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Page 1 of * <input style="width: 40px;" type="text" value="41"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input style="width: 40px;" type="text" value="2016"/> - * <input style="width: 40px;" type="text" value="007"/> Amendment No. (req. for Amendments *) <input style="width: 40px;" type="text"/>
Filing by Chicago Board Options Exchange Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934		
Initial * <input checked="" type="checkbox"/> Amendment * <input type="checkbox"/> Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/> Section 19(b)(3)(A) * <input checked="" type="checkbox"/> Section 19(b)(3)(B) * <input type="checkbox"/> <div style="text-align: center;">Rule</div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input checked="" type="checkbox"/> 19b-4(f)(6) </div> </div>	
Pilot <input type="checkbox"/> Extension of Time Period for Commission Action * <input type="checkbox"/> Date Expires * <input style="width: 80px;" type="text"/>	Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) * <input type="checkbox"/> Section 806(e)(2) * <input type="checkbox"/>	
Exhibit 2 Sent As Paper Document <input checked="" type="checkbox"/>		Exhibit 3 Sent As Paper Document <input checked="" type="checkbox"/>
Description Provide a brief description of the action (limit 250 characters, required when Initial is checked *). <div style="border: 1px solid black; padding: 5px; min-height: 40px;"> Proposal to adopt a principles-based approach to prohibit the misuse of material nonpublic information by Designated Primary Market-Makers ("DPMs") and Lead Market-Makers ("LMMs"). </div>		
Contact Information Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action. <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> First Name * <input style="width: 240px;" type="text" value="Nicholas"/> Title * <input style="width: 550px;" type="text" value="Counsel"/> E-mail * <input style="width: 550px;" type="text" value="still@cboe.com"/> Telephone * <input style="width: 100px;" type="text" value="(773) 983-5694"/> </div> <div style="width: 45%;"> Last Name * <input style="width: 240px;" type="text" value="Still"/> Fax <input style="width: 100px;" type="text"/> </div> </div>		
Signature Pursuant to the requirements of the Securities Exchange Act of 1934, has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized. <div style="text-align: right;">(Title *)</div> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 30%;"> Date <input style="width: 80px;" type="text" value="02/01/2016"/> By <input style="width: 260px;" type="text" value="Nicholas Still"/> <div style="text-align: center; font-size: small;">(Name *)</div> </div> <div style="width: 60%;"> <input style="width: 320px; height: 40px;" type="text" value="Counsel"/> </div> </div> <div style="margin-top: 10px; font-size: small;"> NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed. </div> <div style="text-align: center; margin-top: 10px; background-color: #cccccc; padding: 2px 10px; font-weight: bold;"> Persona Not Validated - 1444950452474, </div>		

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFT website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

Item 1. Text of the Proposed Rule Change

(a) Chicago Board Options Exchange, Incorporated (the “Exchange” or “CBOE”) proposes to adopt a principles-based approach to prohibit the misuse of material nonpublic information by Designated Primary Market-Makers (“DPMs”) and Lead Market-Makers (“LMMs”). The text of the proposed rule change is provided in Exhibit 5.

(b) Not applicable.

(c) Not applicable.

Item 2. Procedures of the Self-Regulatory Organization

(a) The Exchange’s Chief Regulatory Officer pursuant to delegated authority approved the proposed rule change on November 9, 2015.

(b) Please refer questions and comments on the proposed rule change to Joanne Moffic-Silver, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7462, or Nick Still, (312) 786-7006, Chicago Board Options Exchange, Incorporated, 400 South LaSalle, Chicago, Illinois 60605.

Item 3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The Exchange proposes to adopt a principles-based approach to prohibit the misuse of material, nonpublic information by DPMs and LMMs by deleting Rule 8.91, sub-paragraph (b)(5) of Rule 8.15 and paragraph(b)(vii) of Rule 8.15A. In so doing, the Exchange would harmonize its rules related to the preventing the misuse of material, nonpublic information for every Trading Permit Holder (“TPH”). The Exchange believes that Rule 8.91, Rule 8.15(b)(5) and Rule 8.15A(b)(vii) are no longer necessary because

all TPH, including DPMs and LMMs are subject to the Exchange's general principles-based requirements governing the protection against misuse of material, nonpublic information, pursuant to Rule 4.18 (Prevention of the Misuse of Material, Nonpublic Information), which obviates the need for separately prescribed requirements for a subset of market participants on the Exchange.

Background

The Exchange has three classes of registered Market-Makers. Pursuant to Rule 8.1, a Market-Maker is an individual TPH or TPH organization that is registered with the Exchange for the purpose of making transactions as a dealer-specialist on the Exchange. All Market-Makers are subject to the requirements of Rule 8.7, which set forth the obligations of Market-Makers, including quoting activity.

