As is the case today, non-display and managed non-display services fees would apply to the Non-Display Use of the data product as part of automated calculations or algorithms to support trading decision-making processes or the operation of trading platforms.

The Exchange is proposing to expand the types of uses considered Non-Display Use to also include non-trading uses. In addition, the proposal would specify that Non-Display Use would include any trading use, rather than only certain types of trading, such as high frequency or algorithmic trading, as under the current fee structure. Under the proposal, examples of Non-Display Use would include any trading in any asset class, automated order or quote generation and/or order pegging, price referencing for algorithmic trading or smart order routing, operations control programs, investment analysis, order verification, surveillance programs, risk management,

<sup>3</sup> The Exchange's affiliates have submitted or will be submitting similar proposals. See, e.g., SR-NYSE-2014-43.

<sup>4</sup> See Securities Exchange Act Release No. 69315 (April 5, 2013), 78 FR 21668 (April 11, 2013) (SR-NYSEARCA-2013-37) ("2013 Release").

<sup>5</sup> "Redistributor" means a vendor or any person that provides a real-time NYSE data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

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

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

<sup>8</sup> 17 CFR 200.30-3(a)(12).