

of the Act<sup>70</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>71</sup> 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 shall institute proceedings under Section 19(b)(2)(B)<sup>72</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-IEX-2021-01 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-IEX-2021-01. 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 website (<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 website 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 offices of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-IEX-2021-01, and should be submitted on or before February 12, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>73</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90932/January 15, 2021]

### Order Making Fiscal Year 2021 Annual Adjustments to Transaction Fee Rates

#### I. Background

Section 31 of the Securities Exchange Act of 1934 ("Exchange Act") requires each national securities exchange and national securities association to pay transaction fees to the Commission.<sup>1</sup> Specifically, Section 31(b) requires each national securities exchange to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities ("covered sales") transacted on the exchange.<sup>2</sup> Section 31(c) requires each national securities association to pay to the Commission fees based on the aggregate dollar amount of covered sales transacted by or through any member of the association other than on an exchange.<sup>3</sup>

Section 31 of the Exchange Act requires the Commission to annually adjust the fee rates applicable under Sections 31(b) and (c) to a uniform adjusted rate.<sup>4</sup> Specifically, the Commission must adjust the fee rates to a uniform adjusted rate that is reasonably likely to produce aggregate fee collections (including assessments on security futures transactions) equal to the regular appropriation to the

Commission for the applicable fiscal year.<sup>5</sup>

The Commission is required to publish notice of the new fee rates under Section 31 not later than 30 days after the date on which an Act making a regular appropriation for the applicable fiscal year is enacted.<sup>6</sup> On December 27, 2020, the President signed into law the Consolidated Appropriations Act, 2021, which includes total appropriations of \$1,926,162,000 to the SEC for fiscal year 2021.

#### II. Fiscal Year 2021 Annual Adjustment to the Fee Rate

The new fee rate is determined by (1) subtracting the sum of fees estimated to be collected prior to the effective date of the new fee rate<sup>7</sup> and estimated assessments on security futures transactions to be collected under Section 31(d) of the Exchange Act for all of fiscal year 2021<sup>8</sup> from an amount equal to the regular appropriation to the Commission for fiscal year 2021, and (2) dividing by the estimated aggregate dollar amount of covered sales for the remainder of the fiscal year following the effective date of the new fee rate.<sup>9</sup>

As noted above, the Consolidated Appropriations Act, 2021, includes total appropriations of \$1,926,162,000 to the Commission for fiscal year 2021.<sup>10</sup> The

<sup>5</sup> 15 U.S.C. 78ee(j)(1) (the Commission must adjust the rates under Sections 31(b) and (c) to a "uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under [Section 31] (including assessments collected under [Section 31(d)]) that are equal to the regular appropriation to the Commission by Congress for such fiscal year.").

<sup>6</sup> 15 U.S.C. 78ee(g).

<sup>7</sup> The sum of fees to be collected prior to the effective date of the new fee rate is determined by applying the current fee rate to the dollar amount of covered sales prior to the effective date of the new fee rate. The exchanges and FINRA have provided data on the dollar amount of covered sales through November, 2020. To calculate the dollar amount of covered sales from December, 2020 to the effective date of the new fee rate, the Commission is using the same methodology it used in fiscal year 2020. This methodology is described in Appendix A of this order.

<sup>8</sup> OneChicago, LLC, the only reporting entity for single stock futures, ceased operations in September, 2020; its last R-31 report was filed in October, 2020. Accordingly, the forecast for the assessments for all of fiscal year 2021 for single stock futures is the reported assessments on single stock futures from September, 2020 by OneChicago, LLC.

<sup>9</sup> To estimate the aggregate dollar amount of covered sales for the remainder of fiscal year 2021 following the effective date of the new fee rate, the Commission is using the same methodology it used previously. This methodology is described in Appendix A of this order.

<sup>10</sup> The President signed into law the "Consolidated Appropriations Act, 2021" on December 27, 2020. This legislation included an

<sup>70</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>71</sup> 17 CFR 240.19b-4.

<sup>72</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>73</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78ee.

<sup>2</sup> 15 U.S.C. 78ee(b).

<sup>3</sup> 15 U.S.C. 78ee(c).

<sup>4</sup> In some circumstances, the SEC also must make a mid-year adjustment to the fee rates applicable under Sections 31(b) and (c).

Commission estimates that it will collect \$1,514,646,590 in fees for the period prior to the effective date of the new fee rate and \$494 in assessments on round turn transactions in security futures products during all of fiscal year 2021. Using the methodology described in Appendix A, the Commission estimates that the aggregate dollar amount of covered sales for the remainder of fiscal year 2021 to be \$81,081,356,203,186.

The uniform adjusted rate is computed by dividing the residual fees to be collected of \$411,514,917 by the estimated aggregate dollar amount of covered sales for the remainder of fiscal year 2021 of \$81,081,356,203,186; this results in a uniform adjusted rate for fiscal year 2021 of \$5.10 per million.<sup>11</sup>

### III. Effective Date of the Uniform Adjusted Rate

Under Section 31(j)(4)(A) of the Exchange Act, the fiscal year 2021 annual adjustments to the fee rates applicable under Sections 31(b) and (c) of the Exchange Act shall take effect on the later of October 1, 2020, or 60 days after the date on which a regular appropriation to the Commission for fiscal year 2021 is enacted.<sup>12</sup> The regular appropriation to the Commission for fiscal year 2021 was enacted on December 27, 2020, and accordingly, the new fee rates applicable under Sections 31(b) and (c) of the Exchange Act will take effect on February 25, 2021.

