

Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The Fund's investments will be valued daily at market value or, in the absence of market value with respect to any investment, at fair value, in each case in accordance with the Valuation Procedures and the 1940 Act.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and other exchange-traded assets with other markets and other entities that are members of ISG and FINRA may obtain trading information regarding trading in the Shares and other exchange-traded assets from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and other exchange-traded assets from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Furthermore, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

#### *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 competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded fund that will enhance competition among market participants, to the benefit of investors and the marketplace.

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

Written comments were neither solicited nor received.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

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

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

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2014-057 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-NASDAQ-2014-057. 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-NASDAQ-2014-057 and should be submitted on or before June 26, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>32</sup>

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

[FR Doc. 2014-13019 Filed 6-4-14; 8:45 am]

**BILLING CODE 8001-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-72284; File No. SR-CBOE-2014-043]**

### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to Closing Rotation Procedures for S&P 500 Index Options**

May 30, 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 May 30, 2014 Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to make minor changes to Interpretation and Policy .06 to Rule 6.2B (Hybrid Opening System ("HOSS")) relating to month-end closing price rotation procedures for non-expiring S&P 500 Index ("SPX")

<sup>32</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.

options. The text of the proposed rule change is provided below.

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

\* \* \* \* \*

#### Chicago Board Options Exchange, Incorporated Rules

\* \* \* \* \*

#### Rule 6.2B. Hybrid Opening System (“HOSS”)

(a)–(h) No change.

\* \* \* Interpretations and Policies:

.01–.05 No change.

.06 Following the 3:15 p.m. Chicago time close of trading on the last business day of each calendar month, the Exchange will conduct special non-trading closing rotations for each series of S&P 500 Index (“SPX”) options in order to determine the theoretical “fair value” of such series as of 3:00 p.m. Chicago time. During such special non-trading closing rotations, [the] an LMM in [each series of] the SPX options *designated by the Exchange in each series of SPX options*, will provide bid and offer quotations, the midpoint of which will reflect the theoretical fair value of the series of SPX options, as determined by the LMM pursuant to the LMM’s algorithmic analysis of relevant and available data. Notwithstanding that trading in SPX options on the Exchange continues until 3:15 p.m., on the last business day of each month, after 3:15 p.m. the Exchange shall disseminate the 3:00 p.m. fair value quotations provided by [each] the *designated* LMM as the quotations used to calculate the theoretical fair value for each series of SPX options, provided, however, that the Exchange may determine, in the interest of fair and orderly markets, not to disseminate such quotations.

\* \* \* \* \*

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

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

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

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

#### 1. Purpose

The Exchange proposes to make minor changes to Interpretation and Policy .06 to Rule 6.2B (“Interpretation and Policy .06”) to extend its SPX end-of-month pricing procedures to series of SPX options on the Hybrid Trading System (“Hybrid System”).<sup>3</sup> The Exchange believes that the proposed rule will add consistency to S&P 500 Index-related markets and make it easier for investors to trade SPX options.

#### Background

In 2001, the Chicago Mercantile Exchange (“CME”) adopted special settlement procedures to determine end-of-month settlement prices for its domestic futures contracts.<sup>4</sup> Specifically, CME adopted end-of-month valuation procedures to calculate the price of S&P 500 futures contracts based on the value of the underlying S&P 500 Index at the close of trading. CME has termed these procedures “End-of-Month Special Fair Value” (“EOM FV”) or “Fair Value” (“FV”) settlement procedures.

According to CME, “[f]air value represents the level at which futures theoretically should be priced in relation to cash index values in the absence of transaction costs—albeit not where they necessarily will trade.”<sup>5</sup> Pursuant to its EOM FV settlement procedures, CME calculates the end-of-month final settlement value of S&P 500

futures contracts based on the value of the underlying S&P 500 Index cash market, rather than the actual final trading prices of S&P 500 futures contracts. CME uses its end-of-month theoretical fair value settlement prices for all purposes, including account value reporting and end-of-day variation margin calls.<sup>6</sup> These procedures mitigate issues caused by the misalignment of valuations in the S&P 500 futures market and the underlying S&P 500 Index cash market due to the extended trading hours for S&P 500 futures contracts after the close of trading in the cash market.

