

using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to PSX through DE Route. Prior to PSX's July 2014 fee change, PSX charged its members, which includes DE Route, a fee of \$0.0030 per share to remove liquidity using non-routable order types, which DE Route passed through to the Exchange and the Exchange charged to its Members. In July 2014, PSX decreased this fee from \$0.0030 per share to \$0.0026 per share.⁸ Therefore, the Exchange believes that its proposal to pass through a fee of \$0.0026 per share for orders that yield Flag K is equitable and reasonable because it accounts for the pricing changes on PSX. In addition, the proposal allows the Exchange to charge its Members a pass-through rate for orders that are routed to PSX. Furthermore, the Exchange notes that routing through DE Route is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

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

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGX's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange believes that its proposal to pass through a fee of \$0.0026 per share for Members' orders that yield Flag K would increase intermarket competition because it offers customers an alternative means to route to PSX for the same price as entering orders on PSX directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(2)¹⁰ thereunder. 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.

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-EDGX-2014-17 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-EDGX-2014-17. 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-EDGX-2014-17, and should be submitted on or before July 31, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014-16093 Filed 7-9-14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72536; File No. SR-NYSEMKT-2014-21]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, To Make Permanent Its Pilot Program Regarding Minimum Value Sizes for Opening Transactions in New Series of Flexible Exchange Options and Establish New Minimum Value Sizes Applicable to Other FLEX Transactions and FLEX Quotes

July 3, 2014.

I. Introduction

On March 18, 2014, NYSE MKT LLC (the "Exchange" or "NYSE MKT") 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 make permanent its pilot program regarding minimum value sizes for opening transactions in new series of flexible exchange options ("FLEX Options" or "FLEX") and establish new minimum value sizes applicable to

⁸ See PSX, Equity Trader Alert 2014-45, Modifications to PSX Pricing Effective July 1, 2014, dated June 26, 2014, available at <http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2014-45>.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

other FLEX transactions and FLEX Quotes. The proposed rule change was published for comment in the **Federal Register** on April 7, 2014.³ The Commission received no comments on the proposal. The Exchange consented to an extension of the time period for the Commission to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved, to July 6, 2014. The Exchange filed Amendment No. 1 to the proposed rule change on May 22, 2014, in order to transmit a revised pilot report that replaces the original Exhibit 3 to the filing.⁴ The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Amended Proposal

FLEX Options, unlike traditional standardized options, allow investors to customize basic option terms, including size, expiration date, exercise style, and certain exercise prices.⁵ Pursuant to Commentary .01 to Rule 903G, the Exchange currently has in place a pilot program under which the minimum size requirements set forth in Rule 903G(a)(4)(ii), which apply to opening transactions in new series of FLEX Options, are replaced with a one-contract minimum size ("Pilot Program").⁶ Prior to the Pilot Program,

pursuant to Rule 903G(a)(4)(ii), the minimum value size for an opening transaction in any FLEX series in which there was no open interest at the time the request for quotes was submitted was: (i) For FLEX Equity Options, the lesser of 250 contracts or the number of contracts overlying \$1 million in the underlying securities; and (ii) for FLEX Index Options, \$10 million Underlying Equivalent Value in the case of Broad Stock Index Group FLEX Index Options and \$5 million Underlying Equivalent Value in the case of Stock Index Industry Group FLEX Index Options.⁷ The Exchange's proposal will make the Pilot Program permanent by eliminating the minimum value size requirements set forth in Rule 903G(a)(4)(ii) for opening transactions in new FLEX Option series and by eliminating the Pilot Program rule text set forth in Commentary .01 to Rule 903G. In connection with its proposal to make the Pilot Program permanent, and as required by its filing establishing the Pilot Program,⁸ the Exchange submitted to the Commission an annual Pilot Report summarizing Pilot Program data collected for year 2013, the most recent complete year of the Pilot Program.⁹