### IV. Conclusion

Accordingly, pursuant to Section 31 of the Exchange Act,

*It is hereby ordered* that the fee rates applicable under Sections 31(b) and (c) of the Exchange Act shall be \$5.10 per \$1,000,000 effective on February 25, 2021.

appropriation of \$1,894,835,000 to the SEC for fiscal year 2021 operations. The Act further directed that “[i]n addition to the foregoing appropriation, for move, replication, and related costs associated with a replacement lease for the Commission’s District of Columbia headquarters, not to exceed \$18,650,000, to remain available until expended; and for move, replication, and related costs associated with a replacement lease for the Commission’s San Francisco Regional Office facilities, not to exceed \$12,677,000, to remain available until expended.” The sum of these three amounts is \$1,926,162,000. Finally, the Act further directed that “for purposes of calculating the fee rate under section 31(j) . . . all amounts appropriated under this heading shall be deemed to be the regular appropriation to the Commission for fiscal year 2021.”

<sup>11</sup> Appendix A shows the process of calculating the fiscal year 2021 annual adjustment and includes the data used by the Commission in making this adjustment.

<sup>12</sup> 15 U.S.C. 78ee(j)(4)(A).

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

### Appendix A

This appendix provides the methodology for determining the annual adjustment to the fee rates applicable under Sections 31(b) and (c) of the Exchange Act for fiscal year 2021. Section 31 of the Exchange Act requires the fee rates to be adjusted so that it is reasonably likely that the Commission will collect aggregate fees equal to its regular appropriation for fiscal year 2021.

To make the adjustment, the Commission must project the aggregate dollar amount of covered sales of securities on the securities exchanges and certain over-the-counter (“OTC”) markets over the course of the year. The fee rate equals the ratio of the Commission’s regular appropriation for fiscal year 2021 (less the sum of fees to be collected during fiscal year 2021 prior to the effective date of the new fee rate and aggregate assessments on security futures transactions during all of fiscal year 2021) to the estimated aggregate dollar amount of covered sales for the remainder of the fiscal year following the effective date of the new fee rate.

For 2021, the Commission has estimated the aggregate dollar amount of covered sales by projecting forward the trend established in the previous decade. More specifically, the dollar amount of covered sales was forecasted for months subsequent to November 2020, the last month for which the Commission has data on the dollar volume of covered sales.<sup>13</sup>

The following sections describe this process in detail.

#### A. Baseline Estimate of the Aggregate Dollar Amount of Covered Sales for Fiscal Year 2021

First, calculate the average daily dollar amount of covered sales (“ADS”) for each month in the sample (February 2010–November 2020). The monthly total dollar amount of covered sales (exchange plus certain OTC markets) is presented in column C of Table A.

The model forecasts the monthly moving average of the average daily dollar amount of covered sales. Each month’s average daily dollar amount of covered sales is calculated by dividing the total covered sales for that month (column C of Table A) by the number of trading days for that month (column B of Table A). These amounts are shown in column D of Table A. The moving average will span the same number of months

<sup>13</sup> To determine the availability of data, the Commission compares the date of the appropriation with the date the transaction data are due from the exchanges (10 business days after the end of the month). If the business day following the date of the appropriation is equal to or subsequent to the date the data are due from the exchanges, the Commission uses these data. The appropriation was signed on December 27, 2020. The first business day after this date was December 28, 2020. Data for November 2020 were due from the exchanges on December 14, 2020. As a result, the Commission used November 2020 and earlier data to forecast volume for December 2020 and later months.

required to be forecast for the remainder of the fiscal year. The trailing moving average used in the forecast model is presented in column E of Table A.

To capture the recent trends in the monthly changes in the moving averages, calculate the 1-month and 2-month lags of the trailing moving average shown in column E in Table A. These amounts are shown in columns F and G, respectively, of Table A.

Next, model the monthly trailing moving average of ADS as function of a constant term and the two lagged trailing moving averages using the ordinary least squares technique.

Use the estimated model to forecast the trailing moving average of ADS of the first month after the last available monthly data. Estimate the trailing moving average of the second month using the forecasted value of the first month and the actual value of the month before that. Similarly, estimate the trailing moving average of the third month using the forecasted values of the two previous months. Continue in this fashion until the end of the fiscal year.

The estimate of the trailing moving average ADS for the last applicable month in the fiscal year is a prediction of the moving average for those months that need to be predicted. This estimate is used as the predicted value of ADS for each month in the forecast period; to obtain the forecast total covered sales for each month, multiply the predicted ADS by the number of days in each month.

The following is a more formal (mathematical) description of the procedure:

1. Begin with the monthly data for total dollar volume of covered sales (column C). The sample spans ten years, from February 2010–November 2020.<sup>14</sup> Divide each month’s total dollar volume by the number of trading days in that month (column B) to obtain the average daily dollar volume (ADS, column D).

