

prompt and accurate clearance and settlement of securities transactions. In recent months, NSCC has learned from fund administrators interested in becoming AIP Members that fund administrators generally do not control money settlement for their Fund clients. Within AIP, settlement of AIP Payments is the responsibility of AIP Members, including AIP Fund Administrators. This disconnect has impeded the adoption of AIP by the fund administrator community. The proposed rule change would allow AIP Payments to settle at the sub-account level, which would redirect responsibility for settlement of AIP Payments to the AIP Fund Administrator's designated Fund clients. Under the proposal, if an AIP Non-Member Fund fails to make its AIP Payment on Settlement Date, only the credit positions on the contra-side of the applicable AIP Settling Sub-Account would be reversed. The current AIP Rules require NSCC to reverse all of an AIP Fund Administrator's contra-side credit positions to the extent the AIP Fund Administrator fails to meet any portion of its daily AIP Payment balance. In allowing settlement at the sub-account level, NSCC would be fostering cooperation and coordination with fund administrators and Funds engaged in the clearance and settlement of alternative investment securities transactions and would be removing an impediment to the prompt and accurate clearance and settlement of alternative investment securities transactions. Therefore, NSCC believes that the proposed rule change is consistent with the Act, in particular, Section 17A(b)(3)(F) <sup>7</sup> of the Act.

*(B) Clearing Agency's Statement on Burden on Competition*

NSCC does not believe that the proposed rule change would have any impact, or impose any burden, on competition because the ability to settle at the sub-account level is optional and available to all AIP Fund Administrators.

*(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments when received by NSCC.

**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 self-regulatory organization 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-NSCC-2015-007 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549. All submissions should refer to File Number SR-NSCC-2015-007. 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 NSCC and on NSCC's Web site at <http://www.dtcc.com/legal/sec-rule-filings>. 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-NSCC-2015-007 and should be submitted on or before December 1, 2015.

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

**Brent J. Fields,**  
Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-76349; File No. SR-NYSEARCA-2015-97]

**Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Requiring OTP Holders To Participate in Business Continuity and Disaster Recovery Plans Testing in Connection With Regulation Systems Compliance and Integrity**

November 4, 2015.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the "Act") <sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on October 26, 2015, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to require certain OTP Holders <sup>4</sup> to participate in

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

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> Pursuant to Rule 1.1(q), an "OTP Holder" refers to a natural person, in good standing, who has been issued an OTP. An OTP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. Rule 1.1(p) defines "OTP" as an Options Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange.

<sup>7</sup> *Id.*

business continuity and disaster recovery plans (“BC/DR Plans”) testing in connection with Regulation Systems Compliance and Integrity (“Regulation SCI”).<sup>5</sup> The text of the proposed rule change is available on the Exchange’s Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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

#### 1. Purpose

As adopted by the Commission, Regulation SCI applies to certain self-regulatory organizations (including the Exchange), alternative trading systems (“ATSs”), plan processors, and exempt clearing agencies (collectively, “SCI entities”), and will require these SCI entities to comply with requirements with respect to the automated systems central to the performance of their regulated activities. Among the requirements of Regulation SCI is Rule 1001(a)(2)(v), which requires the Exchange and other SCI entities to maintain “[b]usiness continuity and disaster recovery plans that include maintaining backup and recovery capabilities sufficiently resilient and geographically diverse and that are reasonably designed to achieve next business day resumption of trading and two-hour resumption of critical SCI systems following a wide-scale disruption.”<sup>6</sup> As a matter of course, the Exchange has put extensive time and resources toward planning for system failures and already maintains robust BC/DR plans consistent with the proposed rule. As set forth below, in connection with Regulation SCI, the Exchange is proposing to require certain

OTP Holders to participate in testing of the operation of the Exchange’s BC/DR plans.

With respect to an SCI entity’s BC/DR plans, including its backup systems, paragraph (a) of Rule 1004 of Regulation SCI requires each SCI entity to:

“[e]stablish standards for the designation of those members or participants that the SCI entity reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans.”<sup>7</sup> Paragraph (b) of Rule 1004 further requires each SCI entity to “[d]esignate members or participants pursuant to the standards established in paragraph (a) of [Rule 1004] and require participation by such designated members or participants in scheduled functional and performance testing of the operation of such plans, in the manner and frequency specified by the SCI entity, provided that such frequency shall not be less than once every 12 months.”<sup>8</sup>

To comply with Rule 1004 of Regulation SCI, the Exchange proposes to adopt Rule 2.26, governing mandatory testing of Exchange backup systems as described below. The requirements of proposed Rule 2.26 would apply to OTP Holders that transact on the Exchange’s options market.