In its filing, the Exchange also has proposed to make some other changes to its FLEX Option minimum value size rules, in addition to requesting that the Pilot Program be made permanent. Rules 903G(a)(4)(iii)–(iv), which are not part of the Pilot Program, set forth minimum value sizes for other FLEX Option transactions and for FLEX Quotes. Specifically, pursuant to Rule 903G(a)(4)(iii), for a transaction in any currently-opened FLEX series, the minimum value size is: (i) For FLEX Equity Options, the lesser of 100 contracts or the number of contracts overlying \$1 million in the underlying securities in the case of opening transactions, and 25 contracts in the case of closing transactions; and (ii) for FLEX Index Options, \$1 million Underlying Equivalent Value in the case of both opening and closing transactions; or (iii) for either case, the

remaining underlying size or Underlying Equivalent Value on a closing transaction, whichever is less. Pursuant to Rule 903G(a)(4)(iv), the minimum value size for FLEX Quotes responsive to a Request for Quotes is 25 contracts in the case of FLEX Equity Options and \$1 million Underlying Equivalent Value in the case of FLEX Index Options or for either case the remaining underlying size or Underlying Equivalent Value on a closing transaction, whichever is less. Even though these minimum value size requirements set forth in Rules 903G(a)(4)(iii)–(iv) are not part of the Pilot Program, the Exchange has proposed to eliminate them as well, in conjunction with making the Pilot Program permanent. In its proposal the Exchange noted that adopting the same minimum value sizes for existing and new series, in addition to quotes, will allow market participants to tailor their FLEX Option transactions to meet their investment objectives.

By proposing to make permanent the Pilot Program one-contract minimum for opening transactions in new series of FLEX Options and by also proposing to eliminate the minimum value size requirements for FLEX Option transactions in currently-opened series and FLEX Quotes responsive to a Request for Quotes, the Exchange is seeking to establish a one-contract minimum size for all FLEX Option transactions and FLEX Quotes. This one-contract minimum size would be codified in new Rule 903G(a)(2)(vii). The Exchange states that its proposal for a one-contract minimum value size for all FLEX Option transactions and FLEX Quotes is based on similar rules governing minimum value size for FLEX Options approved for the CBOE.¹⁰

In addition, as a technical, non-substantive change, the Exchange has proposed to relocate from current Rule 903G(a)(4)(i) to new Rule 903G(a)(2)(vi) rule text stating that the maximum term for both Equity and Index FLEX Options shall be fifteen years, and make other non-substantive changes to the rule.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to

³ See Securities Exchange Act Release No. 71840 (April 1, 2014), 79 FR 19162 ("Notice").

⁴ The Exchange attached an Exhibit 3 to its proposed rule change that contained an annual report summarizing pilot data collected for the year 2013, the most recent complete year of the pilot program ("Pilot Report"). Specifically, the Pilot Report summarizes the trading volume and underlying value of opening transactions in new series of FLEX Options during the year 2013 with a size below the minimum value thresholds in force before the pilot, as well as the types of customers initiating such transactions. In Amendment No. 1, the Exchange submitted a revised Pilot Report as a new Exhibit 3 that replaces the original Exhibit 3 in its entirety. The revised Pilot Report corrects errors in the total FLEX Equity Option contract trading volume under the pilot, total FLEX Index Option contract trading volume under the pilot, and total number of FLEX Index Option trades under the pilot reported in the original Pilot Report. The revised Pilot Report also makes corresponding adjustments to other figures reported in the Pilot Report, as well as non-substantive changes to certain descriptive language in the Pilot Report.

⁵ See Notice, 79 FR at 19162 n.4; see also NYSE MKT Options Rule ("Rule") 903G. FLEX Options can be FLEX Index Options or FLEX Equity Options. See Rules 900G(b)(10) and (b)(11) (defining, respectively, the terms "FLEX Equity Option" and "FLEX Index Option").

⁶ See Commentary .01 to Rule 903G; see also Securities Exchange Act Release No. 62084 (May

12, 2010), 75 FR 28091 (May 19, 2010) (SR–NYSEAmex–2010–40) (establishing Pilot Program); and 71844 (April 1, 2014), 79 FR 19160 (April 7, 2014) (SR–NYSEMKT–2014–26) (extending Pilot Program until the earlier of July 31, 2014 or approval of the Pilot Program on a permanent basis).