2. For each month  $t$ , calculate the 9-month trailing moving average of ADS (shown in column E). For example, the value for October, 2011 is the average of the 9 months ending in October, 2011, or February 2011 through October 2011 inclusive.

3. Calculate the 1-month and 2-month lags of the trailing moving average. For example, the 1-month lag of the 9-month trailing moving average for October, 2011 is equal to the 9-month trailing moving average for September, 2011. The 2-month lag of the 9-month trailing moving average for October, 2011 is equal to the 9-month trailing moving average for August 2011. These are shown in columns F and G.

4. Estimate the model using ordinary least squares:

$$y_t = \alpha + \beta_1 y_{t-1} + \beta_2 y_{t-2} + u_t$$

Where  $y_t$  is the 9-month trailing moving average of the average daily sales for month  $t$ , and  $y_{t-1}$  and  $y_{t-2}$  are the 1-month and 2-month lags of  $y_t$ , and  $u_t$  representing the error term for month  $t$ . The model can be estimated using standard commercially available

<sup>14</sup> Because the model uses a two period lag in the 9-month trailing moving average of average daily covered sales, ten additional months of data are added to the table so that the model is estimated with 120 observations.

software. The estimated parameter values are  $a = -3,106,716,928$ ,  $b_1 = +1.574199$ ,  $b_2 = -0.560507$ . The root-mean squared error (RMSE) of the regression is 6,022,194,076.

5. The predicted value of the 9-month trailing moving average of the last month to be forecast represents the final forecast of covered sales for the entire prediction period. This value is shown in column H. This represents the prediction for August of 2021. To calculate this value from the model above, one needs the 1-month and 2-month lag of the 9-month trailing moving average ADS, *i.e.*, the 9-month trailing moving average for June and July. The 9-month trailing moving average for July is obtained by using the 1-month and 2-month lags for July, that is, the 9-month trailing moving averages for June and May. To arrive at all the necessary inputs, one begins with the first month to be forecast, in this case, December 2020, and iterates predictions forward until the last month is predicted. One then multiplies the final predicted 9-month trailing moving average ADS by the number of days in each month to arrive at the forecast total dollar amount of covered sales. This is shown in column I.

6. For example, for December 2020, using the  $a$ ,  $b_1$ , and  $b_2$  parameter estimates shown above, along with the 1-month and two-month lags in the 9-month trailing moving average ADS (representing the 9-month trailing moving average ADS for November and October 2020, respectively), one can estimate the forecast 9-month trailing moving average ADS for December:  $-3,106,716,928 +$

$(1.574199 \times 527,000,127,996) + (-0.560507 \times 518,017,127,996) = 536,143,950,634$ .

7. With the estimated 9-month trailing moving average ADS for December 2020 calculated above, one can estimate the 9-month trailing moving average ADS for January, 2021. The estimate obtained from December becomes the 1-month lag for January, and the 1-month lag used in the December forecast becomes the 2-month lag for the January forecast. Thus, the predicted 9-month trailing moving average ADS for January 2021 is calculated as:  $-3,106,716,928 + (1.574199 \times 536,143,950,634) + (-0.560507 \times 527,000,127,996) = 545,503,592,273$ .

8. Using the forecasts for December and January, one can estimate the value for February. Repeat this procedure for subsequent months, until the estimate for August 2021 is obtained. This value is 618,941,650,406.<sup>15</sup> This value is then used to calculate the final forecast total monthly covered sales for all 9 months from December 2020 through August 2021.

9. To obtain the estimate of total monthly covered sales for each month, multiply the number of trading days in the month, shown in column B in Table A, by the final forecast 9-month trailing moving average ADS, shown in column H of Table A. This product is shown in column I of Table A, and these figures are used to calculate the new fee rate.

#### *B. Using the Forecasts From A To Calculate the New Fee Rate*

1. Use Table A to estimate fees collected for the period September 1, 2020 through

February 24, 2021. The projected aggregate dollar amount of covered sales for this period is \$68,536,044,778,746. Actual and projected fee collections at the current fee rate of \$22.10 per million are \$1,514,646,590.

2. Estimate the amount of assessments on security futures products collected from September 1, 2020 through August 31, 2021. The only entity reporting assessable security futures products ceased operations in September, 2020.<sup>16</sup> Consequently, the estimated amount of assessments on security futures products collected from September 2020 through August 2021 is equal to the amount already reported, which is \$493.87.

3. Subtract the amounts \$1,514,646,590 and \$493.87 from the target off-setting collection amount set by Congress of \$1,926,162,000, leaving \$411,514,917 to be collected on dollar volume for the period February 25, 2021 through August 31, 2021.

4. Use Table A to estimate dollar volume for the period February 25, 2021 through August 31, 2021. The estimate is \$81,081,356,203,186. Finally, compute the fee rate required to produce the additional \$411,514,917 in revenue. This rate is \$411,514,917 divided by \$81,081,356,203,186 or 0.00000507533.

5. Round the result to the seventh decimal point, yielding a rate of 0.0000051 (or \$5.10 per million).

This table summarizes the estimates of the aggregate dollar amount of covered sales, by time period. The figures in this table can be used to determine the new fee rate.