The Exchange understands that CME adopted its EOM FV procedures at the request of institutional investors (active in both the S&P 500 futures and S&P 500 Index cash markets), who wanted the end-of-month value of their futures positions to align with prices in the underlying S&P 500 Index cash market. If the month-end settlement price of investors’ futures positions were based on the actual closing trading prices as of the 3:15 p.m.<sup>7</sup> close of futures market while the month-end closing price of their cash positions were based on the 3:00 p.m. close of trading in the underlying S&P 500 Index cash market, investors might experience tracking errors and/or financial reporting incongruities that do not reflect actual portfolio performance. Pricing model discrepancies or misaligned pricing between the S&P 500 futures and S&P 500 Index cash market could also lead to unnecessary and/or unwarranted margin calls and returns as well as other hedging and accounting problems. The EOM FV settlement procedures adopted by CME mitigate these issues by aligning the end-of-month settlement prices of S&P 500 futures contracts with closing prices in the underlying cash market as of 3:00 p.m.<sup>8</sup>

<sup>6</sup> *Id.*

<sup>7</sup> All times referred to herein are stated as Chicago Central Standard Time.

<sup>8</sup> CME has explained the reason for maintaining its 3:00 p.m. fair value procedure as follows:

Stock index products on the . . . [CME] normally close and settle fifteen minutes after the daily close of trading in cash equities. The cash/futures basis may be affected to the extent that futures may fluctuate—sometimes sharply—during those final fifteen minutes. As such, this may become a difficulty for institutional traders practicing coordinated cash/futures strategies. Still, the opportunity to lay off equity market exposure during those fifteen minutes subsequent to the cash close has proven quite beneficial. The use of FV settlement procedures is intended to address this so-called “tracking error” while still permitting trade [sic] to continue for fifteen minutes past the 3:00 p.m. cash close. Conceptually, the fair value settlement is determined when the cash market closes at 3:00 p.m., since any new information following 3:00 p.m. will not affect the closing price

Continued

<sup>3</sup> The Hybrid Platform refers to the Exchange’s trading platform that allows automatic executions to occur electronically and open outcry trades to occur on the floor of the Exchange. To operate in this “hybrid” environment, the Exchange has a dynamic order handling system that has the capability to route orders to the trade engine for automatic execution and book entry, to Trading Permit Holder and PAR Official workstations located in the trading crowds for manual handling, and/or to other order management terminals generally located in booths on the trading floor for manual handling. Classes of SPX options other than standard SPX options are traded on the Hybrid Platform. The Hybrid 3.0 Platform is an electronic trading platform on the Hybrid Trading System that allows one or more quoters to submit electronic quotes which represent the aggregate Market-Maker quoting interest in a series for the trading crowd. Standard SPX options contracts are traded on the Hybrid 3.0 Platform.

<sup>4</sup> The CME originally instituted this practice for the December 31, 1999 year-end, but has adopted the practice for each month-end closing date since January 2001. See generally CME Group, Month-End Fair Value Procedures, available at <http://www.cmegroup.com/trading/equity-index/fairvaluefaq.html>.

<sup>5</sup> See generally CME Group, Month-End Fair Value Procedures, available at <http://www.cmegroup.com/trading/equity-index/fairvaluefaq.html>.

The S&P 500 futures market and SPX options market are highly interconnected. Many investors use SPX options to hedge S&P 500 futures positions. Because of the interconnectedness between the S&P 500 futures and SPX options markets, the Exchange believed that the use of end-of-month pricing procedures that diverged significantly from [sic] the CME's EOM FV pricing procedures would be disruptive to fair and orderly markets. Although the Exchange could have aligned the end-of-month settlement prices of standard non-expiring SPX options with the end-of-month prices of the related S&P 500 futures contracts (and the underlying S&P Index cash market) by simply ending trading at 3:00 p.m. on the last trading day of each month, the Exchange determined that closing trading in SPX options market prior to the close of trading at the CME would also be disruptive to fair and orderly markets. In particular, the Exchange believed that closing trading for standard non-expiring SPX options during S&P 500 futures trading hours would be disruptive to many market participants who hedge S&P 500 futures positions with SPX options. Accordingly, the Exchange adopted end-of-month settlement practices designed to align its end-of-month pricing with CME's EOM FV settlement procedures. The Exchange's end-of-month pricing procedures were adopted through a series of Regulatory Circulars and subsequently codified in the Exchange's rules in Interpretation and Policy .06.<sup>9</sup>