⁷ See Rule 903G(a)(4)(ii); see also Rule 900G(b)(9) (defining the term "Underlying Equivalent Value").

⁸ See *supra* note 6.

⁹ Specifically, the Pilot Report contains data and analysis of underlying equivalent values, open interest and trading volume, and analysis of the types of investors that initiated opening FLEX Equity and Index Options transactions (*i.e.*, institutional, high net worth, or retail) in new FLEX Option series. See Amendment No. 1, *supra* note 4.

¹⁰ See Notice, 79 FR at 19164 and n.15 (citing Securities Exchange Act Release No. 67624 (August 8, 2012), 77 FR 48580 (August 14, 2012) (order approving CBOE's proposal to make permanent its pilot program eliminating minimum value sizes for FLEX Options)).

a national securities exchange.¹¹ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹² which requires, among other things, that the rules of a national securities 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; and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

FLEX Options were originally designed for use by institutional and high net worth customers, rather than retail investors.¹³ In approving CBOE's pilot eliminating minimum value sizes for FLEX Options, which was the first such pilot to go into effect, the Commission noted that it had received several comment letters stating that the proposal would assist institutional customers, but it also noted that the elimination of the minimum value size requirements raised the possibility that retail customers would access the FLEX Options market.¹⁴ One of the risks to retail investors outlined in the ODD¹⁵ is that, because of the customized nature of FLEX Options and lack of continuous quotes, trading in FLEX Options is often less deep and liquid than trading in standardized options on the same underlying interest.¹⁶ Additionally, the

Commission observed that reducing the minimum value size for opening FLEX Option transactions increases the potential for the FLEX Options market to act as a surrogate for the standardized options market, and expressed concern in this regard because the standardized market contains certain protections for investors not present in the FLEX Options market.¹⁷ The Commission stated that, in the event CBOE proposed making its pilot program permanent, information regarding the types of customers initiating opening FLEX Options transactions during the pilot would enable the Commission to evaluate how market participants have responded to CBOE's pilot program and what types of customers are using the FLEX Options market.¹⁸ For these same reasons, at the Commission's request, the Exchange included in its Pilot Report information regarding the types of customers that initiated opening FLEX Option transactions under its Pilot Program.¹⁹

The Commission believes that these considerations and concerns that informed its analysis of whether to permanently approve CBOE's pilot are equally germane to its analysis here. As such, the Commission has carefully reviewed the Pilot Report that the Exchange provided to the Commission.²⁰ The Pilot Report reflects that, in 2013, 315 opening transactions in new series of FLEX Equity Options were initiated on the Exchange with small minimum value sizes made possible by the Pilot Program, 286 of which were initiated by retail customers, 25 of which were initiated by institutional customers, and 4 of which were initiated by high net worth customers.²¹ Moreover, the Pilot Report indicates that these 315 FLEX Equity Option transactions covered by the Pilot Program accounted for approximately

3% of the total volume and approximately 5% of the total value of all opening FLEX Equity Option transactions in new series—*i.e.*, opening transactions covered by the Pilot Program as well as opening transactions with value sizes above the pre-pilot minimum—during 2013.

The Exchange notes that the Pilot Report includes data specific to opening transactions in new series of FLEX Options pursuant to current Rule 903G(a)(4)(ii), and does not include data for transactions in currently-opened FLEX Options series or FLEX Quotes responsive to a request for quotes pursuant to Rules 903G(a)(4)(iii)–(iv), as such transactions and FLEX Quotes were not part of the Pilot Program.²² The Exchange represents, however, that based on its internal review, if Rules 903G(a)(4)(iii)–(iv) had been part of the Pilot Program, transactions in currently-opened FLEX Options series or FLEX Quotes with small value sizes made permissible by the Pilot Program would have been *de minimis*, and would not have materially altered the data in the Pilot Report.²³