TABLE A—BASELINE ESTIMATE OF THE AGGREGATE DOLLAR AMOUNT OF SALES

Fee rate calculation								
a. Baseline estimate of the aggregate dollar amount of sales, 09/01/2020 to 01/31/2021 (\$Millions)								\$58,014,037
b. Baseline estimate of the aggregate dollar amount of sales, 02/01/2021 to 02/24/2021 (\$Millions)								10,522,008
c. Baseline estimate of the aggregate dollar amount of sales, 02/25/2021 to 02/28/2021 (\$Millions)								1,237,883
d. Baseline estimate of the aggregate dollar amount of sales, 03/01/2021 to 08/31/2021 (\$Millions)								79,843,473
e. Estimated collections in assessments on security futures products in fiscal year 2021 (\$Millions)								0.026
f. Implied fee rate $((\$1,926,162,000 - \$22.10 \times (a + b) - e) / (c + d))$								5.0

Month	Number of trading days in month	Total dollar amount of sales	Average daily dollar amount of sales (ADS)	9-Month trailing moving average ADS	1 Month lag of 9-month trailing moving average ADS	2 Month lag of 9-month trailing moving average ADS	Forecast 9-month trailing moving average ADS	Forecast total dollar amount of sales
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
Feb-10	19	\$4,969,848,578,023	\$261,570,977,791					
Mar-10	23	5,563,529,823,621	241,892,601,027					
Apr-10	21	5,546,445,874,917	264,116,470,234					
May-10	20	7,260,430,376,294	363,021,518,815					
Jun-10	22	6,124,776,349,285	278,398,924,967					
Jul-10	21	5,058,242,097,334	240,868,671,302					
Aug-10	22	4,765,828,263,463	216,628,557,430					
Sep-10	21	4,640,722,344,586	220,986,778,314					
Oct-10	21	5,138,411,712,272	244,886,272,013					
Nov-10	21	5,279,700,881,901	251,414,327,710					
Dec-10	22	4,998,574,681,208	227,207,940,055	\$259,130,085,766				
Jan-11	20	5,043,391,121,345	252,169,556,067	258,001,569,090				
Feb-11	19	5,114,631,590,581	269,191,136,346	256,369,940,093				
Mar-11	23	6,499,355,385,307	282,580,668,926	255,042,505,186				
Apr-11	20	4,975,954,868,765	248,797,743,438	244,616,907,134				
May-11	21	5,717,905,621,053	272,281,220,050	245,081,545,351				
Jun-11	22	5,820,079,494,414	264,549,067,928	245,962,553,367				
Jul-11	20	5,189,681,899,635	259,484,094,982	252,146,182,547				
Aug-11	23	8,720,566,877,109	379,155,081,613	256,986,436,948				
Sep-11	21	6,343,578,147,811	302,075,149,896	258,630,639,500				
Oct-11	21	6,163,272,963,688	293,489,188,747	281,142,635,472				
Nov-11	21	5,493,906,473,584	261,614,593,980	285,733,705,770				
Dec-11	21	5,017,867,255,600	238,946,059,790	284,891,867,729				
Jan-12	20	4,726,522,206,487	236,326,110,324	280,043,577,825				
Feb-12	20	5,011,862,514,132	250,593,125,707	276,248,052,552				
Mar-12	22	5,638,847,967,025	256,311,271,228	275,332,741,808				

<sup>15</sup> One obtains insignificantly different values using the rounded parameter estimates shown above. The predicted ADS values displayed above represents the full precision estimate.