of the stocks and the indexes. However, information or events subsequent to the cash close may still impact futures prices. Market participants should be aware of the possibility that futures may trade at prices apart from fair value settlement prices between 3:00 [sic] p.m. and the close of the market at 3:15 p.m. on days on which FV settlement procedures are applied.

See *id.*

<sup>9</sup> See CBOE Interpretation and Policy .06 to Rule 6.2B; Securities and Exchange Act Release No. 34-67992; File No. SR-CBOE-2012-095 (October 5, 2012) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Closing Rotation Procedures for S&P 500 Index Options).

See also CBOE Regulatory Circular RG99-233 (Dec. 21, 1999), available at <https://www.cboe.org/publish/regcir/rg99-233.pdf>; CBOE Regulatory Circular RG00-049 (Mar. 29, 2000), available at <https://www.cboe.org/publish/regcir/rg00-049.pdf>; CBOE Regulatory Circular RG01-014 (Jan. 25, 2001), available at <http://www.cboe.com/publish/RegCir/rg01-014.pdf>; CBOE Regulatory Circular RG01-040 (Mar. 29, 2001), available at <https://www.cboe.org/publish/regcir/rg01-040.pdf>; CBOE Regulatory Circular RG01-058 (Apr. 27, 2001), available at <https://www.cboe.org/publish/regcir/rg01-058.pdf>; CBOE Regulatory Circular RG02-019 (Apr. 4, 2002), available at <http://www.cboe.com/publish/RegCir/rg02-019.pdf>; CBOE Regulatory Circular RG02-039 (June 12, 2002), available at <http://www.cboe.com/publish/RegCir/rg02-039.pdf>; CBOE Regulatory Circular RG02-073 (Sept.

## Current Exchange Procedures

Currently, on days other than the last business day of each month, the final closing price of standard non-expiring SPX options traded on the Hybrid 3.0 Platform is determined by the OCC based on the final end-of-day trading quotations that it receives from the Exchange. In general, the OCC determines the closing price of standard non-expiring SPX options using the midpoint between the final bid and final offer quotations disseminated by the Exchange through the Options Price Reporting Authority ("OPRA").

On the last business day of each month, however, the Exchange conducts special end-of-month non-trading rotations for series of standard non-expiring SPX options pursuant to Interpretation and Policy .06. These special non-trading closing rotations are conducted on the same month-end business days on which CME calculates the EOM FV settlement prices of the S&P 500 futures contracts based on the theoretical fair value of the underlying S&P 500 Index cash market at the close of trading.<sup>10</sup> The OCC calculates the final month-end settlement prices for standard non-expiring SPX options based on non-trading quotations provided by a designated Lead Market-Maker ("LMM") or LMMs in the SPX, which are then "smoothed" by the OCC with an implied volatility curve. LMMs calculate non-trading closing bid and offer quotations to reflect the theoretical fair value of the options through pricing algorithms with a number of relevant inputs, in particular, the EOM FV