On balance, the Commission believes that it is consistent with the Act to make the Pilot Program permanent and thus eliminate, on a permanent basis, the minimum value size requirements set forth in Rule 903G(a)(4)(ii) for opening transactions in new series of FLEX Options. The protections noted below, including heightened options suitability requirements, should help to address any concerns about retail participation in the Exchange's FLEX Options market. Moreover, the Commission is not aware of any data or analysis to date suggesting that the trading of FLEX Options has acted as a surrogate for the trading of standardized options on the Exchange as a result of the Pilot Program. Indeed, the Commission understands that FLEX Option trading accounts for less than 1% of the combined trading volume of the standardized and FLEX Option markets.²⁴ In addition, the Pilot Report indicates that Pilot Program FLEX Option trades account for a very small proportion of the total volume and total value of all FLEX Option trades. Thus, it appears that the Pilot Program has not caused significant trading interest to migrate from the standardized options market to the FLEX Options market, nor caused, to the best of our knowledge, a

¹¹ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78f(b)(5).

¹³ See Notice, 79 FR at 19163; see also Securities Exchange Act Release No. 37336 (June 19, 1996), 61 FR 33558 (June 27, 1996) (order approving SR-Amex-95-57). As noted in the Options Disclosure Document ("ODD"), which explains the characteristics and risks of exchange-traded options, flexibly structured options may be useful to sophisticated investors seeking to manage particular portfolio and trading risks. Rule 9b-1 under the Act requires that broker-dealers furnish the ODD to a customer before accepting an order from the customer to purchase or sell an option contract relating to an options class that is the subject of the ODD, or approving the customer's account for the trading of such option. See 17 CFR 240.9b-1(d).

¹⁴ See Securities Exchange Act Release No. 61439 (January 28, 2010), 75 FR 5831 (February 4, 2010) (order approving SR-CBOE-2009-087) ("CBOE Pilot Approval Order").

¹⁵ See *supra* note 13.

¹⁶ In particular, the ODD states that because many of the terms of FLEX Options are not standardized, it is less likely that there will be an active secondary market in which holders and writers of such

options will be able to close out their positions by offsetting sales and purchases. Also, the ODD states that certain margin requirements for positions in flexibly structured options may be significantly greater than the margin requirements applicable to similar positions in other options on the same underlying interest.

¹⁷ See CBOE Pilot Approval Order, *supra* note 14. In particular, the Commission noted that continuous quotes may not always be available in the FLEX Options market and that FLEX Options do not have trading rotations at either the opening or closing of trading. *Id.*

¹⁸ *Id.* The Exchange has submitted a Pilot Report to the Commission as Exhibit 3 to its filing, as well as other, confidential reports of data collected during the Pilot Program. See Amendment No. 1, *supra* note 4.

¹⁹ See Amendment No. 1, *supra* note 4.

²⁰ *Id.*

²¹ *Id.* The Pilot Report indicates that there were no opening transactions in new series of FLEX Index Options during 2013 that were initiated below the pre-pilot minimum size requirement.

²² See Notice, 79 FR at 19164.

²³ *Id.*

²⁴ See email dated June 19, 2014 from Glenn H. Gsell, Managing Director, Intercontinental Exchange, NYSE Regulation, Inc. to Michael Bradley and David Michehl, Special Counsels, Division of Trading and Markets, Commission.

large number of investors to use FLEX Options to avoid certain requirements in the standardized market. Based on the current data and size of the FLEX Options market, and the lack of any evidence to the contrary, it would appear that investors are using the FLEX Options market for its intended purpose—to be able to customize certain terms not available in the standardized options market.

