For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Robert W. Errett,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78293; File No. SR–CBOE–2016–047]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change Relating to Senior Management Authority

July 12, 2016.

I. Introduction

On May 23, 2016, Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Bylaws and Rules with respect to delegations of certain authorities to senior management. The proposed rule change was published for comment in the **Federal Register** on June 7, 2016.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change [4]

The Exchange proposes to update references to senior management contained in its Bylaws and Rules to more accurately reflect roles and responsibilities within its current senior management structure. The Exchange notes that historically the CBOE Chairman of the Board also held the title of Chief Executive Officer (''CEO''). Currently, however, the titles of Chairman of Board, CEO, and President are held by three different individuals. As such, the Exchange proposes to amend its rules relating to authorities delegated to senior management to more accurately reflect the current senior management structure.

A. References to Chairman of the Board

First, the Exchange proposes to amend Rule 2.15 (Divisions of Exchange), Rule 4.10 (Other Restrictions on Trading Permit Holders), Rule 6.17 (Authority to Take Action Under Emergency Conditions), Rule 10.2 (Contracts of Suspended Trading Permit Holders), and Rule 16.1 (Imposition of Suspension) to eliminate references to ''Chairman of the Board'' and replace those references with ''Chief Executive Officer.'' [5] The Exchange notes that the CEO's responsibility is that of general charge and supervision of the business of the Corporation, whereas the Chairman of the Board's responsibility is that of the presiding officer at all meetings of the Board and stockholders, as well as of other powers and duties as are delegated by the Board.[6] The Exchange believes the responsibilities currently delegated to the Chairman of the Board under Rules 2.15, 4.10, 6.17, 10.2 and 16.1 pertain to the general charge and supervision of the Exchange's business and therefore fall within the scope of the CEO's stated responsibilities, instead of the Chairman of the Board's.[7]

B. Office of the Chairman

Second, the Exchange proposes to eliminate the term ''Office of the Chairman'' (''OOC'') in Rule 4.10 (Other Restrictions on Trading Permit Holders) and Rule 18.31 (Awards) and replace these references with ''Chief Executive Officer or President.'' [8] The Exchange notes that historically, the OOC was considered to be the management committee of the Exchange and consisted of the Chairman of the Board (who at the time was also the CEO), the Vice-Chairman (which role no longer exists) and the President.[9] As the Exchange's senior management structure has since changed, the Exchange proposes to eliminate the references to the OOC in its rules. In its place, the Exchange proposes that the powers and responsibilities delegated to the OOC as a whole will now be delegated to either the CEO or the President. The Exchange believes the authorities delegated in Rules 4.10 and 18.31 fall more squarely within the scope of the CEO's or President's roles and responsibilities.[10]

Third, the Exchange proposes to eliminate the reference to the OOC in Section 6.1 (Advisory Board) of the Exchange's Bylaws and replace it with a reference to ''management.'' [11] Section 6.1 currently provides that the Board will establish an Advisory Board which shall advise the Board and the Office of the Chairman regarding matters of interest to Trading Permit Holders (''TPHs''). The Exchange notes that the Advisory Board's Charter provides that the Advisory Board shall advise the Board and ''management'' regarding matters of interest to TPHs.[12] In order to conform the language in Section 6.1 to the Advisory Board Charter, the Exchange proposes to replace the reference to the OOC with management.[13]

C. Designee of the President

Last, the Exchange proposes to amend Rules 4.14 (Liquidation of Positions) and 6.20 (Admission to and Conduct on the Trading Floor; Trading Permit Holder Education) to provide that in addition to the President, a designee of the President may act pursuant to the authorities delegated by those Rules.[14] The Exchange notes that allowing such authorities to also be delegated to a designee of the President provides additional flexibility and certainty that if the President were unavailable, an alternate Exchange official could carry out the designated responsibilities of the President if needed.[15]

III. Discussion and Commission Findings

The Commission finds that 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.[16] Specifically, the Commission believes the proposed rule change is consistent with the Section 6(b)(5) [17] 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

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[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77962 (June 1, 2016), 81 FR 36641 (June 7, 2016) (''Notice'').

[4] A more detailed description of the proposed rule change appears in the Notice. *See id.*

[5] *See* Notice, *supra* note 3, at 36644.

[6] *See id.; see also* Sections 3.6 and 5.2 of the CBOE Bylaws.