Rule 8.85 outlines the obligations of DPM's, which, in addition to the Market-Maker obligations of Rule 8.7, must fulfill a number of increased obligations including providing continuous electronic quotes, assuring that each of the displayed market quotations is honored, and complying heightened with bid/ask differential requirements.¹

Rule 8.15 states that the Exchange may appoint, in an option class for which a DPM has not been appointed, one or more Market-Makers in good standing as LMMs and Supplemental Market-Makers ("SMMs") to participate in opening rotation procedures for Hybrid 3.0 classes and/or to determine a formula for generating updated market quotations during the trading day. LMM's in Hybrid 3.0 classes are obligated to

¹ Compare Rule 8.85(a)(i) ("[Each DPM shall] provide continuous electronic quotes...in at least 99% of the non-adjusted options series or 100% of the non-adjusted option series minus one call-put pair...") with Rule 8.7(d)(ii)(B) ("A Market-Maker will be required to maintain continuous electronic quotes...in 60% of the non-adjusted option series of the Market-Maker's appointed classes that have a time to expiration of less than nine months.").

quote a firm two-sided market of sufficient size to accommodate a relatively active opening within the bid/ask differential requirements determined by the Exchange.

Rule 8.15A states the Exchange may appoint one or more Market-Makers in good standing with an appointment in a Hybrid-Trading system option class for which a DPM has not been appointed as LMMs. Much like DPMs LMMs in Hybrid Classes are subject to increased obligations that include providing continuous electronic quotes that comply with the bid/ask differential requirements determined by the Exchange.

Pursuant to Rules 8.15B and 8.87, the exchange may establish participation entitlements for LMM's and DPMs appointed pursuant to the aforementioned Rules. DPM's and LMM's must meet specific obligations prior to being awarded a participation entitlements.

Whether operating on the CBOE Trading Floor or from a remote location, all Market-Makers, including DPMs and LMMs, have access to the same information in the Consolidated Book that is available to all other market participants. Moreover, none of the Exchange's Market-Makers have agency obligations to the Exchange's Order Book. As such, the primary distinctions between Market-Makers and DPMs and LMMs are the increased quoting requirements and allocation entitlements.

Despite the fact that Market-Makers, DPMs and LMMs have access to the same trading information as all other market participants on the Exchange, the Exchange has distinct rules governing how DPMs and LMMs may operate. Rule 8.91(a) specifies that a DPM shall maintain information barriers that are reasonably designed to prevent the misuse of material, nonpublic information with any affiliates that may conduct a brokerage business in option classes allocated to the DPM or act as a specialist or market-

maker in any security underlying options allocated to the DPM. Rule 8.91 also requires a DPM provide its information barriers to the Exchange and obtain prior written approval.

Rule 8.15(b)(5) requires LMMs in Hybrid 3.0 classes maintain information barriers that are reasonably designed to prevent the misuse of material, nonpublic information with any affiliates that may conduct a brokerage business in option classes allocated to the LMM or act as specialist or Market-Maker in any security underlying options allocated to the LMM. Rule 8.15A(b)(vii) similarly requires LMMs in Hybrid classes maintain information barriers that are reasonably designed to prevent the misuse of material, nonpublic information with any affiliates that may conduct a brokerage business in option classes allocated to the LMM or act as specialist or Market-Maker in any security underlying options allocated to the LMM. Neither Rule 8.15 nor 8.15A require the prior Exchange approval of information barriers outlined in Rule 8.91.

Proposed Rule Change

The Exchange believes the particularized guidelines in Rules, 8.91, 8.15(b)(5) and 8.15A(b)(vii) for DPMs, LMMs in Hybrid 3.0 classes, and LMMs in Hybrid classes, respectively, are no longer necessary and proposes to delete them. Rather, the Exchange believes that Rule 4.18, governing the misuse of material, nonpublic information provides for an appropriate, principles-based approach to prevent the type of market abuses Rules 8.91, 8.15(b)(5) and 8.15A(b)(vii) are designed to address. Specifically, Rule 4.18 requires every TPH shall establish, maintain and enforce written policies and procedures reasonably designed, taking into consideration the nature of such TPH's business, to prevent the misuse, in violation of the Exchange Act and Exchange Rules, of material, nonpublic information by such TPH or persons associated with such TPH. For the

purposes of this Rule, conduct constituting the misuse of material, nonpublic information in violation of the Exchange Act and Exchange Rules includes, but is not limited to, the following:

- a) Trading in any securities issued by a corporation, partnership, Trust Issued Receipts or Units (as defined in Exchange Rules) or a trust or similar entities, or in any related securities or related options or other derivative securities, or in any related non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency, or in any related commodity, related commodity futures or options on commodity futures or in any related commodity derivatives, while in possession of material, nonpublic information concerning that corporation, partnership, Trust Issued Receipts, or those Units, or that trust or similar entities;
- b) Trading in an underlying security or related options or other derivative securities, or in any related non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or in any related commodity, related commodity futures or options on commodity futures or any other related commodities derivatives, or any other derivatives based on such currency while in possession of material nonpublic information concerning imminent transactions in the above; and
- c) Disclosing to another person or entity any material, nonpublic information involving a corporation, partnership, Trust Issued Receipts, or Units or a trust or similar entities whose shares are publicly traded or an imminent transactions in an underlying security or related securities or in the underlying non-U.S. currency of

any related non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency, or in any related commodity, related commodity futures or options on commodity futures or any other related commodity derivatives, for the purpose of facilitating the possible misuse of such material, nonpublic information.

