

For the Commission, pursuant to delegated authority.<sup>124</sup>

Robert W. Errett,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75623; File No. SR-CBOE-2015-061]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Its Rules Related to Equipment and Communication on the Exchange's Trading Floor

August 6, 2015.

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 July 23, 2015, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 Exchange seeks to amend its rules related to equipment and communication on the Exchange's trading floor. The text of the proposed rule change is provided below.

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

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#### Chicago Board Options Exchange, Incorporated Rules

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#### Rule 6.23. [Trading Permit Holder Wires From Floor] *Equipment and Communications on the Trading Floor*

(a) Subject to the requirements of this Rule Trading Permit Holders may use any communication device (e.g., any hardware or software related to a phone, system or other device, including an instant messaging system, email system or similar device) on the floor of the Exchange and in any trading crowd of the Exchange. Prior to using a communications device for business purposes on the floor of the Exchange, Trading Permit Holders must register the communications device by identifying (in a form and manner prescribed by the Exchange) the hardware (i.e., headset; cellular telephone; tablet; or other similar hardware). The Exchange reserves the right to designate certain portions of this rule (except for the registration requirement of paragraph (a) or paragraphs (f) and (g)) as not applicable to certain classes on a class by class basis.

(b) The Exchange may deny, limit or revoke the use of any communication device whenever it determines that use of such communication device: (1) Interferes with the normal operation of the Exchange's own systems or facilities or with the Exchange's regulatory duties, (2) is inconsistent with the public interest, the protection of investors or just and equitable principles of trade, or (3) interferes with the obligations of a Trading Permit Holder to fulfill its duties under, or is used to facilitate any violation of, the Securities Exchange Act or rules thereunder, or Exchange rules.

(c) Any communication device may be used on the floor of the Exchange and in any trading crowd of the Exchange to receive orders, provided that audit trail and record retention requirements of the Exchange are met; however, no person in a trading crowd or on the floor of the Exchange may use any communication device for the purpose of recording activities in the trading crowd or maintaining an open line of continuous communication whereby a non-associated person not located in the trading crowd may continuously monitor the activities in the trading crowd. This prohibition covers digital recorders, intercoms, walkie-talkies and any similar devices.

(d) After providing notice to an affected Trading Permit Holder and complying with applicable laws, the Exchange may provide for the recording of any telephone line on the floor of the Exchange or may require Trading Permit Holders at any time to provide for the

recording of a fixed phone line on the floor of the Exchange. Trading Permit Holders, and their clerks, using the telephones consent to the Exchange recording any telephone or line.

(e) Trading Permit Holders may not use communication devices to disseminate quotes and/or last sale reports originating on the floor of the Exchange in any manner that would serve to provide a continuous or running state of the market for any particular series or class of options over any period of time; provided, however, that an associated person of a Trading Permit Holder on the floor of the Exchange may use a communication device to communicate quotes that have been disseminated pursuant to Rule 6.43 and/or last sale reports to other associated persons of the same Trading Permit Holder business unit. An associated person of a Trading Permit Holder may also use a communications device to communicate an occasional, specific quote that has been disseminated pursuant to Rule 6.43 or last sale report to a person who is not an associated person of the same Trading Permit Holder.

(f) Use of any communications device for order routing or handling must comply with all applicable laws, rules, policies and procedures of the Securities and Exchange Commission and the Exchange including related to record retention and audit trail requirements. Orders must be systemized using Exchange systems or proprietary systems approved by the Exchange in accordance with Rule 6.24.

(g) Trading Permit Holders must maintain records of the use of communication devices, including, but not limited to, logs of calls placed; emails; and chats, for a period of not less than three years, the first two years in an easily accessible place. The Exchange reserves the right to inspect such records pursuant to Rule 17.2.

(h) The Exchange may designate, via circular, specific communication devices that will not be permitted on the floor of the Exchange or Exchange trading crowds. In addition, the Exchange may designate other operational requirements regarding the installation of any communication devices via circular.