17, 2002), available at <http://www.cboe.com/publish/RegCir/rg02-073.pdf>; CBOE Regulatory Circular RG02-118 (Dec. 19, 2002), available at <http://www.cboe.org/publish/regcir/rg02-118.pdf>; CBOE Regulatory Circular RG03-016 (Mar. 19, 2003), available at <http://www.cboe.com/publish/RegCir/rg03-016.pdf>; CBOE Regulatory Circular RG03-039 (June 11, 2003), available at <http://www.cboe.com/publish/RegCir/rg03-039.pdf>; CBOE Regulatory Circular RG03-075 (Sept. 10, 2003), available at <http://www.cboe.com/publish/RegCir/rg03-075.pdf>; CBOE Regulatory Circular RG03-082 (Sept. 22, 2003), available at <http://www.cboe.com/publish/RegCir/rg03-082.pdf>; CBOE Regulatory Circular RG03-110 (Dec. 17, 2003), available at <http://www.cboe.com/publish/RegCir/rg03-110.pdf>; CBOE Regulatory Circular RG04-132 (Dec. 30, 2004), available at <http://www.cboe.com/publish/RegCir/rg04-132.pdf>; CBOE Regulatory Circular RG05-130 (Dec. 29, 2005), available at <http://www.cboe.com/publish/RegCir/rg05-130.pdf>; CBOE Regulatory Circular RG06-130 (Dec. 19, 2006), available at <http://www.cboe.org/publish/regcir/rg06-130.pdf>; CBOE Regulatory Circular RG08-004 (Jan. 8, 2008), available at <http://www.cboe.com/publish/RegCir/rg08-004.pdf>; CBOE Regulatory Circular RG09-151 (Dec. 30, 2009), available at <http://www.cboe.org/publish/regcir/rg09-151.pdf>; and CBOE Regulatory Circular RG12-023 (Jan. 30, 2012), available at <http://www.cboe.org/publish/regcir/rg12-023.pdf>.

<sup>10</sup> See CBOE Interpretation and Policy .06 to Rule 6.2B.

settlement prices of the related S&P 500 futures contracts at CME.<sup>11</sup> The theoretical fair value prices are disseminated to the OCC via OPRA after the 3:15 p.m. close of trading on the last business day of each month (on the same day that CME performs its end-of-month fair market valuations for the S&P 500 futures). Consistent with CME's practices, the Exchange considers the end-of-month theoretical fair value closing prices of SPX options traded on the Hybrid 3.0 Platform to be the final month-end settlement prices for all purposes, including OCC margin calculations, even though no actual trades occur at these prices.

## Proposed Rule Change

The Exchange proposes minor changes to its rules to extend its current end-of-month settlement pricing procedures for SPX options traded on the Hybrid 3.0 Platform to series of SPX options traded on the Hybrid System (e.g., SPXW). The Exchange believes that extending Interpretation and Policy .06 to additional groups of series of SPX options will allow investors to realize consistency in the SPX options market and with respect to valuations in the S&P 500 futures market and underlying S&P 500 Index cash market.

Although Interpretation and Policy .06 does not restrict the Exchange from conducting special end-of-month non-trading closing rotations for series of SPX options traded on the Hybrid System, Interpretation and Policy .06 does not contemplate the application of month-end fair value pricing procedures in groups of series of SPX options without an LMM. Thus, under the Exchange's current rules, the Exchange cannot extend Interpretation and Policy .06 to series of SPX options traded on the Hybrid System with no LMM.<sup>12</sup> The proposed changes to Interpretation and Policy .06 will allow a designated LMM in the SPX options class to conduct non-trading closing rotations for series of SPX options on the Hybrid System.

Under the proposed rule, end-of-month settlement pricing procedures will be conducted in the same manner in all series of SPX options. The Exchange expects that LMMs in the SPX class will continue to base their end-of-month non-trading quotations substantially and materially on the closing prices of the related S&P 500

<sup>11</sup> See Securities and Exchange Act Release No. 34-67992; File No. SR-CBOE-2012-095 (October 5, 2012) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Closing Rotation Procedures for S&P 500 Index Options).

<sup>12</sup> Notably, the Exchange's rules do not require the appointment of an LMM in each options class or group of series of options. See CBOE Rule 8.14.

futures contracts (which reflect the theoretical fair value of the S&P 500 Index cash market as of 3:00 p.m. as determined by CME), in all series of SPX options. The Exchange believes that the proposed rule will allow investors to realize consistency in the SPX options market by ensuring that the same pricing models are applied to determine the end-of-month theoretical fair value of each non-expiring series of SPX options. The Exchange believes that the application of consistent pricing models in the SPX options market will protect investors' interests by mitigating the risk of tracking errors and inconsistent reporting that may be caused by the dissemination of closing quotations derived from several different pricing models.