The Commission also believes that a logical corollary to making the Pilot Program permanent is to eliminate the minimum value size requirements set forth in Rules 903G(a)(4)(iii)–(iv) for transactions in currently-opened FLEX Options series and FLEX Quotes responsive to a request for quotes. In this regard, the Commission notes that the Exchange does not believe that the difference between effecting a transaction in an existing FLEX Option series and effecting a FLEX transaction in a new series is material to the extent that there should be different minimum value sizes for the two types of transactions.²⁵ In addition, the Exchange believes it would be consistent to apply the same minimum value size to closing transactions so that investors may elect to close just a portion of their FLEX position, without being subject to a minimum value size that may be greater than the equivalent value size necessary to meet their investment objectives.²⁶ Further, the Exchange believes that it would be consistent to apply the same minimum value size to FLEX Quotes so that market participants may respond to a request for quotes with the precise number of contracts or underlying equivalent value needed to trade with the OTP Holder that submitted the request. The Commission finds no basis under the Act at this time for maintaining a minimum value size requirement for transactions in currently-opened FLEX Option series or FLEX Quotes responsive to a request for quotes, and believes that these changes should be approved for reasons similar to those supporting permanent approval of the Pilot Program. The Commission notes that it is not aware of any problems resulting from the permanent approval of CBOE's pilot eliminating FLEX Option minimum value sizes, which included currently-opened series

and FLEX Quotes responsive to a request for quotes. As a result, the Commission believes that it is appropriate under the Act, and would promote just and equitable principles of trade, as well as remove impediments to and perfect the mechanism of a free and open market and a national market system, to replace the current minimum value size requirements for all FLEX Option transactions and FLEX Quotes on the Exchange with a one-contract minimum size.

Existing safeguards—such as position reporting requirements and margin requirements—will continue to apply to FLEX Options.²⁷ Further, as noted above, under Rule 9b–1 under the Act,²⁸ all customers of a broker-dealer with options accounts approved to trade FLEX Options must receive the ODD, which contains specific disclosures about the characteristics and special risks of trading FLEX Options.²⁹ In addition, similar to other options, FLEX Options are subject to Trading Permit Holder supervision and suitability requirements, such as in Rules 922 and 923, respectively.³⁰ In addition to ensuring that FLEX Options are suitable for their customers, broker-dealers also must take into account the characteristics of the FLEX market, as compared to the standardized market, when satisfying their best execution obligations. The Commission believes that the safeguards in place are reasonably designed to help mitigate potential risks for retail investors and other market participants investing in FLEX Options.

The Exchange believes that permanently removing the minimum value size requirements for FLEX Options will give investors a more viable, exchange-traded alternative to customized options in the OTC market, which are not subject to minimum value size requirements.³¹ Furthermore, the Exchange has represented that broker-dealers have indicated to the Exchange that the minimum value size requirements have prevented them from bringing transactions on the Exchange that are already taking place in the OTC market.³² Therefore, it appears possible that eliminating the minimum value sizes for all FLEX Options transactions

and FLEX Quotes could further incent trading interest in customized options to move from the OTC market to the Exchange. To the extent investors choose to trade FLEX Options on the Exchange in lieu of the OTC market as a result of the permanent removal of the minimum value size requirements, such action should benefit investors. As the Commission has previously noted, there are certain benefits to trading on an exchange, such as enhanced efficiency in initiating and closing out positions, increased market transparency, and heightened contra-party creditworthiness due to the role of the Options Clearing Corporation as issuer and guarantor of FLEX Options.³³

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to 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–NYSEMKT–2014–21 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–NYSEMKT–2014–21. 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

²⁵ See Notice, 79 FR at 19164.

²⁶ *Id.* Currently, the minimum value size for closing transactions is 25 contracts in the case of FLEX Equity Options and \$1 million Underlying Equivalent Value in the case of FLEX Index Options, or in either case the remaining underlying size or Underlying Equivalent Value on a closing transaction, whichever is less. See Rules 903G(a)(4)(iii)–(iv).

²⁷ Certain position limit, aggregation and exercise limit requirements continue to apply to FLEX Options in accordance with Rule 906G (Position Limits) and Rule 907G (Exercise Limits). But the Commission notes that certain FLEX Options do not have position or exercise limits.

²⁸ 17 CFR 240.9b–1.

²⁹ See *supra* notes 13 and 16.

³⁰ See Notice, 79 FR at 19163.

³¹ *Id.*

³² *Id.*

³³ See Securities Exchange Act Release No. 57429 (March 4, 2008), 73 FR 13058 (March 11, 2008) (order approving SR–CBOE–2006–36).