(i) No Trading Permit Holder shall establish or maintain any telephone or other wire communications between his or its office and the Exchange without prior approval by the Exchange. The Exchange may direct discontinuance of any communication facility terminating on the floor of the Exchange.

(b) *Equity Option Telephone Policy.* Persons in the equity option trading

<sup>124</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).

crowds (including DPM crowds which trade equity options) may have access to outside telephone lines and may receive telephone orders directly at equity options posts from locations outside the Exchange, subject to certain requirements. The Exchange will review and may approve any applications to install or to use telephones in the equity option crowds.

(1) Requirements and conditions that apply to the use of telephone services at the equity option posts shall include the following:

(A) Only those quotations that have been publicly disseminated pursuant to Rule 6.43 may be provided over telephones at the post.

(B) Trading Permit Holders may give their clerks their PIN access code. Although both Trading Permit Holders and clerks may use telephones, Trading Permit Holders will have priority. Each Trading Permit Holder will be responsible for all calls made using that Trading Permit Holder's PIN access code.

(C) Clerks will not be permitted to establish a base of operation utilizing general use telephones at the equity option posts. This means, for example, that a clerk may not monopolize the use of a telephone receiver on a telephone that has multiple lines if all of those lines are not dedicated to the Trading Permit Holder for whom the clerk works.

(D) The Exchange may provide for the taping of any telephone line into the equity option posts or may require Trading Permit Holders to provide for the tape recording of a dedicated line at the equity option posts at any time. Trading Permit Holders and their clerks using the telephones consent to the Exchange tape recording any telephone or line.

(E) The telephones may be used for voice service only, unless they have been specifically approved for other uses.

(F) The Exchange may prohibit the use of any telephone technology that interferes with the normal operation of the Exchange's own systems or facilities or that the Exchange determines interferes with its regulatory duties.

(G) Orders transmitted by registered Exchange market-makers may be entered over the outside telephone lines directly to the equity option posts. All other orders may be entered over the outside telephone lines to the equity option posts only during outgoing telephone calls that are initiated at the equity option posts.

(H) Only those individuals that are properly qualified in accordance with Chapter IX of the Rules of the Exchange,

and all other applicable rules and regulations, may accept orders from public customers pursuant to this Rule.

#### *. . . Interpretations and Policies*

.01 A Trading Permit Holder or TPH organization which has been granted approval of any means of communication under this rule shall be responsible for assuring compliance with all Exchange rules and requirements in connection with any business conducted by means of such electronic or telephonic communication.]

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The text of the proposed rule change is also available on the Exchange's Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

#### 1. Purpose

The Exchange is proposing to amend its rules regarding equipment and communication on the Exchange trading floor. More specifically, the Exchange is proposing to delete the current rule on the topic, Exchange Rule 6.23, and introduce more relevant rules governing the use of communication devices<sup>5</sup> on the Exchange trading floor.<sup>6</sup> Exchange and Trading Permit Holder ("TPH") systems have become much more electronic since the adoption of CBOE Rule 6.23; however, the rule has not been updated to reflect the electronic

<sup>5</sup> As proposed, "communication device" will include "e.g., any hardware or software related to a phone, system or other device, including an instant messaging system, email system or similar device[.]"

<sup>6</sup> Although the Exchange seeks to replace Rule 6.23 in its entirety, portions of the current rule are included in proposed Rule 6.23. The relevant holdover language is identified where applicable.