First, in paragraph (a) of proposed Rule 2.26, the Exchange proposes to establish standards for the designation of OTP Holders that the Exchange reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of the Exchange’s business continuity and disaster recovery plans.

Second, in paragraph (b) of proposed Rule 2.26, the Exchange proposes to specify that OTP Holders that are designated pursuant to paragraph (a) of proposed Rule 2.26 would be required to participate in scheduled functional and performance testing of the Exchange’s business continuity and disaster recovery plans, which shall not be less than once every 12 months.

Third, in paragraph (c) of proposed Rule 2.26, the Exchange proposes to make clear that Lead Market Makers<sup>9</sup> that have been determined by the Exchange to contribute a meaningful

percentage of the Exchange’s overall volume, measured on a quarterly or monthly basis, will be required to participate in scheduled functional and performance testing. The Exchange further proposes that it may also consider other factors in determining the OTP Holders that will be required to participate in scheduled functional and performance testing, including average daily volume traded on the Exchange measured on a quarterly or monthly basis, or OTP Holders who collectively account for a certain percentage of market share on the Exchange.

Fourth, in paragraph (d) of proposed Rule 2.26, the Exchange proposes that at least three (3) months prior to a scheduled functional and performance testing of the Exchange’s business continuity and disaster recovery plans, the Exchange will publish the criteria to be used by the Exchange to determine which OTP Holders will be required to participate in such testing and notify those OTP Holders that are required to participate based on such criteria.<sup>10</sup> The Exchange believes that the proposed notice requirements are necessary to provide OTP Holders with proper advance notice in the event they become subject to the proposed rule. The proposed timeframes would also provide OTP Holders with adequate time to prepare for the testing, including any systems changes needed, to connect to the Exchange’s backup systems.

Finally, in paragraph (e) of proposed Rule 2.26, the Exchange proposes to make clear that OTP Holders not designated pursuant to standards established in paragraph (a) of proposed Rule 2.26 are permitted to connect to the Exchange’s backup systems and may participate in testing of such systems. Proposed paragraph (e) is consistent with Regulation SCI, which encourages “SCI entities to permit non-designated members or participants to participate in the testing of the SCE entity’s BC/DR plans if they request to do so.”<sup>11</sup>

The Exchange notes that it encourages all OTP Holders to connect to the Exchange’s backup systems and to participate in testing of such systems. However, in adopting the requirements in proposed Rule 2.26, the rule will subject only those OTP Holders to mandatory testing that the Exchange believes are, taken as a whole, the minimum necessary to maintain fair and orderly markets. The Exchange believes that designating OTP Holders to participate in mandatory testing because

<sup>7</sup> 17 CFR 242.1004(a).

<sup>8</sup> 17 CFR 242.1004(b).

<sup>9</sup> The term “Lead Market Maker” or “LMM” means an individual or entity that has been deemed qualified by the Exchange for the purpose of making transactions on the Exchange in accordance with Rule 6.82. Each LMM must be registered with the Exchange as a Market Maker. See Rule 6.1A(a)(5).

<sup>10</sup> The Exchange will publish the initial notice to OTP Holders no later than November 3, 2015.

<sup>11</sup> See SCI Adopting Release, *supra* note 5 at 72350.

<sup>5</sup> See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014) (“SCI Adopting Release”).

<sup>6</sup> 17 CFR 242.1001(a)(2)(v).

they, for example, account for a significant portion of the Exchange's overall volume or maintain exclusive responsibilities with respect to Exchange-listed securities is a reasonable means to ensure the maintenance of a fair and orderly market on the Exchange.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of Sections 6(b)(5) of the Act,<sup>13</sup> in particular, because it is 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 mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposal will ensure that the OTP Holders necessary to ensure the maintenance of a fair and orderly market are properly designated consistent with Rule 1004 of Regulation SCI. Specifically, as proposed, the Exchange will adopt clear and objective criteria with respect to the designation of OTP Holders that are required to participate in the testing of the Exchange's BC/DR plans, as well as appropriate notification regarding such designation. As set forth in the SCI Adopting Release, "SROs have the authority, and legal responsibility, under Section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to BC/DR testing) applicable to their members or participants that are designed to, among other things, 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."<sup>14</sup> The Exchange believes that this proposal is consistent

with such authority and legal responsibility.

## 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 not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is not a competitive proposal but rather is necessary for the Exchange's compliance with Regulation SCI.

