

December 31, 2012.<sup>9</sup> The Exchange hereby proposes continuing that waiver through March 31, 2013. The purpose of this waiver extension is to allow more time for the SPXPM market to develop and allow and encourage Market-Makers to join in and elect for an SPXPM Tier Appointment.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>11</sup> of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among C2 Trading Permit Holders and other persons using Exchange facilities. Continuing the waiver of the SPXPM Tier Appointment Fee is reasonable because it will allow Market-Makers with an SPXPM Tier Appointment to avoid paying the Tier Appointment Fee for a further 3-month period, and is equitable and not unfairly discriminatory because all Market-Makers with an SPXPM Tier Appointment will be able to avoid paying the SPXPM Tier Appointment Fee through March 31, 2013.

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

C2 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.

### 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)<sup>12</sup> of the Act and paragraph (f) of Rule 19b-4<sup>13</sup> 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.

## IV. Solicitation of Comments

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

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-C2-2012-041 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-C2-2012-041. 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 such 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 publicly available. All submissions should refer to File Number SR-C2-2012-041 and should be submitted on or before January 9, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

Kevin M. O'Neill,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68416; File No. SR-NASDAQ-2012-119]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Establish Fees for New Optional Wireless Connectivity for Co-Located Clients

December 12, 2012.

On October 10, 2012, The NASDAQ Stock Market LLC ("Exchange" or "NASDAQ") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to establish fees for new optional wireless connectivity for co-located clients. The proposed rule change was published for comment in the **Federal Register** on October 29, 2012.<sup>3</sup> The Commission received no comment letters regarding the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> 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 45th day for this filing is December 13, 2012. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider issues raised by the proposed rule change, which would establish fees for new optional wireless connectivity for co-located clients.

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 68085 (October 23, 2012), 77 FR 65596.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> See Securities Exchange Act Release No. 34-67723 (August 23, 2012), 77 FR 52377 (August 29, 2012) (SR-C2-2012-029).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(4).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f).

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates January 25, 2013 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NASDAQ-2012-119).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68428; File No. SR-CBOE-2012-116]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Proposed Rule Change Related to Bylaw and Other Changes

December 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 30, 2012, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the 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

CBOE proposes to: (i) Amend its Bylaws to expressly provide that the Representative Director Nominating Body and any petition candidate must satisfy the compositional requirements determined by the Board from time to time pursuant to a resolution adopted by the Board; (ii) amend its Bylaws relating to the Board size range such that the Board shall consist of not less than 12 and not more than 16 directors; and (iii) make conforming changes to the CBOE Certificate of Incorporation. The text of the proposed amendments to CBOE's Bylaws and CBOE's Certificate of Incorporation are available on the

Exchange's Web site (<http://www.cboe.org/legal>), 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

###### 1. Purpose

The purpose of this proposed rule change is to (i) Amend CBOE's Bylaws to expressly state that the Representative Director Nominating Body and any petition candidate must satisfy the compositional requirements determined by the Board from time to time pursuant to a resolution adopted by the Board; (ii) amend its Bylaws relating to the Board size range such that the Board shall consist of not less than 12 and not more than 16 directors; and (iii) make conforming changes to the CBOE Certificate of Incorporation.

###### (1) Compositional Requirements Determined by the Board

Last year, CBOE amended its Bylaws and Certificate of Incorporation to, among other things: (i) Eliminate the requirement that its Board of Directors be composed of at least 30% Industry Directors, and (ii) eliminate the requirement in Section 3.2 of the Bylaws that the Representative Directors must be Industry Directors.<sup>3</sup> In its rule filing, CBOE noted that the changes would provide it with appropriate flexibility as it evaluates the structure and composition of its Board in the

<sup>3</sup> The Exchange notes that at all times at least 20% of the directors serving on the Board shall be Representative Directors nominated by the Representative Director Nominating Body as provided in Section 3.2 of the Bylaws (or otherwise selected through the petition process). Under Section 3.2, the Representative Director Nominating Body provides a mechanism for Trading Permit Holders to provide input with respect to the nominees for Representative Directors and Trading Permit Holders are also allowed to nominate alternative candidates by petition.

future.<sup>4</sup> Additionally, CBOE stated that no matter what the composition of its Board is, the Exchange intends to maintain the fair representation of its Trading Permit Holders in the selection of its directors and administration of its affairs consistent with Section 6(b)(3) of the Securities Exchange Act of 1934, as amended ("Act"). In approving CBOE's rule filing, the SEC noted that it has previously approved proposals in which an exchange's board of directors was composed of all or nearly all non-industry directors where the process was nevertheless designed to comply with the "fair representation" requirement in the selection and election of directors.<sup>5</sup>

In connection with these changes, CBOE also amended Section 3.1 of the Bylaws to provide that: "[T]he Board shall determine from time to time pursuant to resolution adopted by the Board the total number of directors, the number of Non-Industry Directors and Industry Directors (if any), and the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any)." CBOE now proposes to amend the Bylaws to expressly provide that any person nominated by the Representative Director Nominating Body and any petition candidate nominated pursuant to the Section 3.2 of the Bylaws shall satisfy the compositional requirements determined by the Board pursuant to a resolution adopted by the Board in accordance with Section 3.1 designating the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any). CBOE also proposes to amend Section 3.5 of the Bylaws relating to the filling of vacancies on the Board to provide that the Representative Director Nominating Body shall only recommend individuals to fill a vacancy in a Representative Director position who satisfy the compositional requirements designated by the Board pursuant to resolution adopted by the Board in accordance with Section 3.1, designating the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any). CBOE believes that these changes are consistent with the changes to the Bylaws that were made last year and simply makes those changes more explicit.

<sup>4</sup> See Securities Exchange Act Release No. 65682 (November 3, 2011), 76 FR 69780 (November 9, 2011) (noticing for comment SR-CBOE-2011-099); Securities Exchange Act Release No. 65980 (December 15, 2011), 76 FR 79252 (December 21, 2011) (approving SR-CBOE-2011-099).

<sup>5</sup> See, e.g., Securities Exchange Act Release No. 48946 (December 17, 2003), 68 FR 74678 (December 24, 2003) (approving SR-NYSE-2003-34).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(31).

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

<sup>2</sup> 17 CFR 240.19b-4.