environment. The Exchange believes it is in the interest of TPHs to allow electronic communications to and from the Exchange trading floor and that these amendments will eliminate confusion that may arise from outdated Exchange rules. As such, the Exchange believes that eliminating the current rule in its entirety and promulgating language that contemplates modern rules is appropriate.<sup>7</sup> First, Rule 6.23 is currently applicable to "telephone or other wire communications."<sup>8</sup> Proposed Rule 6.23(a) expands the applicability of Rule 6.23 and provides that TPHs may use any communication device<sup>9</sup> on the Exchange trading floor and in any Exchange trading crowd subject to the restrictions in proposed Rule 6.23. The Exchange is also proposing to apply certain restrictions on a class by class basis; however, the registration requirement of paragraph (a), and paragraphs (f) and (g) in their entirety, will always be applicable. The Exchange believes the discretion afforded in paragraph (a) is appropriate as different classes of options on the trading floor behave differently, and, as such, different means of communication might be more appropriate in one options class but not in another. The Exchange is also instituting a registration provision that will require TPHs, prior to using a communications device for business purposes on the floor of the Exchange, to register the communications device by identifying (in a form and manner prescribed by the Exchange) the hardware (*i.e.*, headset; cellular telephone; tablet; or other similar hardware).<sup>10</sup>

Next, proposed Rule 6.23(b) specifically states that the Exchange will retain the authority to deny, limit or revoke the use of any communication device.<sup>11</sup> Under the proposed rule, the Exchange may take such actions whenever it determines that use of such communication device: (1) Interferes with the normal operation of the Exchange's own systems or facilities or with the Exchange's regulatory duties,<sup>12</sup> (2) is inconsistent with the public interest, the protection of investors or just and equitable principles of trade, or (3) interferes with the obligations of a

<sup>7</sup> Many of the provisions of proposed Rule 6.23 are modeled after NYSE Amex LLC ("Amex") Rule 902NY(i)—Telephones on the Trading Floor and NYSE Arca, Inc. ("Arca") Rule 6.2(h)—Telephones on the Options Floor.

<sup>8</sup> See CBOE Rule 6.23(a).

<sup>9</sup> See *supra* note 1 [sic].

<sup>10</sup> The registration requirement of proposed Rule 6.23(a) is similar to Arca Rule 6.2(h)(1).

<sup>11</sup> Proposed Rule 6.23(c) is similar to Amex Rule 902NY(i)(6) and Arca Rule 6.2(h)(6).

<sup>12</sup> This language remains from the current CBOE Rule 6.23. See CBOE Rule 6.23(b)(1)(F).

TPH to fulfill its duties under, or is used to facilitate any violation of, the Securities Exchange Act of 1934 (“the Act”) or rules thereunder, or the Exchange rules. This authorization will allow the Exchange to regulate the equipment and communications on the Exchange trading floor and in the Exchange trading crowds to ensure they are not disruptive to the operation of the Exchange or in violation of the Act. The Exchange believes this will allow the Exchange to better protect investors and the integrity of the market. The Exchange notes, however, that current Rule 6.23(a) requires TPHs to receive prior approval from the Exchange before establishing or maintaining a telephone or other wire communications.<sup>13</sup> In addition, the Exchange recognizes that Amex and Arca rules require the registration of all new telephones<sup>14</sup> and approval prior to the use of a communication device other than a telephone. The Exchange believes the combination of the record retention requirements of proposed Rule 6.23(g) and the power to revoke the use of a communication device pursuant to proposed Rule 6.23(b) negates the necessity for prior approval and registration. If an issue with a particular device is discovered, the Exchange will work with TPHs to ensure the devices are no longer utilized.

Next, proposed Rule 6.23(c) codifies the current policy that allows any communication device to be utilized to receive orders in and out of the trading crowd, provided that audit trail and record retention requirements of the Exchange are met.<sup>15</sup> Formerly, CBOE Regulatory Circular RG10–20 prohibited TPH’s from receiving orders in the trading crowd via instant messaging or email;<sup>16</sup> however, TPHs were not restricted from receiving orders via instant messaging and email while not in a trading crowd. The Exchange believes the difference caused inequity between TPHs because TPHs near the edge of the trading crowd can more quickly correspond with their clerks and trading desks that are outside of the trading crowd. The Exchange believes that removing the restriction on receiving orders via IM and email levels the playing field in the trading crowds and reflects the electronic nature of the current marketplace. In addition, proposed Rule 6.23(c) specifically prohibits the use of any communication