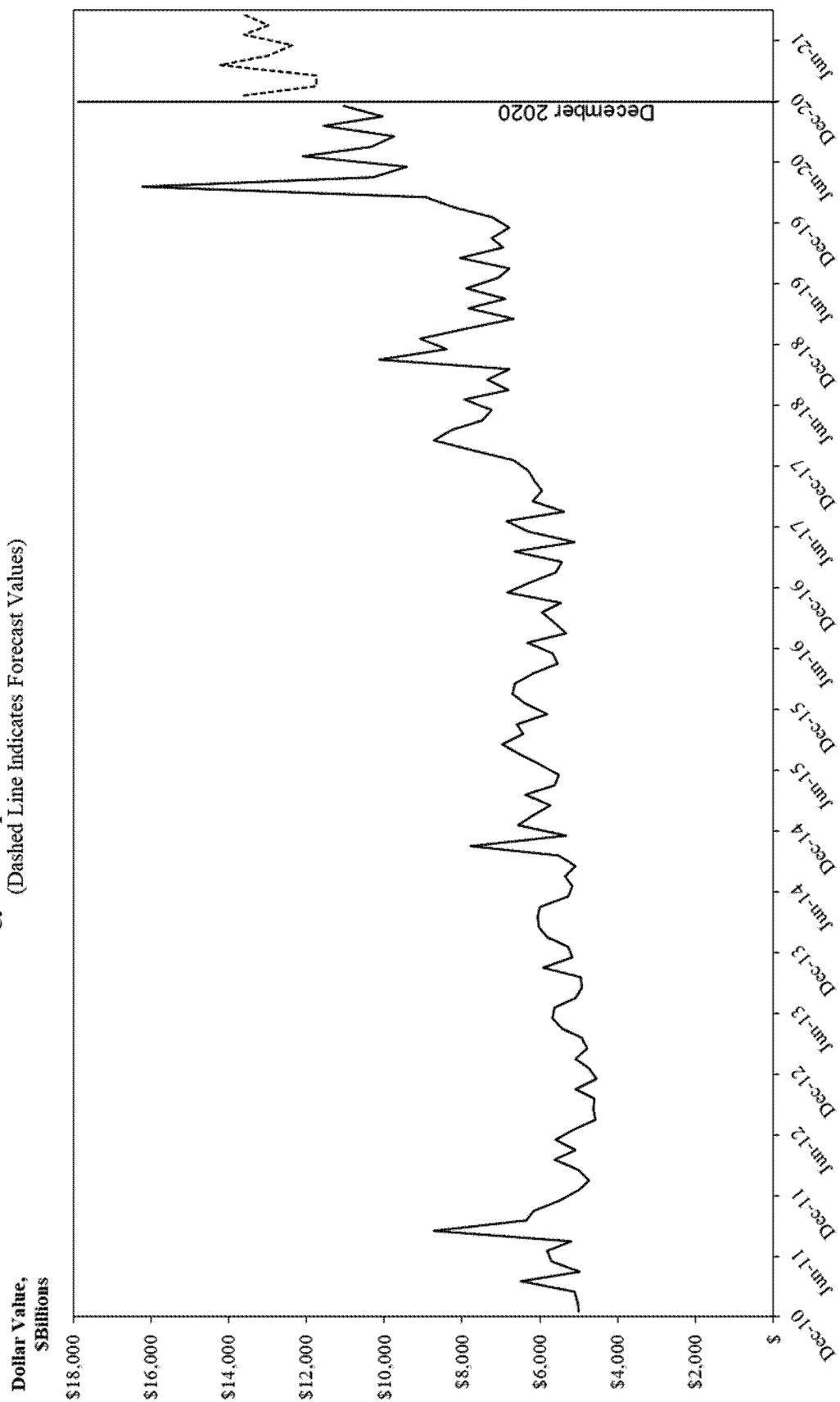
<sup>16</sup> OneChicago, LLC, the only reporting entity for single stock futures, ceased operations in September, 2020; its last R-31 report was filed in October, 2020. Accordingly, the forecast for the

assessments for all of fiscal year 2021 for single stock futures is the reported assessments on single stock futures from September, 2020 by OneChicago, LLC.