Because DPMs and LMMs are already subject to the requirements of Rule 4.18, the Exchange does not believe that it is necessary to separately require specific limitations on dealings between DPMs and LMMs and affiliates. Deleting Rules 8.91, 8.15(b)(5) and 8.15A(b)(vii) would provide DPMs and LMMs with the flexibility to adapt their policies and procedures as appropriate to reflect changes to their business model, business activities, or the securities market in a manner similar to how Market-Makers on the Exchange currently operate consistent with Rule 4.18.

As noted above, DPMs and LMMs are distinguished under Exchange Rules from other types of Market-Makers only to the extent that they have certain heightened obligations and potential allocation entitlements. However, none of these heightened obligations provides different or greater access to nonpublic information than any other market participant on the Exchange. Specifically, whether on the CBOE Trading Floor or remotely, neither DPMs nor LMMs on the Exchange have access to trading information provided by the Exchange, either at, or prior to, the point of execution, that is not made available to all other market participants on the Exchange in a similar manner. Further, as noted above, DPMs and LMMs on the Exchange do not have any agency responsibilities for orders in the Order Book. Accordingly, because DPMs and LMMs do not have any trading advantages at the Exchange due to their market role, the Exchange

believes that they should be subject to the same rules regarding the prevention of the misuse of material, nonpublic information, specifically Rule 4.18.²

The Exchange notes that its proposed approach to use a principles-based approach to protecting against the misuse of material nonpublic information for all of its registered Market-Makers is consistent with recently filed rule changes for NYSE MKT, LLC on behalf of NYSE Amex Options, International Securities Exchange, LLC (“ISE”) and BOX Options Exchange, LLC (“BOX”).³ The proposed approach is also consistent with approved rule changes for NYSE Arca Equities Inc. (“NYSE Arca”), BATS Exchange Inc. (“BATS”) and New York Stock Exchange, LLC (“NYSE”) rules governing cash equity Market-Makers on those respective exchanges.⁴ Except for prescribed rules

² The Exchange notes that by deleting Rule 8.91, the Exchange would no longer require specific information barriers for DPMs or require pre-approval of any information barriers that a DPM would erect for purposes of protecting against the misuse of material nonpublic information. However, as is the case today with Market-Makers, information barriers of new entrants, including new DPMs, would be subject to review as part of a new firm application. Moreover, the policies and procedures of DPMs and LMMs, including those relating to information barriers, would be subject to review by FINRA, on behalf of the Exchange, pursuant to a Regulatory Services Agreement.

³ See Securities Exchange Act Release Nos. 75432 (July 13, 2015), 80 FR 42597 (July 17, 2015) (Order Approving Adopting a Principles-Based Approach to Prohibit the Misuse of Material Nonpublic Information by Specialists and e-Specialists by Deleting Rule 927.3NY and Section (f) of Rule 927.5NY); 75792 (August 31, 2015), 80 FR 53606 (September 4, 2015) (SR-ISE-2015-26) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting a Principles-Based Approach to Prohibit the Misuse of Material, non-public Information by Market Makers by Deleting Rule 810); 75916 (September 14, 2015), 80 FR 56503 (September 18, 2015) (SR-BOX-2015-31) (Notice of Filing and immediate Effectiveness of Proposed Rule Change to Adopt a Principles-based Approach to Prohibit the Misuse of Material Nonpublic Information by Market Makers).

⁴ See Securities Exchange Act Release Nos. 60604 (Sept. 2, 2009), 76 FR 46272 (Sept. 8, 2009) (SR-NYSEArca-2009-78) (Order approving elimination of NYSE Arca rule that required market makers to establish and maintain specifically prescribed information barriers, including discussion of NYSE Arca and Nasdaq rules) (“Arca Approval Order”); 61574 (Feb. 23, 2010), 75 FR 9455 (Mar. 2, 2010) (SR-BATS-2010-003) (Order approving amendments to BATS Rule 5.5 to move to a principles-based

relating to floor-based designated Market-Makers on the NYSE, who have access to specified nonpublic trading information, each of these exchanges have moved to a principles-based approach to protecting against the misuse of material, nonpublic information. In connection with approving those rule changes, the Commission found that eliminating redundant information barrier requirements should not reduce the effectiveness of exchange rules requiring its members or participants to establish and maintain systems to supervise the activities of its members, including written procedures reasonably designed to ensure compliance with applicable federal securities law and regulations, and with the rules of the applicable exchange.⁵

The Exchange notes that even with this proposed rule change, pursuant to Rule 4.18, a DPM or LMM would still be obligated to ensure that its policies and procedures reflect the current state of its business and continue to be reasonably designed to prevent the misuse of material, nonpublic information. While information barriers would not specifically be required under the proposal, Rule 4.18 already requires that a TPH consider the nature of the TPH's business in structuring its policies and procedures, which may dictate that an information barrier or a functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities law and regulations, and with applicable Exchange rules.

approach to protecting against the misuse of material, non-public information, and noting that the proposed change is consistent with the approaches of NYSE Arca and Nasdaq) ("BATS Approval Order"); and 72534 (July 3, 2014), 79 FR 39440 (July 10, 2014), SR-NYSE-2014-12) (Order approving amendments to NYSE Rule 98 governing designated market makers to move to a principles-based approach to prohibit the misuse of material non-public information) ("NYSE Approval Order").