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

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

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup> 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder. A proposed rule change filed under Rule 19b-4(f)(6)<sup>17</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>18</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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 waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to incorporate changes required under Regulation SCI, such as establishing standards for designating BCP/DR participants, prior

to the November 3, 2015 compliance date. Accordingly, the Commission designates the proposed rule change to be operative upon filing.<sup>19</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 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>20</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

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

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEARCA-2015-97 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-NYSEARCA-2015-97. 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

<sup>19</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See, 15 U.S.C. 78c(f).

<sup>20</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See SCI Adopting Release, *supra* note 5 at 72350.

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).

provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at [www.nyse.com](http://www.nyse.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEARCA-2015-97 and should be submitted on or before December 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Brent J. Fields,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76351; File No. SR-CHX-2015-09]

### Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Business and Disaster Recovery Plans Testing Requirements for Certain Participants in Connection With Regulation Systems Compliance and Integrity

November 4, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on October 29, 2015, the Chicago Stock Exchange, Inc. ("CHX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II 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

CHX proposes to adopt business continuity and disaster recovery plans ("BC/DR plans") testing requirements

for certain Participants<sup>3</sup> in connection with Regulation Systems Compliance and Integrity ("Regulation SCI").<sup>4</sup> CHX has designated this proposed rule change as non-controversial pursuant to Section 19(b)(3)(A)<sup>5</sup> of the Act and Rule 19b-4(f)(6)<sup>6</sup> thereunder and has provided the Commission with the notice required by Rule 19b-4(f)(6)(iii).<sup>7</sup>

The text of this proposed rule change is available on the Exchange's Web site at ([www.chx.com](http://www.chx.com)) and in 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 CHX 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

As adopted by the Commission, Regulation SCI applies to certain self-regulatory organizations (including the Exchange), alternative trading systems ("ATSs"), plan processors, and exempt clearing agencies (collectively, "SCI entities"), and will require these SCI entities to comply with requirements with respect to the automated systems central to the performance of their regulated activities. Among the requirements of Regulation SCI is Rule 1001(a)(2)(v), which requires the Exchange and other SCI entities to maintain "[b]usiness continuity and disaster recovery plans that include maintaining backup and recovery capabilities sufficiently resilient and geographically diverse and that are reasonably designed to achieve next business day resumption of trading and two-hour resumption of critical SCI systems following a wide-scale disruption."<sup>8</sup> The Exchange has put

extensive time and resources toward planning for system failures and already maintains robust BC/DR plans consistent with the Rule.<sup>9</sup> As set forth below, in connection with Regulation SCI, the Exchange is proposing to require certain Participants to participate in testing of the operation of the Exchange's BC/DR plans.

With respect to an SCI entity's BC/DR plans, including its backup systems, paragraph (a) of Rule 1004 of Regulation SCI requires each SCI entity to:

"[e]stablish standards for the designation of those members or participants that the SCI entity reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans."<sup>10</sup> Paragraph (b) of Rule 1004 further requires each SCI entity to "[d]esignate members or participants pursuant to the standards established in paragraph (a) of [Rule 1004] and require participation by such designated members or participants in scheduled functional and performance testing of the operation of such plans, in the manner and frequency specified by the SCI entity, provided that such frequency shall not be less than once every 12 months."<sup>11</sup> In order to comply with Rule 1004 of Regulation SCI, the Exchange proposes to adopt Article 3, Rule 21 (Mandatory Participation Testing of Backup Systems) requiring mandatory participation in testing of Exchange backup systems, as described below.

First, in paragraph (a) of Rule 21, the Exchange proposes to include language from paragraph (a) of Rule 1004 of Regulation SCI to summarize the Exchange's obligation pursuant to such rule. Specifically, the Exchange proposes to state that "[p]ursuant to Regulation SCI and with respect to the Exchange's business continuity and disaster recovery plans, including its backup systems, the Exchange is required to establish standards for the designation of Participants that the Exchange reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the

<sup>9</sup> The Exchange notes that it permits the trading of securities at two separate data centers; one in Secaucus, New Jersey (NY4) and the other in Chicago (CH2). Each location serves as the primary matching location for a security traded on the Exchange and no single security is simultaneously traded at both locations, as the Exchange maintains only one book. In the event trading cannot occur at one location, the Exchange may move trading in affected securities to the other location, pursuant to its BC/DR plans.

<sup>10</sup> 17 CFR 242.1004(a).

<sup>11</sup> 17 CFR 242.1004(b).

<sup>3</sup> Pursuant to CHX Article 1, Rule 1(s), a Participant is considered a "member" of the Exchange for the purposes of the Act.

<sup>4</sup> See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014) ("SCI Adopting Release").

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

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

<sup>7</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>8</sup> 17 CFR 242.1001(a)(2)(v).

<sup>21</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.