Month	Number of trading days in month	Total dollar amount of sales	Average daily dollar amount of sales (ADS)	9-Month trailing moving average ADS	1 Month lag of 9-month trailing moving average ADS	2 Month lag of 9-month trailing moving average ADS	Forecast 9-month trailing moving average ADS	Forecast total dollar amount of sales
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
Apr-12	20	5,084,239,396,560	254,211,969,828	274,746,950,124	275,332,741,808	276,248,052,552		
May-12	22	5,611,638,053,374	255,074,456,972	260,960,214,052	274,746,950,124	275,332,741,808		
Jun-12	21	5,121,896,896,362	243,899,852,208	254,496,292,087	260,960,214,052	274,746,950,124		
Jul-12	21	4,567,519,314,374	217,500,919,732	246,053,151,085	254,496,292,087	260,960,214,052		
Aug-12	23	4,621,597,884,730	200,939,038,467	239,311,422,695	246,053,151,085	254,496,292,087		
Sep-12	19	4,598,499,962,682	242,026,313,825	239,653,673,143	239,311,422,695	246,053,151,085		
Oct-12	21	5,095,175,588,310	242,627,408,967	240,353,817,437	239,653,673,143	239,311,422,695		
Nov-12	21	4,547,882,974,292	216,565,855,919	236,573,009,683	240,353,817,437	239,653,673,143		
Dec-12	20	4,744,922,754,360	237,246,137,718	234,454,661,515	236,573,009,683	240,353,817,437		
Jan-13	21	5,079,603,817,496	241,885,896,071	233,085,097,764	234,454,661,515	236,573,009,683		
Feb-13	19	4,800,663,527,089	252,666,501,426	232,817,547,148	233,085,097,764	234,454,661,515		
Mar-13	20	4,917,701,839,870	245,885,091,993	233,038,129,346	232,817,547,148	233,085,097,764		
Apr-13	22	5,451,358,637,079	247,789,028,958	236,403,474,816	233,038,129,346	232,817,547,148		
May-13	22	5,681,788,831,869	258,263,128,721	242,772,818,178	236,403,474,816	233,038,129,346		
Jun-13	20	5,623,545,462,226	281,177,273,111	247,122,924,765	242,772,818,178	236,403,474,816		
Jul-13	22	5,083,861,509,754	231,084,614,080	245,840,392,000	247,122,924,765	242,772,818,178		
Aug-13	22	4,925,611,193,095	223,891,417,868	246,654,343,327	245,840,392,000	247,122,924,765		
Sep-13	20	4,959,197,626,713	247,959,881,336	247,844,759,285	246,654,343,327	245,840,392,000		
Oct-13	23	5,928,804,028,970	257,774,088,216	257,610,113,968	247,844,759,285	246,654,343,327		
Nov-13	20	5,182,024,612,049	259,101,230,602	250,325,083,876	249,610,113,968	247,844,759,285		
Dec-13	21	5,265,282,984,173	250,727,167,627	250,863,158,280	250,325,083,876	249,610,113,968		
Jan-14	21	5,808,700,114,288	276,604,767,347	254,064,906,990	250,863,158,280	250,325,083,876		
Feb-14	19	6,018,926,931,054	316,785,627,950	260,567,406,904	254,064,906,990	250,863,158,280		
Mar-14	21	6,068,617,342,988	288,981,778,238	261,434,574,140	260,567,406,904	254,064,906,990		
Apr-14	21	6,013,948,953,528	286,378,521,597	267,578,341,642	261,434,574,140	260,567,406,904		
May-14	21	5,265,594,447,318	250,742,592,729	270,561,805,516	267,578,341,642	261,434,574,140		
Jun-14	21	5,159,506,989,669	245,690,809,032	270,309,686,371	270,561,805,516	267,578,341,642		
Jul-14	22	5,364,099,567,460	243,822,707,612	268,759,532,970	270,309,686,371	270,561,805,516		
Aug-14	21	5,075,332,147,677	241,682,483,223	266,824,116,595	268,759,532,970	270,309,686,371		
Sep-14	21	5,507,943,363,243	262,283,017,297	268,108,033,892	266,824,116,595	268,759,532,970		
Oct-14	23	7,796,638,035,879	338,984,282,430	275,039,088,901	268,108,033,892	266,824,116,595		
Nov-14	19	5,340,847,027,697	281,097,211,984	271,073,709,349	275,039,088,901	268,108,033,892		
Dec-14	22	6,559,110,068,128	298,141,366,733	272,091,441,404	271,073,709,349	275,039,088,901		
Jan-15	20	6,185,619,541,044	309,280,977,052	274,636,158,677	272,091,441,404	271,073,709,349		
Feb-15	19	5,723,523,235,641	301,238,065,034	280,246,766,711	274,636,158,677	272,091,441,404		
Mar-15	22	6,395,046,297,249	290,683,922,602	285,246,001,552	280,246,766,711	274,636,158,677		
Apr-15	21	5,625,548,298,004	267,883,252,286	287,919,395,405	285,246,001,552	280,246,766,711		
May-15	20	5,521,351,972,386	276,067,598,619	291,739,963,782	287,919,395,405	285,246,001,552		
Jun-15	22	6,005,521,460,806	272,978,248,218	292,928,322,773	291,739,963,782	287,919,395,405		
Jul-15	22	6,493,670,315,390	295,166,832,518	288,059,719,450	292,928,322,773	291,739,963,782		
Aug-15	21	6,963,901,249,270	331,614,345,203	293,672,734,252	288,059,719,450	292,928,322,773		
Sep-15	21	6,434,496,770,897	306,404,608,138	294,590,872,186	293,672,734,252	288,059,719,450		
Oct-15	22	6,592,594,708,082	299,663,395,822	293,522,252,049	294,590,872,186	293,672,734,252		
Nov-15	20	5,822,824,015,945	291,141,200,797	292,400,378,245	293,522,252,049	294,590,872,186		
Dec-15	22	6,384,337,478,801	290,197,158,127	292,346,293,303	292,400,378,245	293,522,252,049		
Jan-16	19	6,696,059,796,055	352,424,199,792	301,739,731,915	292,346,293,303	292,400,378,245		
Feb-16	20	6,659,878,908,747	332,993,945,437	308,064,881,562	301,739,731,915	292,346,293,303		
Mar-16	22	6,161,943,754,542	280,088,352,479	308,854,893,146	308,064,881,562	301,739,731,915		
Apr-16	21	5,541,076,988,322	263,860,808,968	305,376,446,085	308,854,893,146	308,064,881,562		
May-16	21	5,693,520,415,112	271,120,019,767	298,654,854,370	305,376,446,085	308,854,893,146		
Jun-16	22	6,317,212,852,759	287,146,038,762	296,515,013,328	298,654,854,370	305,376,446,085		
Jul-16	20	5,331,797,261,269	266,589,863,063	292,840,176,355	296,515,013,328	298,654,854,370		
Aug-16	23	5,635,976,607,786	245,042,461,208	287,718,094,178	292,840,176,355	296,515,013,328		
Sep-16	21	5,942,072,286,976	282,955,823,189	286,913,501,407	287,718,094,178	292,840,176,355		
Oct-16	21	5,460,906,573,682	260,043,170,175	276,648,942,561	286,913,501,407	287,718,094,178		
Nov-16	21	6,845,287,809,886	325,966,086,185	275,868,069,311	276,648,942,561	286,913,501,407		
Dec-16	21	6,208,579,880,985	295,646,660,999	277,596,770,257	275,868,069,311	276,648,942,561		
Jan-17	20	5,598,200,907,603	279,019,545,380	279,380,018,748	277,596,770,257	275,868,069,311		
Feb-17	19	5,443,426,609,533	286,496,137,344	281,088,476,256	279,380,018,748	277,596,770,257		
Mar-17	23	6,661,861,914,530	289,646,170,197	281,366,268,638	281,088,476,256	279,380,018,748		
Apr-17	19	5,116,714,033,499	269,300,738,605	281,667,477,031	281,366,268,638	281,088,476,256		
May-17	22	6,305,822,460,672	286,628,293,667	286,288,125,082	281,667,477,031	281,366,268,638		
Jun-17	22	6,854,993,097,601	311,590,595,346	289,469,766,433	286,288,125,082	281,667,477,031		
Jul-17	20	5,394,333,070,522	269,716,653,526	290,544,597,917	289,469,766,433	286,288,125,082		
Aug-17	23	6,206,204,906,864	269,834,995,951	284,307,810,113	290,544,597,917	289,469,766,433		
Sep-17	20	5,939,886,169,525	296,994,308,476	284,457,548,721	284,307,810,113	290,544,597,917		
Oct-17	22	6,134,529,538,894	278,842,251,768	284,338,904,987	284,457,548,721	284,307,810,113		
Nov-17	21	6,289,748,560,897	299,511,836,233	285,785,093,752	284,338,904,987	284,457,548,721		
Dec-17	20	6,672,181,323,001	333,609,066,150	290,669,859,969	285,785,093,752	284,338,904,987		
Jan-18	21	7,672,288,677,308	365,347,079,872	301,341,675,665	290,669,859,969	285,785,093,752		
Feb-18	19	8,725,420,462,639	459,232,655,928	320,519,938,139	301,341,675,665	290,669,859,969		
Mar-18	21	8,264,755,011,030	393,559,762,430	329,627,623,370	320,519,938,139	301,341,675,665		
Apr-18	21	7,490,308,402,446	356,681,352,497	339,290,367,701	329,627,623,370	320,519,938,139		
May-18	22	7,242,077,467,361	329,185,339,426	345,884,850,309	339,290,367,701	329,627,623,370		
Jun-18	21	7,936,783,802,579	377,942,085,837	354,879,047,793	345,884,850,309	339,290,367,701		
Jul-18	21	6,807,593,326,456	324,171,110,784	359,915,587,684	354,879,047,793	345,884,850,309		
Aug-18	23	7,363,115,477,823	320,135,455,558	362,207,100,942	359,915,587,684	354,879,047,793		
Sep-18	19	6,781,988,459,996	356,946,761,052	364,800,178,154	362,207,100,942	359,915,587,684		
Oct-18	23	10,133,514,482,168	440,587,586,181	373,160,234,410	364,800,178,154	362,207,100,942		
Nov-18	21	8,414,847,862,204	400,707,041,057	366,657,388,314	373,160,234,410	364,800,178,154		
Dec-18	19	9,075,221,733,736	477,643,249,144	375,999,997,948	366,657,388,314	373,160,234,410		
Jan-19	21	7,960,664,643,749	379,079,268,750	378,488,655,310	375,999,997,948	366,657,388,314		
Feb-19	19	6,676,391,653,247	351,389,034,381	380,955,732,527	378,488,655,310	375,999,997,948		
Mar-19	21	7,828,979,311,928	372,808,538,663	380,385,338,397	380,955,732,527	378,488,655,310		
Apr-19	21	6,907,923,076,080	328,948,717,909	380,916,183,633	380,385,338,397	380,955,732,527		
May-19	22	7,895,053,976,747	358,866,089,852	385,219,587,443	380,916,183,633	380,385,338,397		
Jun-19	20	7,070,583,442,058	353,529,172,103	384,839,855,338	385,219,587,443	380,916,183,633		
Jul-19	22	6,792,811,319,721	308,764,150,896	370,192,806,973	384,839,855,338	385,219,587,443		
Aug-19	22	8,059,527,400,976	366,342,154,590	366,374,486,254	370,192,806,973	384,839,855,338		
Sep-19	20	6,958,132,871,506	347,906,643,575	351,959,307,858	366,374,486,254	370,192,806,973		
Oct-19	23	7,235,982,824,882	314,607,948,908	344,795,827,875	351,959,307,858	366,374,486,254		
Nov-19	20	6,784,888,230,209	339,244,411,510	343,446,425,334	344,795,827,875	351,959,307,858		
Dec-19	21	7,252,856,724,647						