⁵ See, e.g., BATS Approval Order, *supra* note 4 at 9458.

The Exchange is not proposing to change what is considered to be material, non-public information and, thus does not expect there to be any changes to the types of information that an affiliated brokerage business of a market maker could share with such market maker. In that regard, the proposed rule change will not permit the brokerage unit of a TPH firm to have access to any non-public order or quote information of affiliated market maker, including hidden or undisplayed orders and quotes on the Exchange. TPHs do not expect to receive any additional order or quote information as a result of this proposed rule change.

Further, the Exchange does not believe that there will be any material change to TPH information barriers as a result of removal of the Exchange's pre-approval requirements for DPMs. In fact, the Exchange anticipates that eliminating the pre-approval requirement should facilitate implementation of changes to TPH information barriers as necessary to protect against the misuse of material, non-public information. The Exchange also suggests that the pre-approval requirement is unnecessary because DPMs do not have agency responsibilities to the book. However, as is the case today with market makers, information barriers of new entrants would be subject to review as part of a new firm application. Moreover, the policies and procedures of market makers, including those relating to information barriers would be subject to review by FINRA, on behalf of the Exchange, pursuant to a Regulatory Services Agreement.

The Exchange further notes that under Rule 4.18, a TPH would be able would be able to structure its firm to provide for its options DPMs or LMMs, as applicable, to be structured with its equities and customer-facing businesses, provided that any such structuring would be done in a manner reasonably designed to protect against the misuse

of material, nonpublic information. For example, pursuant to Rule 4.18, a DPM on the Exchange could be in the same independent trading unit, as defined in Rule 200(f) of Regulation SHO,⁶ as an equities Market-Maker and other trading desks within the firm, including options trading desks, so that the firm could share post-trade information to better manage its risk across related securities. The Exchange believes it is appropriate, and consistent with Rule 4.18 and section 15(g) of the Act⁷ for a firm to share options position and related hedging position information (e.g., equities, futures, and foreign currency) within a firm to better manage risk on a firm-wide basis. The Exchange notes, however, that if so structured, a firm would need to have appropriate policies and procedures, including information barriers as applicable, to protect against the misuse of material non-public information, and specifically customer information consistent with Rule 4.18. The Exchange further notes that Federal rules supersede Exchange rules in the event of any conflicts regarding the misuse of material non-public information.

The Exchange believes that the proposed reliance on the principles-based Rule 4.18 would ensure that a TPH that operates a DPM or LMM would be required to protect against the misuse of any material nonpublic information. As noted above, Rule 4.18 already requires that firms refrain from trading while in possession of material nonpublic information concerning imminent transactions in a security or related product. The Exchange believes that moving to a principles-based approach rather than prescribing how and when to wall off a DPM or LMM from the rest of the firm would provide TPH operating DPMs or LMMs with appropriate tools to better manage risk across a firm, including integrating options positions with other positions of the firm or, as applicable,

⁶ 17 CFR Part 242.200(f).

⁷ 15 U.S.C. 78o(g).

by the respective independent trading unit. Specifically, the Exchange believes that it is appropriate for risk management purposes for a TPH operating a DPM or LMM to be able to consider both DPM/LMM traded-positions for the purposes of calculating net positions consistent with Rule 200 of Regulation SHO⁸, calculating intra-day net capital positions, and managing risk both generally as well as in compliance with Rule 15c3-5 under the Act (the “Market Access Rule”).⁹ The Exchange notes that any risk management operations would need to operate consistent with the requirement to protect against the misuse of material non-public information.

The Exchange further notes that if DPMs or LMMs are integrated with other Market-Making operations, they would be subject to existing rules that prohibit TPH from disadvantaging their customers or other market participants by improperly capitalizing of a TPH organization’s access to the receipt of material nonpublic information. As such, a TPH organization that integrates its DPM or LMM operations together with equity Market-Making, would need to protect customer information consistent with existing obligations to protect such information. The Exchange has rules prohibiting TPHs from disadvantaging their customers or other market participants by improperly capitalizing on the TPH’s access to or receipt of material nonpublic information. For example, Rule 4.24(e) requires Each TPH shall establish, maintain, and enforce written supervisory procedures reasonably designed to prevent and detect violations of applicable securities laws and regulations, and applicable Exchange rules. Additionally Rule 6.9(e) prevents a TPH or person associated with a TPH, who has knowledge of all material terms and conditions of an original order and a solicited order,

⁸ 17 CFR Part 242.200.