device to record activities in the trading crowd or to maintain an open line of continuous communication that would allow a non-associated person off of the Exchange floor to continuously monitor the activities in the trading crowd. As proposed, this prohibition covers digital recorders, intercoms, walkie-talkies and any similar devices. The addition of this text will preserve the integrity of the Exchange trading floor while monitoring TPHs to ensure they have the required authorization to operate on the Exchange trading floor should that be their intent.<sup>17</sup>

Further, proposed Rule 6.23(d) specifies that, after providing notice to an affected Trading Permit Holder and complying with the applicable laws, the Exchange may provide for the recording of any telephone line on the floor of the Exchange or require TPHs to provide for the recording of a fixed phone line on the floor of the Exchange, and that TPHs utilizing telephones consent to the Exchange recording any telephone or line.<sup>18</sup> This added provision will not require but allow the Exchange to record any communications via telephone connections to the trading floor if a situation were to arise where this may be necessary. In addition, this proposed provision would allow the Exchange to provide necessary equipment for the recording of communications on the Exchange trading floor.<sup>19</sup>

Next, proposed Rule 6.23(e) prohibits the use of communication devices to disseminate quotes and/or last sale reports originating on the Exchange trading floor in any manner that would serve to provide a continuous or running state of the market; however, the proposed rule specifically states that, “an associated person of a TPH may use a communications device to communicate quotes that have been disseminated pursuant to Rule 6.43 and/or last sale reports to other associated persons of the same TPH business unit.” Further, as proposed, an associated person of a TPH may use a communications device to communicate an “occasional, specific, quote that has been disseminated pursuant to Rule 6.43<sup>20</sup> or last sale report or quote to a person who is not an associated person of the same TPH.” The Exchange

believes this proposed addition is necessary to allow the use of instant messaging or email as the industry has grown to become more and more reliant upon technology. The Exchange, however, also thinks it is important that any communications made within TPH organizations should be within the same business unit so that TPHs are not abusing the privilege and allowing for communication of the activity on the Exchange trading floor to be disseminated to unrelated areas of the TPH.

Next, proposed Rule 6.23(f) requires that any use of any communications device on the trading floor shall comply with applicable laws, rules, policies, and procedures of the Commission and Exchange including all record retention and audit trail requirements. Proposed Rule 6.23(f) would also require that orders are systemized using Exchange systems or proprietary systems approved by the Exchange in accordance with Exchange Rule 6.24.<sup>21</sup> This proposed addition would ensure that any communications device on the Exchange’s trading floor or in the Exchange trading crowds will follow any and all other applicable statutes including the Act along with ensure that orders are properly systematized. In addition, proposed Rule 6.23(f) will allow misconduct to be investigated if regulatory issues arise after the adoption of a new communication device.

Next, proposed Rule 6.23(g) requires TPHs to maintain records related to the “use of communication devices, including, but not limited to, logs of calls placed; emails; and chats, for a period of not less than three years, the first two years in an easily accessible place.” Although similar to Amex and Arca Rules on the subject,<sup>22</sup> the Exchange added language referring to emails and chats to reflect the current electronic environment. In addition, proposed rule 6.23(g) states that “[t]he Exchange reserves the right to inspect such records pursuant to Rule 17.2.”<sup>23</sup>

<sup>21</sup> Orders must be systematized in accordance with Rule 6.24 (Required Order Information). Generally, subject to certain exceptions, each order, cancellation of, or change to an order transmitted to the Exchange must be “systematized,” in a format approved by the Exchange, either before it is sent to the Exchange or upon receipt on the floor of the Exchange. An order is systematized if: (i) The order is sent electronically to the Exchange; or (ii) the order that is sent to the Exchange non-electronically (e.g., telephone orders) is input electronically into the Exchange’s systems contemporaneously upon receipt on the Exchange, and prior to representation of the order.

