internally consistent, which enhances the overall comprehensibility to investors without altering the operation of the rule. For example, the Exchange believes that the revised rule text governing the execution of COA-Eligible orders provides clarity regarding the circumstances under which the leg markets would have first priority to execute against an incoming COA-eligible or ECO. The Exchange also believes that the proposed changes would conform to the Exchange's price/time priority model and reduce the potential for investor confusion.

Non-Substantive Changes

The Exchange believes that the proposed non-substantive, technical changes, including updated cross references that conform rule text to proposed changes, promotes just and equitable principles of trade, fosters cooperation and coordination among persons engaged in facilitating securities transactions, and removes impediments to and perfects the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the defined terms used by the Exchange.

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. To the contrary, the Exchange believes that the proposed changes would encourage increased submission of ECOs, as well as increased participation in COAs, which will add liquidity to the Exchange to the benefit all market participants and is therefore pro-competitive. The proposal does not impose an intra-market burden on competition, because these changes make the rule clearer and more complete for all participants. Nor does the proposal impose a burden on competition among the options exchanges, because of the vigorous competition for order flow among the options exchanges. To the extent that market participants disagree with the particular approach taken by the Exchange herein, market participants can easily and readily direct complex order flow to competing venues.

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

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*. Please include File Number SR–NYSEArca–2016–149 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–NYSEArca–2016–149. 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–NYSEArca–2016–149 and should be submitted on or before December 23, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[53]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–28927 Filed 12–1–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79406; File No. SR–CBOE–2016–080]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Amend Rule 6.53C

November 28, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 17, 2016, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, 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 seeks to amend Rule 6.53C. The text of the proposed rule change is provided below.

[53] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 6.53C. Complex Orders on the Hybrid System

(a)–(d) No change.

. . . Interpretations and Policies:

.01–.09 No change.

.10 Execution of Complex Orders in Hybrid 3.0 Classes: For each class trading on the Hybrid 3.0 Platform, the Exchange may determine to not allow marketable complex orders entered into COB and/or COA to automatically execute against individual quotes residing in the EBook. The Exchange also may determine for each class trading on the Hybrid 3.0 Platform to not allow leg orders to be generated pursuant to paragraph (c)(iv) for complex orders resting in the COB. *If the Exchange authorizes a group of series of a Hybrid 3.0 class for trading on the Hybrid Trading System pursuant to Rule 8.14.01, this Interpretation and Policy .10 applies to a complex order with at least one leg in a series from the group authorized for trading on the Hybrid 3.0 Platform, including if the order has another leg(s) in a series from the group authorized for trading on the Hybrid Trading System.* The allocation of such marketable complex orders against orders residing in the EBook and other complex orders shall be based on the best net price(s) and, at the same net price, multiple orders will be allocated as provided in paragraphs (c) and/or (d) in the Rule, as applicable, subject to the following:

(a) A marketable complex order *that solely consists of a group of series that is authorized for trading on the Hybrid 3.0 Platform* will automatically execute against individual orders residing in the EBook provided the complex order can be executed in full (or in a permissible ratio) by the orders in the EBook and the orders in the EBook are priced equal to or better than the individual quotes residing in the EBook. *A marketable complex order that consists of a group of series that is authorized for trading on the Hybrid 3.0 Platform and a group of series authorized for trading on the Hybrid Trading System will not automatically execute against individual orders residing in the EBook.*

(b)–(e) No change.

.11–.12 No change.

* * * * *

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 seeks to amend Rule 6.53C in order to allow complex orders in Hybrid 3.0 classes consisting of series in both the group authorized for trading on the Hybrid 3.0 Platform and the group authorized for trading on the Hybrid Trading System to execute electronically in the same manner as complex orders consisting solely of series in the Hybrid 3.0 group.[3]

In 2003, CBOE introduced the Hybrid Trading System (''Hybrid'' or ''Hybrid System''), an electronic trading platform integrated with CBOE's floor-based open-outcry auction market.[4] The original Hybrid Trading System permitted Market-Makers to stream electronic quotes in their appointed classes provided they were physically present at the trading station.[5] CBOE subsequently implemented an enhanced version of Hybrid (f/k/a the Hybrid 2.0 platform), which allows remote quoting in option classes.[6] CBOE subsequently implemented the Hybrid 3.0 Platform, which is a trading platform on the Hybrid Trading System that allows one or more quoters to submit electronic quotes that represent the aggregate Market-Maker quotation interest in a series for the trading crowd.[7]