⁹ 17 CFR Part 240.15c3-5.

including a facilitation order, to enter, based on such knowledge, an order to buy or sell an option of the same class as an option that is the subject of the original order, or an order to buy or sell the security underlying such class, or an order to buy or sell any related instrument unless certain circumstances are met.

(b) 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.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ 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)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market by adopting a principles-based approach to permit a TPH operating a DPM or LMM to maintain and

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² Id.

enforce policies and procedures to, among other things, prohibit the misuse of material nonpublic information. The proposed rule change would further eliminate restrictions on how a TPH structures its DPM and LMM operations. The Exchange notes that the proposed rule change is based on an approved rule of the Exchange to which DPMs and LMMs are already subject-Rule 4.18-and harmonizes the rules governing DPMs, LMMs and Market-Makers. Moreover, TPH operating DPMs and LMMs would continue to be subject to federal and Exchange requirements for protecting material nonpublic order information.¹³ The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market because it would harmonize the Exchange's approach to protecting against the misuse of material nonpublic information and no longer subject DPMs and LMMs to redundant requirements. The Exchange does not believe that the existing requirements applicable to DPMs and LMMs are narrowly tailored to their respective roles because neither market participant has access to Exchange trading information in a manner different from any other market participant on the Exchange and they do not have agency responsibilities to the Order Book.

The Exchange further believes the proposal is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because existing rules make clear to all TPH the type of conduct that is prohibited by the Exchange. While the proposal eliminates certain requirements relating to the misuse of material nonpublic information, DPMs, LMMs and all other TPH would remain subject to existing Exchange rules requiring them to establish and maintain systems to supervise

¹³ See 15 U.S.C. 78o(g) and Rule 4.18.

their activities, and to create, implement, and maintain written procedures that are reasonably designed to comply with applicable securities laws and Exchange rules, including the prohibition on the misuse of material nonpublic information.

The Exchange notes that the proposed rule change would still require that a TPH operating DPMs and LMMs maintain and enforce policies and procedures designed to ensure compliance with applicable federal securities laws and regulations and with Exchange rules. Even though there would no longer be pre-approval of DPM information barriers, and DPM or LMM written policies and procedures would continue to be subject to oversight by the Exchange and therefore the elimination of specific restrictions should not reduce the effectiveness of the Exchange rules to protect against the misuse of material nonpublic information. Rather, TPH will be able to utilize a flexible, principles-based approach to modify their policies and procedures as appropriate to reflect changes to their business model, business activities, or to the securities market itself. Moreover, while specified information barriers may no longer be required, a TPH's business model or business activities may dictate that an information barrier or functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange rules. The Exchange therefore believes that the proposed rule change will maintain the existing protection of investors and the public interest that is currently applicable to DPM's and LMM's, while at the same time removing impediments to and perfecting a free and open market by moving to a principles-based approach to protect against the misuse of material nonpublic information.

Item 4. 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. To the contrary, the Exchange believes that the proposal will enhance competition by allowing DPMs and LMMs to comply with applicable Exchange rules in a manner best suited to their business models, business activities and the securities markets, thus reducing regulatory burdens while still ensuring compliance with applicable securities laws and regulations and Exchange rules. The Exchange believes that the proposal will foster a fair and orderly marketplace without being overly burdensome upon DPMs and LMMs.

Moreover, the Exchange believes that the proposed rule change would eliminate a burden on competition for TPH which currently exists as a result of disparate rule treatment between the options and equities markets regarding how to protect against the misuse of material, nonpublic information. For those TPH that are also members of equities exchanges their respective equity Market-Maker operations are now subject to a principles-based approach to protecting against the misuse of material nonpublic information. The Exchange believes it would remove a burden on competition to enable TPH to similarly apply a principles-based approach to protecting against the misuse of material nonpublic information in the options space. To this end, the Exchange notes that Rule 4.18 still requires a TPH that operates as a Market-Maker on the Exchange, including a DPM or LMM, to evaluate its business to assure that its policies and procedures are reasonably designed to protect against the misuse of material, non-public information. However, with this proposed rule change, a TPH that trades equities and options could look at its firm more holistically to structure its operations in a manner that

provides it with better tools to manage risks across multiple security classes, while at the same time protecting against the misuse of material nonpublic information.

Item 5. 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.

Item 6. Extension of Time Period for Commission Action

Not applicable.

Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

(a) The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A) of Act¹⁴ and Rule 19b-4(f)(6)¹⁵ thereunder.

(b) The Exchange designates that the proposed rule change effects a change that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Additionally, the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6).

