

what the fees for such services will be (thereby eliminating any possible confusion). The Exchange believes that these fee amounts are reasonable because they reflect the amounts necessary to perform such services (and indeed, are the amounts assessed by electricians for such services). The Exchange believes that these fees are equitable and not unfairly discriminatory because they will apply to all TPHs equally.

The Exchange believes that the proposal to delete the erroneous listing of the letter “M” from the “Origin Code” column of [sic] next to the “Electronic Access Permit” and “CBSX Trading Permit” rows of the Trading Permit and Tier Appointment Fees table of the Fees Schedule will eliminate possible investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system.

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

CBOE does not believe that the proposed rule changes will 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 the proposed rule changes will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes apply to all TPHs equally, regardless of the type of market participant. The Exchange does does [sic] not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because these changes all apply to billing and fees that affect CBOE only (and not other exchanges). Further, to the extent that the proposed changes make CBOE more attractive to market participants on other exchanges, such market participants may elect 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)

of the Act¹¹ and paragraph (f) of Rule 19b-4¹² thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings 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. Please include File Number SR-CBOE-2013-090 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2013-090. 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 Section, 100 F Street NE., Washington, DC 20549-1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the

filing will also 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-2013-090 and should be submitted on or before October 23, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Kevin M. O’Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70524; File No. SR-CBOE-2013-079]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposal To Amend Rule 24.7 To Add Factors for Determining Whether To Halt Volatility Index Options Trading

September 26, 2013.

I. Introduction

On July 29, 2013, Chicago Board Options Exchange, Incorporated (“Exchange” or “CBOE”) 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 CBOE Rule 24.7 (Trading Halts, Suspensions, or Primary Market Closure) to add factors that may be considered when determining whether to halt trading in volatility index options. The proposed rule change was published for comment in the **Federal Register** on August 14, 2013.³ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

As described further below, CBOE Rule 24.7 sets forth several factors that CBOE may consider in determining whether to halt trading in an index

¹³ 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. 34-70136 (August 8, 2013), 78 FR 49563 (“Notice”).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f).

option class. The Exchange proposes to amend CBOE Rule 24.7(a) to add additional factors that may be considered when determining whether to halt trading in volatility index options.

First, CBOE proposes to amend CBOE Rule 24.7(a)(i), which permits consideration to be given to “the extent to which trading is not occurring in the stocks underlying the index[.]” Since volatility indexes are comprised of options, not stocks, CBOE proposes to amend CBOE Rule 24.7(a)(i) to permit consideration to be given (in determining whether to halt trading in a volatility index option class) to whether the component options in a volatility index are not trading.⁴ Similarly, the Exchange proposes to amend CBOE Rule 24.7(b) which sets forth factors that may be considered in determining whether to resume trading of a halted options class or series. The Exchange proposes to amend the factor regarding the “extent to which trading is occurring in stocks underlying the index” to also include options.

Second, CBOE proposes to add a new factor (as subparagraph (iii) to CBOE Rule 24.7(a)) for consideration when determining whether to halt trading in volatility index options. Specifically, CBOE proposes to add a provision that would permit consideration to be given (in determining whether to halt trading in a volatility index option class) to whether the “current index level”⁵ for a volatility index option is not available or the spot (cash)⁶ value for a volatility index option is not available.

Third, the Exchange is proposing to make technical changes to CBOE Rule 24.7(a), CBOE Rule 24.7(d) and CBOE Rule 24.7.01 to make numbering changes.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act⁷ and the rules and regulations thereunder applicable to a

national securities exchange.⁸ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁹ which requires, among other things, that the Exchange's rules 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 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.

The Exchange proposes to amend CBOE Rule 24.7 to add additional factors that may be considered when determining whether to halt trading in volatility index options. CBOE Rule 24.7 is currently predicated on indexes being comprised of stocks and includes factors that may be considered by the Exchange when determining whether to halt trading based on the index components being comprised of stocks. The current proposal amends CBOE Rule 24.7(a) to account for indexes comprised of options and allows the Exchange to consider the following factors when determining whether to halt trading: (1) Whether the component options are not trading; (2) whether the “current index level” (as measured by the implied forward level based on volatility index (security) futures prices) is not available; or (3) whether the spot (cash) value for a volatility index is not available.

The Commission notes that the proposed change is designed to allow the Exchange to consider additional factors when determining whether to halt or resume trading in volatility index options. The Commission believes that the proposed change would grant discretion to the Exchange to halt trading in an index option class if component options are not trading and/or the current index level or spot (cash) value for a volatility index is not available. The Commission further believes that the proposal is designed to provide CBOE with discretion to protect the integrity of its marketplace by permitting it to consider additional factors that are specifically relevant to volatility index options when determining whether to halt or resume trading in those products.

Accordingly, the Commission finds that the Exchange's proposal is

consistent with the Act, including Section 6(b)(5) thereof, in that it is designed to remove impediments to and perfect the mechanism of a free and open market, and in general, protect investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-CBOE-2013-079) be, and hereby is, approved.

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

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70521; File No. SR-FINRA-2013-033]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change to Amend FINRA Rule 9217 (Violations Appropriate for Disposition Under Plan Pursuant to Securities Exchange Act Rule 19d-1(c)(2))

September 26, 2013.

I. Introduction

On July 24, 2013, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“Commission”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend FINRA Rule 9217 (Violations Appropriate for Disposition Under Plan Pursuant to Exchange Act Rule 19d-1(c)(2)). The proposed rule change was published for comment in the **Federal Register** on August 13, 2013.³ The Commission received two comments on the proposal.⁴ On September 17, 2013,

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 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. 70131 (Aug. 7, 2013), 78 FR 49313 (“Notice”).

⁴ See Letter to the Commission from David T. Bellaire, Esq., Executive Vice President & General Counsel, Financial Services Institute (“FSI”), dated September 3, 2013. The Commission also received another comment letter which does not address the substance of the proposed rule change. See Letter to the Commission from John Frattellone, dated September 3, 2013.

⁴ As an example, consider the CBOE Volatility Index (“VIX”), which is comprised of S&P 500 Index (“SPX”) options. Under the proposal, the Exchange may consider whether to halt trading in VIX options if trading in SPX options were not occurring. See Notice, *supra* note 3, at 49563.

⁵ CBOE proposes to define the term “current index level” in new Interpretation and Policy .03 to Rule 24.7 to mean the implied forward level based on corresponding volatility index (security) futures prices. See Notice, *supra* note 3, at 49563.

⁶ In the Notice, CBOE stated that the spot (cash) value of a volatility index is an instantaneous measure of the expected volatility in 30 days. See Notice, *supra* note 3, at 49564.

⁷ 15 U.S.C. 78f.

⁸ 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).

⁹ 15 U.S.C. 78f(b)(5).