When the Hybrid 3.0 Platform was first implemented it was the third trading platform operating on the Exchange's trade engine CBOE*direct* (the CBOE command trade engine replaced CBOE*direct* in 2012)[8]—the other two platforms were the original Hybrid Trading System and the Hybrid 2.0 Platform.[9] In 2007, the Exchange removed the distinction between hybrid option classes (a/k/a classes on the original Hybrid Trading System) and Hybrid 2.0 option classes and deleted references to the Hybrid 2.0 Platform because over time CBOE migrated all option classes (other than the option classes traded on the Hybrid 3.0 Platform) from the original Hybrid Trading System to the Hybrid 2.0 Platform.[10] After the removal of the Hybrid 2.0 distinction, all options classes (other than those trading on the Hybrid 3.0 Platform) have been referred to as Hybrid classes trading on the Hybrid Trading System.[11] In order to distinguish between Hybrid classes trading on the Hybrid Trading System and Hybrid 3.0 classes trading on the Hybrid 3.0 Platform references in the Rulebook to ''Hybrid,'' ''Hybrid System,'' or ''Hybrid Trading System'' include all platforms unless otherwise provided by rule.[12] Currently, there are two platforms operating on the Exchange's trade engine CBOE Command (which replaced CBOE*direct*): (i) The Hybrid Trading System (f/k/a the Hybrid 2.0 Platform) and (ii) the Hybrid 3.0 Platform.

For each Hybrid 3.0 class, the Exchange may determine to authorize a group of series of the class for trading on the Hybrid Trading System[13] and establish trading parameters ''on a group basis to the extent rules otherwise provide such parameters to be established on a class basis.''[14] Currently, options on the Standard & Poor's 500 (''S&P 500'') are the only Hybrid 3.0 class.[15] However, pursuant to Rule 8.14.01 the Exchange authorized a group of series within the S&P 500 options class to trade on the Hybrid Trading System (*i.e.,* SPXW options). Thus, currently, the S&P 500 options class contains series trading under symbols SPX and SPXW.[16] The SPX options series are a.m.-settled contracts with standard third Friday expirations

[3] *See* Rule 6.53C.10.

[4] *See* Securities Exchange Act Release No. 47959 (May 30, 2003), 68 FR 34441 (June 9, 2003) (SR–CBOE–2002–05).

[5] *Id.*

[6] *See* Securities Exchange Act Release No. 50003 (July 12, 2004), 69 FR 43028 (July 19, 2004) (SR–CBOE–2004–24) (implementing enhancements to the Hybrid Trading System that are referred to in subsequent filings as Hybrid 2.0); Release No. 50175 (August 10, 2004), 69 FR 51129 (August 17, 2004) (SR–CBOE–2004–38) (implementing fees associated with, among other things, SR–CBOE–2004–24 and referring to the enhancements to the Hybrid Trading System as Hybrid 2.0); and Release No. 51366 (March 14, 2005), 70 FR 13217 (March 18, 2005) (amending the Rulebook by, among other things, adding the term Hybrid 2.0).

[7] *See* Securities Exchange Act Release No. 55874 (June 7, 2007), 72 FR 32688 (June 13, 2007) (SR–CBOE–2006–101).

[8] *See* Information Circular IC12–057.

[9] *Id.*

[10] *See* Securities Exchange Act Release No. 58153 (July 14, 2008), 73 FR 41386 (July 18, 2008) (SR–CBOE–2008–067) (deleting references to ''Hybrid 2.0 Platform'' and ''non-Hybrid'' classes because non-Hybrid classes no longer exist).

[11] *Id.*

[12] *See* Rule 1.1(aaa).

[13] *See* Rule 8.14.01.

[14] *See* Rule 8.14.01(c).

[15] *See* Rule 8.3(c)(iii).

[16] Options trading under the symbol SPXPM are a separate class from the SPX and SPXW options.

trading on the Hybrid 3.0 Trading System. The SPXW options series are p.m.-settled contracts with non-standard expirations trading on the Hybrid Trading System.

