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SECURITIES AND EXCHANGE COMMISSION  
[Release No. 34-72082; File No. SR-CBOE-2014-038]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Availability of Certain Delayed Market Data on CBOE Websites

May 2, 2014.

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 April 22, 2014, 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 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

Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) proposes to make certain market data available on a delayed basis on its website and other websites. The text of the proposed rule change is available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

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

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

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 purpose of the proposed rule change is to allow the Exchange to make certain market data available on a delayed basis on its website ([www.cboe.com](http://www.cboe.com)) and other websites including its social media websites and websites of CBOE's affiliates (collectively, "CBOE Websites").

Specifically, the Exchange proposes to publish on CBOE Websites last sale information<sup>3</sup> regarding "large" options trades that occur in open outcry on the CBOE trading floor. A "large" trade for purposes of this proposed rule change is a trade with a quantity of 5,000 contracts or more. Last sale information would be published for executions of both simple orders and multi-part ("complex") orders. This last sale information is referred to herein as the "Data".

The Data would be published continuously on CBOE Websites throughout the trading day on a "delayed" basis, i.e., data would not be made available on CBOE Websites sooner than fifteen (15) minutes after the same information has been made

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<sup>3</sup> Last sale information includes price, volume or related information reflecting completed transactions. It does not include information regarding the parties to a trade.

publicly available by the Options Price Reporting Authority (“OPRA”).

The Data would be made publicly available to all users of CBOE websites at no charge.

## 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.<sup>4</sup>

Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>5</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the Data would be made publicly available to all users of CBOE Websites on an equivalent basis.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that this proposal is in keeping with those principles by promoting increased transparency through the dissemination of useful data and also by clarifying its availability to market participants.

### 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. The Exchange believes the proposed rule change is pro-competitive in that it would allow

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

<sup>5</sup> Id.

the Exchange to provide investors with an additional option for accessing certain CBOE last sale information that may help to inform their trading decisions. Last sale information for simple orders that would be published pursuant to this proposed rule change is also available in the OPRA data feed and from market data vendors. Last sale information for complex orders that would be published pursuant to this proposal is also available in the CBOE COB Data Feed<sup>6</sup> and from market data vendors. Additionally, all of the Data is included in the CBOE BBO Data Feed made available by MDX. Furthermore, the CBOE website includes a feature that provides delayed data for options (as do many other financial websites). The Exchange believes the proposed rule change would help attract more visitors to CBOE Websites, which in turn may help attract new users and new order flow to the Exchange, thereby improving the Exchange's ability to compete in the market for options order flow and executions.

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

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written

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<sup>6</sup> The CBOE COB Data Feed is made available by CBOE's affiliate Market Data Express, LLC ("MDX").

notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,<sup>7</sup> the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup> 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2014-038 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.

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<sup>7</sup> The Exchange has fulfilled this requirement.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

All submissions should refer to File Number SR-CBOE-2014-038. This file number should be included on the subject line if e-mail 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 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-2014-038 and should be submitted on or before [INSERT DATE 21 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Kevin M. O'Neill,  
Deputy Secretary.

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<sup>10</sup> 17 CFR 200.30-3(a)(12).