<sup>22</sup> Proposed Rule 6.23(g) is similar to Amex Rule 902NY(i)(5) and Arca NYSE Arca Rule 6.2(h)(5).

<sup>23</sup> CBOE Rule 17.2 (b)—Requirements to Furnish Information. Rule 17.2(b) requires TPHs and

<sup>13</sup> See CBOE Rule 6.23(a).

<sup>14</sup> See Amex Rule 902NY(i)(1) and Arca Rule 6.2(h)(1).

<sup>15</sup> See CBOE Regulatory Circular RG14–162 (November 19, 2014).

<sup>16</sup> See CBOE Regulatory Circular RG10–20 (January 29, 2010).

<sup>17</sup> Proposed Rule 6.23(c) is similar to Amex Rule 902NY(i)(2) and Arca Rule 6.2(h)(2).

<sup>18</sup> This language remains from the current CBOE Rule 6.23. See CBOE Rule 6.23 (b)(1)(D).

<sup>19</sup> Proposed Rule 6.23(d) is similar to Amex Rule 902NY(i)(3)(C) and Arca Rule 6.2(h)(3)(C).

<sup>20</sup> Proposed Rule 6.23(e) referring to quotes disseminated pursuant to Rule 6.43 is similar to Amex Rule 902NY(i)(3)(A) and Arca Rule 6.2(h)(3)(A). See CBOE Rule 6.43—Manner of Bidding and Offering.

As previously noted, the proposed Rule will allow misconduct to be investigated if regulatory issues arise after the adoption of a new communication device. This requirement is consistent with the retention period of Securities and Exchange Commission Rule 17a-4.<sup>24</sup>

Finally, proposed Rule 6.23(h) authorizes the Exchange to designate more specific communication devices that will not be permitted on the Exchange trading floor or other operational requirements via circular. Given the propensity for technology to continue to evolve, the Exchange believes this proposed text will allow the Exchange to change the exact requirements from time to time as needed while continuing to provide TPHs specifications on the allowed technology and communication mechanism.

The Exchange will announce the implementation date of the proposed rule change in a Regulatory Circular to be published no later than 30 days following the effective date of this filing. The implementation date will be no later than 60 days following the effective date of the proposed changes.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (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>25</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>26</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>27</sup> requirement that the rules of an exchange not be designed

persons associated with TPHs to, among other things, "furnish documentary materials and other information requested by the Exchange in connection with (i) an investigation initiated pursuant to paragraph (a) of this Rule[.]"

<sup>24</sup> 17 CFR 240.17a-4.

<sup>25</sup> 15 U.S.C. 78f(b).

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> *Id.*

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

In particular, the Exchange does not believe the proposed changes are unfairly discriminatory as they are applied to all TPHs trading on the Exchange trading floor, a similarly situated group, equally. In addition, the Exchange believes the proposed changes designed to prevent fraudulent and manipulative acts and practices because they are more appropriately designed to monitor the equipment and communications on a modern trading floor. Without the proposed changes, the current Exchange rules do not adequately address the relevant communication tools. Finally, the Exchange believes that the proposed rules intend to foster cooperation and coordination by introducing new means of communication to the Exchange trading floor. Finally, the Exchange believes that the proposed changes protect investors and the public interest by ensuring that all equipment and communication on the Exchange trading floor will adhere to all other applicable statutes and the Act.

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

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. More specifically, the Exchange does not believe that the proposed rule changes will impose any intramarket competition because it will be applicable to all TPHs trading on the Exchange trading floor. In addition, the Exchange does not believe the proposed changes will impose any intermarket burden because the Exchange trading floor will operate in a similar manner only with more relevant equipment and communication requirements.