The Exchange believes that extending Interpretation and Policy .06 to additional groups of series of SPX options will promote the functioning of a fair and orderly market in SPX options. The misalignment of month-end S&P 500 futures valuations and SPX options prices poses unnecessary risk to investors who actively trade in these markets. Such inconsistencies expose investors to the possibility of unwarranted and potentially significant margin calls, which may not reflect actual levels of portfolio risk or true market exposure. The Exchange believes that extending Interpretation and Policy .06 to additional groups of series of SPX options will mitigate these risks and allow investors to realize consistency with respect to the margin treatment of SPX options.

Interpretation and Policy .06 was adopted in response to investors' requests for end-of-month pricing of SPX options on the Hybrid 3.0 Platform consistent with CME's end-of-month S&P 500 futures valuations. Similarly, the Exchange is proposing this rule change in response to investors' requests for consistent pricing between the S&P 500 futures and series of SPX options traded on the Hybrid System. The Exchange anticipates disseminating end-of-month non-trading closing rotation quotations for each series of SPX options so long as doing so remains consistent with CME's end-of-month pricing practices in the S&P 500 futures. The Exchange, however, cannot predict whether CME will change its EOM FV procedures in the future. Accordingly, the proposed rule change preserves the Exchange's discretion not to disseminate the 3:00 p.m. fair value quotations provided by a designated LMM in a series, if the Exchange determines that disseminating the quotations would not be in the interests of investors or fair and orderly markets.

In the event that the CME determines not to apply its special EOM FV procedures, either on a particular month-end trading day or otherwise, the Exchange would allow the actual 3:15 p.m. closing quotations to act as the final quotations, as occurs on other trading days.

The Exchange believes that the proposed rule is designed to guard against unfair discrimination in the application of its end-of-month settlement pricing procedures. The proposed rule merely extends the Exchange's current end-of-month pricing procedures (which have been reviewed and accepted by the Commission), to additional series of SPX options. Under the proposed rule an LMM in the SPX class will provide end-of-month non-trading quotations for each series of SPX options. LMM appointments in SPX options will continue to be governed by CBOE Rules 8.15 and 8.15A and selected based on the criteria set forth in those rules including, but not limited to: adequacy of capital; experience in trading index options or options on ETPs; presence in the trading crowd; and ability to meet required quoting and market-making obligations as described in the Exchange's rules.<sup>13</sup> The Exchange believes that the LMM appointment process and procedures are objective; all Trading Permit Holders may request an LMM appointment subject to approval based on nondiscriminatory criteria and considerations designed to promote fair and orderly markets. To the extent that there may be more than one LMM appointed in the SPX, the Exchange will designate an LMM to provide end-of-month non-trading quotations for each group of series of SPX options on a monthly rotating basis.

The Exchange recognizes that LMMs may have an interest in the outcome of month-end valuation determinations based on the composition of their own proprietary positions. For example, an LMM may have an incentive to skew their fair value determinations to minimize the risk of potential variation margin calls from the OCC to cover proprietary holdings. The Exchange believes, however, that these risks are substantially mitigated by the weight given to the CME's valuations of related S&P 500 futures contracts. The Exchange expects that under the proposed rule the end-of-month non-trading closing quotations provided by the designated LMM in each series of SPX options will continue to be materially, if not directly, based on CME's EOM FV calculations. The

Exchange believes that the risk of market manipulation is further limited by the fact that fair valuations can generally be approximated by other third parties and verified through independent checks.

In addition, the Exchange is equipped to monitor LMMs' end-of-month fair value calculations. The Exchange currently monitors the fair value calculations of LMMs who quote end-of-month fair value settlement prices for SPX options on the Hybrid 3.0 Platform. The Exchange also conducts surveillance and oversight of LMMs' fair value quotations to monitor for potential attempts at manipulation. Should the proposed rule change take effect, the Exchange would extend its regulatory practices to monitor the end-of-month fair valuation calculations of LMMs who quote any series of SPX options under Interpretation and Policy .06.

## 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>14</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>15</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>16</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change furthers the interests of fair and orderly markets by allowing investors to realize consistency across the SPX options, S&P 500 futures and S&P 500 Index cash markets. The Exchange proposes to extend the end-of-month fair value pricing procedures in Interpretation and Policy .06 to additional series of SPX options traded on the Hybrid System to better align end-of-month prices in the SPX options

<sup>14</sup> 15 U.S.C. 78f(b).