Month	Number of trading days in month	Total dollar amount of sales	Average daily dollar amount of sales (ADS)	9-Month trailing moving average ADS	1 Month lag of 9-month trailing moving average ADS	2 Month lag of 9-month trailing moving average ADS	Forecast 9-month trailing moving average ADS	Forecast total dollar amount of sales
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
Mar-21 .....	23	.....	.....	.....	.....	.....	618,941,650,406	14,235,657,959,338
Apr-21 .....	21	.....	.....	.....	.....	.....	618,941,650,406	12,997,774,658,526
May-21 .....	20	.....	.....	.....	.....	.....	618,941,650,406	12,378,833,008,120
Jun-21 .....	22	.....	.....	.....	.....	.....	618,941,650,406	13,616,716,308,932
Jul-21 .....	21	.....	.....	.....	.....	.....	618,941,650,406	12,997,774,658,526
Aug-21 .....	22	.....	.....	.....	.....	.....	618,941,650,406	13,616,716,308,932

**Figure A.**  
 Aggregate Dollar Amount of Sales Subject to Exchange Act Sections 31(b) and 31(c)<sup>1</sup>  
 Methodology Developed in Consultation With OMB and CBO  
 (Dashed Line Indicates Forecast Values)



<sup>1</sup>Forecasted line is not smooth because the number of trading days varies by month.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-90936; File No. SR-BX-2021-001]

**Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the BX Options Pricing Schedule**

January 15, 2021.