The Exchange notes that the proposed rule change simply deletes specific information barrier requirements for DPMs and LMMs in favor of a principles-based approach to prohibiting the misuse of material nonpublic information that applies to all TPH in the same manner that proposed rule changes of other options exchanges have recently done.¹⁶

For the foregoing reasons, this rule filing qualifies as a “non-controversial” rule change under Rule 19b-4(f)(6), which renders the proposed rule change effective upon filing with the Commission. At any time within 60 days of the filing of this 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.

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. Waiver of the operative delay is consistent with the protection of investors and the public interest because it will ensure fair competition among the exchanges by allowing the Exchange to adopt a principles based-approach to protecting against the misuse of material nonpublic information in the options space.

(c) Not applicable.

¹⁶ See the ISE, BOX and NYSE Amex Options proposed rule changes cited above at footnote 3. Similar to those filings, the proposed rule change would still require that DPMs and LMMs maintain and enforce written policies and procedures reasonably designed to ensure compliance with applicable federal securities laws and regulations and with Exchange rules.

(d) Not applicable.

Item 8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is based upon the NYSE MKT, NYSE Arca, BATS, NYSE, ISE and BOX proposed rule changes discussed above.

Item 9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

Item 10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

Item 11. Exhibits

Exhibit 1. Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 5. Proposed Rule text.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-CBOE-2016-007]

[Insert date]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to adopting a principles-based approach to prohibit the misuse of material nonpublic information by Designated Primary Market-Makers (“DPMs”) and Lead Market-Makers (“LMMs”).

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 [insert date], 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 Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 proposes to adopt a principles-based approach to prohibit the misuse of material, nonpublic information by DPMs and LMMs by deleting Rule 8.91, sub-paragraph (b)(5) of Rule 8.15 and paragraph(b)(vii) of Rule 8.15A. In so doing, the Exchange would harmonize its rules related to the preventing the misuse of material, nonpublic information for every Trading Permit Holder ("TPH"). The Exchange believes that Rule 8.91, Rule 8.15(b)(5) and Rule 8.15A(b)(vii) are no longer necessary because all TPH, including DPMs and LMMs are subject to the Exchange's general principles-based requirements governing the protection against misuse of material, nonpublic information, pursuant to Rule 4.18 (Prevention of the Misuse of Material, Nonpublic Information), which obviates the need for separately prescribed requirements for a subset of market participants on the Exchange.

Background

The Exchange has three classes of registered Market-Makers. Pursuant to Rule 8.1, a Market-Maker is an individual TPH or TPH organization that is registered with the Exchange for the purpose of making transactions as a dealer-specialist on the Exchange.

All Market-Makers are subject to the requirements of Rule 8.7, which set forth the obligations of Market-Makers, including quoting activity.

Rule 8.85 outlines the obligations of DPM's, which, in addition to the Market-Maker obligations of Rule 8.7, must fulfill a number of increased obligations including providing continuous electronic quotes, assuring that each of the displayed market quotations is honored, and complying heightened with bid/ask differential requirements.⁵

Rule 8.15 states that the Exchange may appoint, in an option class for which a DPM has not been appointed, one or more Market-Makers in good standing as LMMs and Supplemental Market-Makers ("SMMs") to participate in opening rotation procedures for Hybrid 3.0 classes and/or to determine a formula for generating updated market quotations during the trading day. LMM's in Hybrid 3.0 classes are obligated to quote a firm two-sided market of sufficient size to accommodate a relatively active opening within the bid/ask differential requirements determined by the Exchange.

Rule 8.15A states the Exchange may appoint one or more Market-Makers in good standing with an appointment in a Hybrid-Trading system option class for which a DPM has not been appointed as LMMs. Much like DPMs LMMs in Hybrid Classes are subject to increased obligations that include providing continuous electronic quotes that comply with the bid/ask differential requirements determined by the Exchange.

Pursuant to Rules 8.15B and 8.87, the exchange may establish participation entitlements for LMM's and DPMs appointed pursuant to the aforementioned Rules.

⁵ Compare Rule 8.85(a)(i) ("[Each DPM shall] provide continuous electronic quotes...in at least 99% of the non-adjusted options series or 100% of the non-adjusted option series minus one call-put pair...") with Rule 8.7(d)(ii)(B) ("A Market-Maker will be required to maintain continuous electronic quotes...in 60% of the non-adjusted option series of the Market-Maker's appointed classes that have a time to expiration of less than nine months.").

DPM's and LMM's must meet specific obligations prior to being awarded a participation entitlements.

Whether operating on the CBOE Trading Floor or from a remote location, all Market-Makers, including DPMs and LMMs, have access to the same information in the Consolidated Book that is available to all other market participants. Moreover, none of the Exchange's Market-Makers have agency obligations to the Exchange's Order Book. As such, the primary distinctions between Market-Makers and DPMs and LMMs are the increased quoting requirements and allocation entitlements.

Despite the fact that Market-Makers, DPMs and LMMs have access to the same trading information as all other market participants on the Exchange, the Exchange has distinct rules governing how DPMs and LMMs may operate. Rule 8.91(a) specifies that a DPM shall maintain information barriers that are reasonably designed to prevent the misuse of material, nonpublic information with any affiliates that may conduct a brokerage business in option classes allocated to the DPM or act as a specialist or market-maker in any security underlying options allocated to the DPM. Rule 8.91 also requires a DPM provide its information barriers to the Exchange and obtain prior written approval.