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

<sup>16</sup> *Id.*

<sup>13</sup> CBOE Rules 8.15(a) and 8.15A(a).

market with prices of related S&P 500 futures contracts and prices in the underlying cash market. The Exchange believes that greater consistency in SPX options market is in the best interests of investors.

The Exchange also believes that the proposed rule change will contribute to more robust and competitive markets by making it easier for investors to trade S&P 500 Index-related securities and, in particular, making it easier for investors to use SPX options to hedge S&P 500 futures positions. Thus, the proposed rule change will facilitate investors' use of risk-reducing trading strategies and promote robust trading activity in the S&P 500 Index-related markets. The Exchange also believes that extending its fair value pricing procedures to additional groups of series of SPX options will mitigate risk to investors, including investors' risk of tracking errors, misrepresentative financial reporting, and potential unwarranted margin calls that may be caused by misaligned end-of-month settlement pricing in the S&P 500 Index-related markets, rather than actual portfolio risk or market exposure.

The Exchange believes that the proposed rule change is designed to guard against unfair discrimination in the application of its end-of-month settlement pricing procedures. The proposed rule merely extends the Exchange's current procedures (which have been reviewed and approved by the Commission), to additional series of SPX options. Under the proposed rule a designated LMM in each series of the SPX options will provide end-of-month non-trading settlement pricing quotations for series of SPX options. LMM appointments in SPX options will continue to be governed by CBOE Rules 8.15 and 8.15A and selected based on the criteria set forth in those rules including, but not limited to: adequacy of capital; experience in trading index options or options on ETPs; presence in the trading crowd; and ability to meet the required quoting and market-making obligations described in the Exchange's rules.<sup>17</sup> The Exchange believes that the LMM appointment procedures and process set forth in Rules 8.15 and 8.15A are objective; all TPHs may request an appointment subject to the nondiscriminatory criteria set forth in Rules 8.15 and 8.15A, which are designed to promote fair and orderly markets.

The Exchange recognizes that LMMs may have an interest in the outcome of month-end valuation determinations based on the composition of their own

proprietary positions. For example, an LMM may have an incentive to skew their fair value determinations to minimize the risk of potential of variation margin calls from the OCC to cover proprietary holdings. The Exchange believes, however, that these risks are substantially mitigated by the weight given to fair valuations of the related S&P 500 futures contracts at CME. The Exchange expects that the end-of-month non-trading closing price quotations provided by LMMs for series of SPX options on the Hybrid System will continue to be materially, if not directly, based on CME's EOM FV calculations under the proposed rule. The Exchange believes that the risk of market manipulation is further limited by the fact that fair valuations can generally be approximated by other third parties and verified through independent checks.

In addition, the Exchange is equipped to protect investors through end-of-month fair value calculations monitoring practices. The Exchange currently monitors the fair value calculations of LMMs who quote end-of-month fair value settlement prices for SPX options on the Hybrid 3.0 Platform. The Exchange also conducts surveillance and oversight of LMMs' fair value quotations to monitor for potential attempts at manipulation. Under the proposed rule, the Exchange would extend its regulatory practices to monitor LMMs' end-of-month price calculations for all series of SPX options quoted in accordance with Interpretation and Policy .06.

#### *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 competition that is not necessary or appropriate in furtherance of the purposes of the Act. Extending the Exchange's current end-of-month fair value settlement procedures to other series of SPX options will not adversely affect investors. These procedures will be equally applied to affect all market participants equally in the SPX options market. Furthermore, the Exchange believes that the proposed rule will bolster competition and contribute to more robust markets by making it easier for investors to trade SPX options and use SPX options to hedge S&P 500 futures positions. The Exchange believes that the proposed rule will bolster competition with other exchanges by making it easier for investors to trade S&P 500 Index-related securities listed on exchanges other than CBOE.

#### *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 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>18</sup> and Rule 19b-4(f)(6)<sup>19</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-2014-043 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2014-043. 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

<sup>17</sup> CBOE Rules 8.15(a) and 8.15A(a).