### *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 comments on the proposed rule change.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the

proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>28</sup> and Rule 19b-4(f)(6) thereunder.<sup>29</sup>

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Waiver of the operative delay will provide TPHs guidance regarding the use of equipment and communications on the Exchange floor that is more relevant to the current electronic marketplace than that provided by the current rule and thereby prevent confusion by TPHs and investors. Moreover, the proposed rule requires TPHs to register a communication device before using it for business purposes on the Exchange floor, and prohibits the Exchange from designating the registration requirement as not applicable to any TPHs. The Commission believes that the proposed rule's registration requirement will enable the Exchange to track the use of communication devices on the Exchange floor and to more effectively identify any communication device records to inspect pursuant to CBOE Rule 17.2. The Commission notes that the proposal is patterned after several provisions of the proposed rule after Amex Rule 902NY(i)—Telephones on the Trading Floor and Arca Rule 6.2(h)—Telephones on the Options Floor, and that the substance of this proposal was published in a prior proposed rule change which was published for the entire 21 day comment period.<sup>30</sup> Therefore, the Commission designates the proposed rule change to be operative upon filing.<sup>31</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if

<sup>28</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>29</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

<sup>30</sup> See Securities Exchange Act Release No. 74438 (March 4, 2015), 80 FR 12671 (March 10, 2015). The Commission received no comments on the prior proposal. The Exchange withdrew that prior proposal on May 26, 2015. See Securities Exchange Act Release No. 75073 (May 29, 2015), 80 FR 31943 (June 4, 2015).

<sup>31</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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>32</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-CBOE-2015-061 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-CBOE-2015-061. 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 will also 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-2015-061 and should be submitted on or before September 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>33</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75624; File No. SR-ICEEU-2015-013]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to CDS End-of-Day Price Discovery Policy

August 6, 2015.

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 July 24, 2015, ICE Clear Europe Limited ("ICE Clear Europe" or "Clearing House") 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 primarily prepared by ICE Clear Europe. 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

ICE Clear Europe proposes to amend its end-of-day price discovery policies and procedures for credit default swap ("CDS") contracts to incorporate certain enhancements.

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

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe 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

ICE Clear Europe proposes to amend its CDS End-of-Day Price Discovery Policy (the "EOD Price Discovery Policy") to make certain enhancements to the end-of-day submission and firm trade process for CDS contracts. ICE Clear Europe also proposes to adopt a new Price Submission Disciplinary Framework (the "Disciplinary Framework") that addresses missed price submissions by Clearing Members for CDS contracts. ICE Clear Europe does not otherwise propose to change its Clearing Rules or Procedures in connection with these amendments.

Under the EOD Price Discovery Policy, ICE Clear Europe currently utilizes a "cross and lock" algorithm as part of its CDS price discovery process. Under this algorithm, standardized bids and offers derived from Clearing Member submissions are matched by sorting them from highest to lowest and lowest to highest levels, respectively. This sorting process pairs the Clearing Member submitting the highest bid price with the Clearing Member submitting the lowest offer price, the Clearing Member submitting the second highest bid price with the Clearing Member submitting the second-lowest offer price, and so on. The algorithm then identifies crossed and/or locked markets. Crossed markets are the Clearing Member pairs generated by the sorting and ranking process for which the bid price of one Clearing Member is above the offer price of the matched Clearing Member. The algorithm identifies locked markets, where the bid and the offer are equal, in a similar fashion.

Whenever there are crossed and/or locked matched markets, the algorithm applies a set of rules designed to identify standardized submissions that are "obvious errors." The algorithm sets a high bid threshold equal to the preliminary end-of-day ("EOD") level plus one bid-offer width ("BOW"), and a low offer threshold equal to the preliminary EOD level minus one BOW. The algorithm considers a Clearing Member's standardized submission to be an "obvious error" if the bid is higher than the high bid threshold, or the offer is lower than the low offer threshold.

Clearing Member pairs identified by the algorithm as crossed or locked markets may be required from time to

<sup>33</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>32</sup> 15 U.S.C. 78s(b)(2)(B).