Rule 8.15(b)(5) requires LMMs in Hybrid 3.0 classes maintain information barriers that are reasonably designed to prevent the misuse of material, nonpublic information with any affiliates that may conduct a brokerage business in option classes allocated to the LMM or act as specialist or Market-Maker in any security underlying options allocated to the LMM. Rule 8.15A(b)(vii) similarly requires LMMs in Hybrid classes maintain information barriers that are reasonably designed to prevent the misuse of material, nonpublic information with any affiliates that may conduct a brokerage

business in option classes allocated to the LMM or act as specialist or Market-Maker in any security underlying options allocated to the LMM. Neither Rule 8.15 nor 8.15A require the prior Exchange approval of information barriers outlined in Rule 8.91.

Proposed Rule Change

The Exchange believes the particularized guidelines in Rules, 8.91, 8.15(b)(5) and 8.15A(b)(vii) for DPMs, LMMs in Hybrid 3.0 classes, and LMMs in Hybrid classes, respectively, are no longer necessary and proposes to delete them. Rather, the Exchange believes that Rule 4.18, governing the misuse of material, nonpublic information provides for an appropriate, principles-based approach to prevent the type of market abuses Rules 8.91, 8.15(b)(5) and 8.15A(b)(vii) are designed to address. Specifically, Rule 4.18 requires every TPH shall establish, maintain and enforce written policies and procedures reasonably designed, taking into consideration the nature of such TPH's business, to prevent the misuse, in violation of the Exchange Act and Exchange Rules, of material, nonpublic information by such TPH or persons associated with such TPH. For the purposes of this Rule, conduct constituting the misuse of material, nonpublic information in violation of the Exchange Act and Exchange Rules includes, but is not limited to, the following:

- a) Trading in any securities issued by a corporation, partnership, Trust Issued Receipts or Units (as defined in Exchange Rules) or a trust or similar entities, or in any related securities or related options or other derivative securities, or in any related non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency, or in any related commodity, related commodity futures or options on commodity futures or in any related

commodity derivatives, while in possession of material, nonpublic information concerning that corporation, partnership, Trust Issued Receipts, or those Units, or that trust or similar entities;

- b) Trading in an underlying security or related options or other derivative securities, or in any related non-U.S. currency, non-U.S. currency options, futures or options on futures on such currency, or in any related commodity, related commodity futures or options on commodity futures or any other related commodities derivatives, or any other derivatives based on such currency while in possession of material nonpublic information concerning imminent transactions in the above; and
- c) Disclosing to another person or entity any material, nonpublic information involving a corporation, partnership, Trust Issued Receipts, or Units or a trust or similar entities whose shares are publicly traded or an imminent transactions in an underlying security or related securities or in the underlying non-U.S. currency of any related non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency, or in any related commodity, related commodity futures or options on commodity futures or any other related commodity derivatives, for the purpose of facilitating the possible misuse of such material, nonpublic information.

Because DPMs and LMMs are already subject to the requirements of Rule 4.18, the Exchange does not believe that it is necessary to separately require specific limitations on dealings between DPMs and LMMs and affiliates. Deleting Rules 8.91, 8.15(b)(5) and 8.15A(b)(vii) would provide DPMs and LMMs with the flexibility to

adapt their policies and procedures as appropriate to reflect changes to their business model, business activities, or the securities market in a manner similar to how Market-Makers on the Exchange currently operate consistent with Rule 4.18.

As noted above, DPMs and LMMs are distinguished under Exchange Rules from other types of Market-Makers only to the extent that they have certain heightened obligations and potential allocation entitlements. However, none of these heightened obligations provides different or greater access to nonpublic information than any other market participant on the Exchange. Specifically, whether on the CBOE Trading Floor or remotely, neither DPMs nor LMMs on the Exchange have access to trading information provided by the Exchange, either at, or prior to, the point of execution, that is not made available to all other market participants on the Exchange in a similar manner. Further, as noted above, DPMs and LMMs on the Exchange do not have any agency responsibilities for orders in the Order Book. Accordingly, because DPMs and LMMs do not have any trading advantages at the Exchange due to their market role, the Exchange believes that they should be subject to the same rules regarding the prevention of the misuse of material, nonpublic information, specifically Rule 4.18.⁶

The Exchange notes that its proposed approach to use a principles-based approach to protecting against the misuse of material nonpublic information for all of its registered Market-Makers is consistent with recently filed rule changes for NYSE MKT, LLC on

⁶ The Exchange notes that by deleting Rule 8.91, the Exchange would no longer require specific information barriers for DPMs or require pre-approval of any information barriers that a DPM would erect for purposes of protecting against the misuse of material nonpublic information. However, as is the case today with Market-Makers, information barriers of new entrants, including new DPMs, would be subject to review as part of a new firm application. Moreover, the policies and procedures of DPMs and LMMs, including those relating to information barriers, would be subject to review by FINRA, on behalf of the Exchange, pursuant to a Regulatory Services Agreement.