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 January 4, 2021, Nasdaq BX, Inc. (“BX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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 amend the BX Options Pricing Schedule at Options 7.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/bx/rules>, 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 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**

Today, Lead Market Makers (“LMMs”)<sup>3</sup> are assessed the same fees and rebates in Options 7, Section 2 as BX Options Market Makers.<sup>4</sup> The purpose of the proposed rule change is to amend Options 7, Section 2 to (i) increase the LMM Rebate to Add Liquidity, (ii) decrease the LMM Fee to Add Liquidity, and (iii) restructure the existing pricing schedules to add separate pricing for LMMs, which will apply in each case to LMMs in their specifically appointed options classes. As described in detail below, while the Exchange is proposing to add separate pricing for LMMs in the existing schedules, LMMs will continue to be assessed the same BX Options Market Makers fees and rebates in their specifically allocated options classes under this proposal except with respect to the proposed LMM Rebate to Add Liquidity and proposed LMM Fee to Add Liquidity. The Exchange also proposes to amend its Opening Cross<sup>5</sup> pricing provisions in Options 7, Section 2(2) to correct an inadvertent omission. Lastly, the Exchange proposes various technical, non-substantive changes throughout Options 7, including to update cross-cites to obsolete rules.

The proposed changes respond in part to the current competitive environment where market participants have a choice of where to direct order flow by incentivizing LMMs to increase their liquidity provision on the Exchange.

**LMM Rebate To Add Liquidity**

Today, as set forth in Options 7, Section 2(1), LMMs are provided the \$0.10 per contract BX Options Market Maker Rebate to Add Liquidity in Penny Symbols in their specifically allocated options classes. This rebate is provided only when the LMM is contra to a Non-

Customer,<sup>6</sup> Firm,<sup>7</sup> or BX Options Market Maker (including LMMs).<sup>8</sup>

The Exchange now proposes to increase this rebate to \$0.11 per contract for LMMs only. This rebate will apply to LMMs in their specifically allocated options classes, and will have the same qualifications as the existing BX Options Market Maker rebate in that the incentive will only be provided to LMMs that are contra to Non-Customers, Firms, BX Options Market Makers, or LMMs. To effect this change, the Exchange proposes to set forth the LMM Rebate to Add Liquidity in Penny Symbols in a separate pricing column in Options 7, Section 2(1). The Exchange will also amend the rebate qualifications in note 2 of Options 7, Section 2(1) to include LMMs. As amended, note 2 will provide that the Rebate to Add Liquidity will be paid to a BX Options Market Maker or a Lead Market Maker only when the BX Options Market Maker or Lead Market Maker is contra to a Non-Customer, Firm, BX Options Market Maker, or Lead Market Maker.

**LMM Fee To Add Liquidity**

Today, as set forth in Options 7, Section 2(1), LMMs are charged the \$0.39 per contract BX Options Market Maker Fee to Add Liquidity in Penny Symbols in their specifically allocated options classes. Pursuant to note 3 of Options 7, Section 2(1), this fee is assessed only when the LMM is contra to a Customer.<sup>9</sup>

The Exchange now proposes to decrease this fee to \$0.38 per contract for LMMs only. This fee will apply to LMMs in their specifically allocated options classes, and will have the same qualifications as the existing BX Options Market Maker fee in that the fee only will be assessed to LMMs that are contra to Customers. To effect this change, the Exchange proposes to set forth the LMM Fee to Add Liquidity in Penny Symbols in a separate pricing column in Options 7, Section 2(1). The Exchange will also amend the fee qualifications in note 3 of Options 7, Section 2(1) to include LMMs. As amended, note 3 will provide that the Fee to Add Liquidity will be assessed to a BX Options Market Maker or a Lead

<sup>3</sup> The term “Lead Market Maker” or (“LMM”) applies to a registered BX Options Market Maker that is approved pursuant to Options 2, Section 3 to be the LMM in an options class (options classes).

<sup>4</sup> The term “BX Options Market Maker” or (“M”) is a Participant that has registered as a Market Maker on BX Options pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive Market Maker pricing in all securities, the Participant must be registered as a BX Options Market Maker in at least one security.

<sup>5</sup> See Options 3, Section 8.

<sup>6</sup> A Non-Customer includes a Professional, Broker-Dealer and Non-BX Options Market Maker.

<sup>7</sup> The term “Firm” or (“F”) applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

<sup>8</sup> See Options 7, Section 2(1), note 2.

<sup>9</sup> The term “Customer” or (“C”) applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (“OCC”) which is not for the account of broker or dealer or for the account of a “Professional” (as that term is defined in Options 1, Section 1(a)(48)).

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

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