[7] *See* Notice, *supra* note 3, at 36644.

[8] *See id.*

[9] *See id.*

[10] *See id.*

[11] *See id.*

[12] *See id.*

[13] *See id.* Additionally, the title of the Bylaws will be changed to Seventh Amended and Restated Bylaws of CBOE. *See id.*

[14] *See id.*

[15] *See* Notice, *supra* note 3, at 36645.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

system, and, in general, to protect investors and the public interest.

In particular, the Commission believes the proposed rule change will remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, will protect investors and the public interest by updating the delegation of authority to senior management under certain of the Exchange's Rules, which should facilitate the Exchange's ability to operate and carry out its self-regulatory responsibilities. In particular, the proposed rule changes to amend Rules 2.15, 4.10, 6.17, 10.2, and 16.1 to replace the references to the Chairman of the Board with the CEO should update and clarify which Exchange official is vested with the authorities established in those rules. The Exchange represents that while historically the Chairman of the Board also held the title of CEO, currently, the two titles are held by different individuals.[18] The Exchange Bylaws confer different responsibilities on the Chairman of the Board and the CEO.[19] These proposed rule changes will ensure that the authorities delegated pursuant to Rules 2.15, 4.10, 6.17, 10.2, and 16.1 are consistent with the roles and responsibilities established in the Bylaws.

Similarly, the proposed rule changes to amend Rules 4.10 and 18.31 and Section 6.1 of the Bylaws to remove references to the OOC will reduce confusion by eliminating references to a term the Exchange believes is antiquated. The Exchange notes that historically the OOC consisted of the Chairman of the Board (who also was the CEO), the Vice-Chairman, and the President.[20] Currently, however, the Chairman of the Board no longer holds the title of CEO and as such does not bear responsibility for the CEO's functions.[21] In addition, the Exchange has eliminated the role of Vice-Chairman.[22] As such, the proposed rule changes to replace the references to the OOC in Rules 4.10 and 18.31 with references to the CEO or President will remove an outdated term, ensure that delegated authorities are consistent with the roles and responsibilities delineated in the Bylaws, and will clarify that the authorities in those rules are delegated solely to the CEO or President.

Likewise, the Exchange's proposal to eliminate the reference to the OOC and replace it with a reference to management in Section 6.1. of the Exchange's Bylaws will alleviate confusion regarding the responsibilities of the Advisory Board. The Exchange notes that the Advisory Board's Charter provides that the Advisory Board shall advise the Board and ''management'' regarding matters of interest to TPHs.[23] Replacing the term OOC with management will ensure that the Exchange's Bylaws conform to the Advisory Board Charter, thereby reducing uncertainty about the responsibilities of the Advisory Board.

Lastly, the proposed changes to Rules 4.14 and 6.20 will provide the Exchange with additional flexibility should the President be unavailable and thus unable to carry out the authorities delegated in those rules. The Commission believes that authorizing the President to designate an appropriately qualified alternate Exchange official to perform the responsibilities of the President will clarify the appropriate officials authorized to carry out certain duties should the President be unavailable. Such clarification should perfect the mechanism of a free and open market and protect investors and the public interest by eliminating potential uncertainty regarding the appropriate individual to carry out certain Exchange authorities in the absence of the President, which should enable the Exchange to continue operations with minimal disruption.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–CBOE–2016–047) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Robert W. Errett,

Deputy Secretary.

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[18] *See* Notice, *supra* note 3, at 36644.

[19] *See id.*

[20] *See id.*

[21] *See id.*

[22] *See id.*

[23] *See id.*

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78290; File No. SR–NASDAQ–2016–071]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To List and Trade Shares of the First Trust CEF Income Opportunity ETF and the First Trust Municipal CEF Income Opportunity ETF

July 12, 2016.

On May 10, 2016, The NASDAQ Stock Market LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the First Trust CEF Income Opportunity ETF and the First Trust Municipal CEF Income Opportunity ETF under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares. On May 20, 2016, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on May 31, 2016.[3] The Commission has received one comment letter on the proposed rule change.[4]

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77895 (May 24, 2016), 81 FR 34407.

[4] *See* letter from Stephanie Price, dated May 31, 2016. This comment letter is available at: *https://www.sec.gov/comments/sr-nasdaq-2016-071/nasdaq2016071-1.htm.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*