Currently, when the Exchange receives a complex order[17] during regular trading hours that consists of both SPX and SPXW options series (hereinafter an ''SPX/SPXW order'') the order is routed to a PAR workstation pursuant to Rule 6.12(a)(1) in order to provide an opportunity for these orders to trade in open outcry.[18] If an SPX/SPXW order is received during extended trading hours, the order is rejected back to the sender.[19] CBOE handles SPX/SPXW orders in this manner because currently the System cannot accept complex orders consisting of series that trade on different trading platforms, even if part of the same class. The Exchange is updating its systems to accept SPX/SPXW orders so they can trade against each other electronically during regular trading hours and extended trading hours. Thus, the Exchange is seeking to amend Rule 6.53C in order to specify the manner in which SPX/SPXW orders will be executed electronically.[20]

Rule 6.53C sets forth the manner in which complex orders are executed on the Hybrid Trading System. Interpretation and Policy .10 to Rule 6.53C sets forth the specific manner in which complex orders in Hybrid 3.0 classes trading on the Hybrid 3.0 Platform are to be executed, which is generally the same as the manner in which complex orders are executed on the Hybrid Trading System except as set forth in that Interpretation and Policy .10. For example, one primary difference is, for Hybrid 3.0 classes, the Exchange may determine to not allow marketable complex orders to execute against resting quotes in the leg markets,[21] and the Exchange has determined to not allow complex orders in SPX to trade against the quotes in the leg markets.[22]

The Exchange is proposing to amend in Rule 6.53C.10 to allow SPX/SPXW orders may [sic] be executed in accordance with Rule 6.53C.10 in the same manner as complex orders that solely consist of a group of series that are authorized for trading on the Hybrid 3.0 Platform (*i.e.,* SPX complex orders); however, due to system limitations that in the Exchange's experience were prohibitively expensive to modify, SPX/SPXW orders (unlike SPX complex orders) will not automatically execute against individual orders residing in the EBook. SPX/SPXW orders that are marketable against individual orders residing in the EBook will instead be routed to a PAR workstation during Regular Trading Hours and rejected during Extended Trading Hours, which is exactly how all SPX/SPXW orders are treated today.

SPX/SPXW orders will trade using a price-time matching algorithm.[23] The Exchange will handle SPX/SPXW orders during regular trading hours in the following manner: [24]

- SPX/SPXW orders with more than 4 legs will be routed for manual handling, which is consistent with the manner in which SPX complex orders are handled by the Exchange.[25]
- SPX/SPXW orders for the accounts of non-customers will not be allowed to rest in the Complex Order Book (''COB'') but will instead be routed for manual handling, which is consistent with the manner in which SPX complex orders are handled by the Exchange.[26] All other participants will be allowed to rest in the COB.
- SPX/SPXW orders for the accounts of customers and non-customers will be permitted to participate in the COB opening process and trade against SPX/SPXW orders resting in the COB, which is consistent with the manner in which SPX complex orders are handled by the Exchange.[27]
- Marketable SPX/SPXW orders will not be eligible to automatically execute against individual orders residing in the EBook for the legs.[28] Although SPX complex orders are eligible to automatically execute against individual orders residing in the EBook for the legs, not allowing SPX/SPXW orders to automatically execute against individual orders residing in the EBook for the legs effectively means that the Exchange is not changing how these particular SPX/SPXW orders will treated by the Exchange. These particular SPX/SPXW orders will be routed to a PAR workstation during regular trading hours, which is consistent with how all SPX/SPXW orders are treated during regular trading hours.
- Marketable SPX/SPXW orders will be eligible to automatically execute against other SPX/SPXW orders resting in the COB provided the execution is at a net price that has priority over the individual orders and quotes residing in the EBook, which is consistent with the manner in which SPX complex orders are handled by the Exchange.[29]
- Marketable SPX/SPXW orders will not be eligible to automatically execute against individual Market-Maker quotes resting in the EBook for the legs, which is consistent with the manner in which SPX complex orders are handled by the Exchange.[30]
- SPX/SPXW orders resting in the COB that become marketable against Market-Maker quotes in the individual legs will be subject to COA, which is consistent with the manner in which SPX complex orders are handled by the Exchange.[31] Such orders (or remaining portion of such orders) that are not executed but are still marketable will be routed for manual handling, which is consistent with the manner in which

[17] For the purposes of the electronic trading of complex orders a complex order is defined as ''any order involving the execution of two or more different options series in the same underlying security occurring at or near the same time in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) (or such lower ratio as may be determined by the Exchange on a class-by-class basis) and for the purpose of executing a particular investment strategy. For the purpose of applying the aforementioned ratios to complex orders comprised of both mini-option contracts and standard option contracts, ten (10) mini-option contracts will represent one (1) standard option contract. Only those complex orders with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis, are eligible for processing.'' *See* Rule 6.53C(a)(1).

[18] The Exchange determines which options classes are eligible for COB and COA. *See* Rules 6.53C(c)(i) and (d)(i)(2).