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

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-2014-043 and should be submitted on or before June 26, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

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

[FR Doc. 2014-13017 Filed 6-4-14; 8:45 am]

BILLING CODE 8001-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72283; File No. SR-DTC-2014-06]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Modify the Receiver Authorized Delivery and Reclaim Processing Value Limits by Transaction

MAY 30, 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 May 22, 2014, The Depository Trust Company ("DTC") 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 primarily by DTC.

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 proposed rule change consists of changes to the DTC Settlement Service Guide (the "Guide")<sup>3</sup> to modify the Receiver Authorized Delivery ("RAD") functionality as more fully described below to reduce the intraday uncertainty that may arise from reclaim transactions linked to Deliver Orders ("DOs") and Payment Orders ("POs")<sup>4</sup> and any potential credit and liquidity risk from such reclaims.<sup>5</sup>

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

In its filing with the Commission, DTC 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. DTC 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

By this rule filing, DTC seeks to modify the RAD functionality to reduce the intraday uncertainty that may arise from reclaim transactions linked to DOs and POs and any potential credit and liquidity risk from such reclaims, as more fully described below.

Currently, as set forth in the DTC Settlement Service Guide (the "Guide"), all valued DOs and POs in amounts above \$7.5 million and \$500,000, respectively, are subject to the RAD process, which allows a receiver of DOs

and/or POs ("Receiver") to review and reject transactions that it does not recognize prior to DTC's processing of the transactions in accordance with the Rules. In contrast, lower valued DOs and POs do not require the Receiver's acceptance prior to processing; instead, if the Receiver does not recognize a DO or PO it has received, the DO or PO may be returned by the Receiver to the original deliverer of the DO or PO ("Deliverer") in a reclaim transaction. While both the reclaim and RAD functionalities allow a Receiver to exercise control over which transactions to accept, reclaims tend to create uncertainty because transactions may be returned late in the day, when the Deliverer may have limited options to respond. Because such reclaims are permitted without regard to risk management controls, the Deliverer may then incur a greater settlement obligation, increasing credit and liquidity risk to the Deliverer and to DTC.<sup>6</sup>

Therefore, pre-settlement matching of transactions through RAD without the ability of the Receiver to reclaim those transactions is the preferred approach as this would eliminate the uncertainty and credit and liquidity implications associated with reclaims. In 2013, DTC took an initial step to address this uncertainty by lowering the RAD "threshold" over which transactions must be matched for DOs and POs from \$15 million and \$1 million, respectively, to the current limits mentioned above.<sup>7</sup> Under the proposed rule change, DTC would further change RAD to require Participants to match valued DOs and POs, prior to processing the associated deliveries. These matched transactions would be processed through DTC subject to risk management controls.

Likewise, under the proposed rule change, each return of a matched DO or PO attempted to be made by a Receiver to the Deliverer would no longer be processed as a reclaim, but rather would be treated as an original instruction that

<sup>3</sup> The Guide is available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Settlement.ashx>.

<sup>4</sup> A DO is a book-entry movement of a particular security between two DTC Participants. A PO is a method for settling funds related to transactions and payments not associated with a DO. For purposes of this proposed rule change the defined term "DOs" includes all valued DOs except for DOs of: (i) Money Market Instruments and (ii) Institutional Deliveries affirmed through Omega, both of which are not impacted by the proposed rule change.

<sup>5</sup> Terms not defined herein have the meaning set forth in DTC's Rules & Procedures (the "Rules").

<sup>6</sup> DTC's risk management controls, including Collateral Monitor and Net Debit Cap (as defined in DTC Rule 1), are designed so that DTC can effect system-wide settlement notwithstanding the failure to settle of its largest Participant or affiliated family of Participants. Net Debit Cap limits the net debit balance a Participant can incur so that the unpaid settlement obligation of the Participant, if any, cannot exceed DTC liquidity resources. The Collateral Monitor tests that a Receiver has adequate collateral to secure the amount of its net debit balance so that DTC may borrow funds to cover that amount for system-wide settlement if the Participant defaults.

<sup>7</sup> Securities Exchange Act Release No. 69985 (Jul. 12, 2013); 78 FR 42991 (Jul. 18, 2013) (SR-DTC-2013-04).

<sup>20</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.