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-NYSEMKT-2014-21 and should be submitted on or before July 31, 2014.

V. Accelerated Approval of Proposal, as Modified by Amendment No. 1

In Amendment No. 1, the Exchange submitted a revised Pilot Report that corrects errors in the total FLEX Equity Option contract trading volume under the pilot, total FLEX Index Option contract trading volume under the pilot, and total number of FLEX Index Option trades under the pilot reported in the original Pilot Report. The revised Pilot Report also makes corresponding adjustments to other figures reported in the Pilot Report, as well non-substantive changes to certain descriptive language in the Pilot Report. The Commission believes that these corrections to the Pilot Report do not substantively alter the findings in the Pilot Report or diminish their support for approval of the pilot on a permanent basis. Accordingly, the Commission also finds good cause, pursuant to Section 19(b)(2) of the Act,³⁴ for approving the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice in the **Federal Register**.

VI. Conclusion

In summary, the Commission believes, for the reasons noted above, that the proposed rule change to permanently approve the Pilot Program as well as remove the minimum size requirements for currently-opened FLEX Option series and FLEX Quotes, thereby permanently removing the minimum size requirements for all FLEX Options on the Exchange, is consistent with the Act and Section 6(b)(5) thereunder in particular, and should be approved, as amended. The Exchange has committed, and the Commission expects the Exchange, to continue to monitor the usage of FLEX Options, whether changes need to be made to its rules or the ODD to address any changes in retail FLEX Option participation, and for any

other issues that may occur as a result of the elimination of the minimum value sizes on a permanent basis, including whether FLEX Option trades are being used as a surrogate for trading options in the standardized market.³⁵

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁶ that the proposed rule change (SR-NYSEMKT-2014-21) be, and it hereby is, approved, on an accelerated basis, as amended.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁷

Jill M. Peterson,
Assistant Secretary.

[FR Doc. 2014-16095 Filed 7-9-14; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72540; File No. SR-ICEEU-2014-09]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating To EMIR Requirements

July 3, 2014.

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 June 30, 2014, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes described in Items I, II and III below, which Items have been prepared by ICE Clear Europe. 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 principal purpose of the proposed changes is to amend the ICE Clear Europe Clearing Rules in order to comply with requirements under the European Market Infrastructure Regulation (including regulations and implementing technical standards thereunder, "EMIR")³ that will apply to

³⁵ See Notice, 79 FR at 19164 (Exchange representing that it will continue to monitor the usage of FLEX Options and whether any changes to its rules or the ODD are necessary).

³⁶ 15 U.S.C. 78s(b)(2).

³⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, as well as various implementing regulations and technical standards.

ICE Clear Europe as an authorized central counterparty.⁴ Among other changes, the proposed rules would implement a framework under which Clearing Members may offer to their clients the ability to have their positions and margin assets segregated from those of other clients of the Clearing Member ("Individual Client Segregation").⁵ The proposed rule changes include various other amendments to comply with EMIR, as discussed herein. In addition, certain other aspects of the proposed amendments are not specifically intended to comply with EMIR, but are designed to harmonize various rule provisions across different products and to make various other improvements to the rules. ICE Clear Europe will be required to be in compliance with EMIR as of the time it receives authorization as a central counterparty from the European Securities and Markets Authority ("ESMA").

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

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

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

a. Purpose

ICE Clear Europe submitted proposed amendments to its Rules in order to comply with requirements under EMIR that will apply to ICE Clear Europe upon its authorization as a central counterparty under EMIR, and to make certain other improvements to its rules. The principal change will be to implement changes to the structure of customer accounts for cleared transactions to enhance segregation

⁴ ICE Clear Europe will separately file certain related changes to its policies and procedures, including risk management policies.

⁵ As discussed herein, the Individual Client Segregation model is not being offered at this time to U.S. clearing members or U.S. person clients, and certain provisions of the proposed rules are therefore not applicable to such persons. ICE Clear Europe will make a subsequent rule filing if it subsequently determines to offer such model to U.S. clearing members or U.S. persons.

³⁴ 15 U.S.C. 78s(b)(2).