[19] *See* Rule 6.1A(b) and RG15–013.

[20] While this rule filing focuses on SPX, as it is currently the only Hybrid 3.0 class, the proposed rule text applies to all Hybrid 3.0 classes to accommodate any future classes that may be authorized to trade on the Hybrid 3.0 Platform.

[21] *See* Rule 6.53.10.

[22] *See* RG 12–025.

[23] *See* Rule 6.45B(a) (giving the Exchange the ability to determine the matching algorithm—*i.e.,* the particular priority method) and Rule 8.14.01(c) (providing that when the Exchange authorizes a group of series of a Hybrid 3.0 class to trade on the Hybrid Trading System the trading parameters will be established by the Exchange on a group basis to the extent the Exchange Rules otherwise provide for such parameter to be established on a class basis).

[24] As noted throughout this filing, the Exchange may, by Rule, configure many of the order handling parameters.

[25] *See* Rule 6.53C(a)(1) (providing that complex orders with no more than the applicable number of legs as determined by the Exchange are eligible for processing). The current number of legs permitted for complex orders for electronic processing is four. Pursuant to Rule 6.12(a)(1), orders initially routed for electronic processing that are not eligible for automatic execution or book entry will by default route to PAR or back to the TPH.

[26] *See* Rule 6.53C(c)(i) (giving the Exchange the ability to determine which classes and origin types are eligible for entry into the COB) and RG15–195.

[27] *See* Rule 6.53C.11 and RG15–195.

[28] *See* Proposed Rule 6.53C.10(a).

[29] *See* Rule 6.53C.10(b)

[30] *See* Rule 6.53C.10 (providing that the Exchange may determine to not allow marketable complex orders entered into COB and/or COA to automatically execute against individual quotes residing in the EBook) and RG 12–025 (providing marketable SPX complex orders will not execute with individual quotes).

[31] *See* Rule 6.53C.10(d).

SPX complex orders are handled by the Exchange.[32]

During extended trading hours, SPX/SPXW orders for the accounts of customers and non-customers will be allowed to rest in the COB, and thus participate in the COB opening process and trade against SPX/SPXW orders resting in the COB, which is consistent with the manner in which SPX complex orders are handled by the Exchange.[33] Additionally, any SPX/SPXW order that would normally be routed for manual handling during regulator trading hours will instead be returned to the order entry firm during extended trading hours because open outcry trading is unavailable during extended trading hours, which is consistent with the manner in which SPX complex orders are handled by the Exchange.[34]

Conclusion

The proposed rule change simply provides SPX/SPXW orders with an opportunity to execute electronically instead of automatically being routed to the floor for manual execution. Any electronic execution of SPX/SPXW orders will be in the same manner as complex orders with all SPX legs, except SPX/SPXW orders will not automatically execute against individual orders in the EBook for the legs, which will result in those specific SPX/SPXW orders being treated in exactly the same manner in which they are treated currently (*i.e.,* routed for manual handling during regular trading hours and rejected back to the order entry frim during extended trading hours). The Exchange will announce the implementation date of this rule filing via Regulatory Circular at least 7 days prior to the implementation date. The implementation date will be within 120 days of the approval date of this filing.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[35] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[36] 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)[37] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, SPX/SPXW orders currently may only be executed in open outcry during regular trading hours, and these orders are not executable during extended trading hours. The proposed rule change merely provides that these orders will be eligible for electronic processing (including electronic execution) in the same manner as complex orders consisting solely of SPX options series, except SPX/SPXW orders will not automatically execute against individual orders in the EBook for the legs, which will result in those specific SPX/SPXW orders being treated in exactly the same manner in which they are treated currently (*i.e.,* routed for manual handling during regular trading hours and rejected back to the order entry frim during extended trading hours). Since routing all SPX/SPXW orders for manual handling during regular trading hours and rejecting all SPX/SPXW orders during extended hours is currently consistent with the Act it is consistent with the Act to allow a subset of SPX/SPXW orders to continue to be treated in such a manner.

Allowing certain SPX/SPXW orders to COA and rest in the COB helps remove impediments to and perfect the mechanism of a free and open market and generally helps to protect investors and the public interest by giving SPX/SPXW orders increased opportunities for execution. However, the Exchange's flexibility to determine which market participants' orders may COA or rest in the COB also helps to protect investors and the public interest by allowing the Exchange to manage the ecosystem for all market participants. Regardless, since the Exchange already has the flexibility to determine which market participants' orders may COA[38] or rest in the COB,[39] it is consistent with the Act for the Exchange to have the flexibility to determine which market participants' SPX/SPXW orders may COA and rest in the COB. Finally, the manual handling of SPX, SPXW, and SPX/SPXW orders continues to have tremendous value for customers, particularly for orders with a large number of legs; however, COB and COA are additional functionalities that may provide increased opportunity to receive an execution and/or receive price improvement, both of which benefit investors.

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

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. SPX/SPXW orders can currently be represented and executed in open outcry, and the proposed rule change merely provides these orders will be eligible for electronic processing (including electronic execution). The Exchange's flexibility to determine which market participants' orders may COA or rest in the COB will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the flexibility allows the Exchange to manage the ecosystem for all market participants. Regardless, since the Exchange already has the flexibility to determine which market participants' orders may COA[40] or rest in the COB,[41] it is not unduly burdensome for the Exchange to have the flexibility to determine which market participants' SPX/SPXW orders may COA and rest in the COB. Additionally, these orders will execute electronically in the same manner as complex orders with all SPX legs currently do, except SPX/SPXW orders will not automatically execute with individual orders in the EBook for the legs, which will result in those specific SPX/SPXW orders being treated in exactly the same manner in which they are treated currently (*i.e.,* routed for manual handling during regular trading hours and rejected back to the order entry frim during extended trading hours). Since routing all SPX/SPXW orders for manual handling during regular trading hours and

[32] *See* Rule 6.53C.10(d). Because an SPX/SPXW that is marketable will not be permitted under the proposed rule to automatically execute against individual Market-Maker quotes or the individual orders residing in the EBook for the legs, an SPX/SPXW order that is marketable will route via the order handling system pursuant to Rule 6.12 in the same manner as marketable SPX complex orders.

[33] *See* Rule 6.53C(c) and RG15–013.

[34] *See* Rule 6.1(A)(b) (providing in extended trading hours if in accordance with the Rules an order would route to PAR, the order entry firm's booth or otherwise for manual handling the System will return the order the Trading Permit Holder during extended trading hours).

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

[37] *Id.*

[38] *See* Rule 6.53C(d)(i)(2).

[39] *See* Rule 6.53C(c)(i).

[40] *See* Rule 6.53C(d)(i)(2).

[41] *See* Rule 6.53C(c)(i).

rejecting all SPX/SPXW orders during extended hours is currently not unduly burdensome it is not unduly burdensome to allow a subset of SPX/SPXW orders to continue to be treated in such a manner. Additionally, allowing such orders to be executed electronically will not impose any burden on intermarket competition as options on the S&P 500 are exclusively listed on the Exchange. To the extent the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

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

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.* Please include File Number SR–CBOE–2016–080 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–2016–080. 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–CBOE–2016–080 and should be submitted on or before December 23, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–28929 Filed 12–1–16; 8:45 am]

BILLING CODE 8011–01–P

[42] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79408; File No. SR–NASDAQ–2016–159]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Commentary .14 to Rule 4770 (Compliance With Regulation NMS Plan To Implement a Tick Size Pilot)

November 28, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 14, 2016, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''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

The Exchange proposes to amend Commentary .14 to Rule 4770 (Compliance with Regulation NMS Plan to Implement a Tick Size Pilot) to provide the SEC with notice of its efforts to re-program its systems to eliminate a re-pricing functionality for certain orders in Test Group Three securities in connection with the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan'' or ''Pilot'').[3]

The text of the proposed rule change is set forth below. Proposed new language is italicized; deleted text is in brackets.

* * * * *

The NASDAQ Stock Market Rules

* * * * *

4770. Compliance With Regulation NMS Plan To Implement a Tick Size Pilot

(a) through (d) No Change.

Commentary: .01–.13 No change.

.14 Until [November 14, 2016]*December 12, 2016,* the treatment of Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, and Post-Only Orders that are entered through the OUCH or FLITE protocols in Test Group Three securities shall be as follows:

Following entry, and if market conditions allow, a Price to Comply Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO until such time as the Price to Comply Order is able to be ranked and displayed at its original entered limit price.

Following entry, and if market conditions allow, a Price to Display Order in a Test Group Three Pilot Security will be adjusted repeatedly in accordance with changes to the NBBO until such time as the Price to Display Order is able to be ranked and displayed at its original entered limit price.

Following entry, and if market conditions allow, a Non-Displayed Order in a Test Group Three Pilot Security will be adjusted repeatedly in

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) (''Approval Order'').