behalf of NYSE Amex Options, International Securities Exchange, LLC (“ISE”) and BOX Options Exchange, LLC (“BOX”).⁷ The proposed approach is also consistent with approved rule changes for NYSE Arca Equities Inc. (“NYSE Arca”), BATS Exchange Inc. (“BATS”) and New York Stock Exchange, LLC (“NYSE”) rules governing cash equity Market-Makers on those respective exchanges.⁸ Except for prescribed rules relating to floor-based designated Market-Makers on the NYSE, who have access to specified nonpublic trading information, each of these exchanges have moved to a principles-based approach to protecting against the misuse of material, nonpublic information. In connection with approving those rule changes, the Commission found that eliminating redundant information barrier requirements should not reduce the effectiveness of exchange rules requiring its members or participants to establish and

⁷ See Securities Exchange Act Release Nos. 75432 (July 13, 2015), 80 FR 42597 (July 17, 2015) (Order Approving Adopting a Principles-Based Approach to Prohibit the Misuse of Material Nonpublic Information by Specialists and e-Specialists by Deleting Rule 927.3NY and Section (f) of Rule 927.5NY); 75792 (August 31, 2015), 80 FR 53606 (September 4, 2015) (SR-ISE-2015-26) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting a Principles-Based Approach to Prohibit the Misuse of Material, non-public Information by Market Makers by Deleting Rule 810); 75916 (September 14, 2015), 80 FR 56503 (September 18, 2015) (SR-BOX-2015-31) (Notice of Filing and immediate Effectiveness of Proposed Rule Change to Adopt a Principles-based Approach to Prohibit the Misuse of Material Nonpublic Information by Market Makers).

⁸ See Securities Exchange Act Release Nos. 60604 (Sept. 2, 2009), 76 FR 46272 (Sept. 8, 2009) (SR-NYSEArca-2009-78) (Order approving elimination of NYSE Arca rule that required market makers to establish and maintain specifically prescribed information barriers, including discussion of NYSE Arca and Nasdaq rules) (“Arca Approval Order”); 61574 (Feb. 23, 2010), 75 FR 9455 (Mar. 2, 2010) (SR-BATS-2010-003) (Order approving amendments to BATS Rule 5.5 to move to a principles-based approach to protecting against the misuse of material, non-public information, and noting that the proposed change is consistent with the approaches of NYSE Arca and Nasdaq) (“BATS Approval Order”); and 72534 (July 3, 2014), 79 FR 39440 (July 10, 2014), SR-NYSE-2014-12) (Order approving amendments to NYSE Rule 98 governing designated market makers to move to a principles-based approach to prohibit the misuse of material non-public information) (“NYSE Approval Order”).

maintain systems to supervise the activities of its members, including written procedures reasonably designed to ensure compliance with applicable federal securities law and regulations, and with the rules of the applicable exchange.⁹

The Exchange notes that even with this proposed rule change, pursuant to Rule 4.18, a DPM or LMM would still be obligated to ensure that its policies and procedures reflect the current state of its business and continue to be reasonably designed to prevent the misuse of material, nonpublic information. While information barriers would not specifically be required under the proposal, Rule 4.18 already requires that a TPH consider the nature of the TPH's business in structuring its policies and procedures, which may dictate that an information barrier or a functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities law and regulations, and with applicable Exchange rules.

The Exchange is not proposing to change what is considered to be material, non-public information and, thus does not expect there to be any changes to the types of information that an affiliated brokerage business of a market maker could share with such market maker. In that regard, the proposed rule change will not permit the brokerage unit of a TPH firm to have access to any non-public order or quote information of affiliated market maker, including hidden or undisplayed orders and quotes on the Exchange. TPHs do not expect to receive any additional order or quote information as a result of this proposed rule change.

⁹ See, e.g., BATS Approval Order, supra note 4 at 9458.

Further, the Exchange does not believe that there will be any material change to TPH information barriers as a result of removal of the Exchange's pre-approval requirements for DPMs. In fact, the Exchange anticipates that eliminating the pre-approval requirement should facilitate implementation of changes to TPH information barriers as necessary to protect against the misuse of material, non-public information. The Exchange also suggests that the pre-approval requirement is unnecessary because DPMs do not have agency responsibilities to the book. However, as is the case today with market makers, information barriers of new entrants would be subject to review as part of a new firm application. Moreover, the policies and procedures of market makers, including those relating to information barriers would be subject to review by FINRA, on behalf of the Exchange, pursuant to a Regulatory Services Agreement.

The Exchange further notes that under Rule 4.18, a TPH would be able would be able to structure its firm to provide for its options DPMs or LMMs, as applicable, to be structured with its equities and customer-facing businesses, provided that any such structuring would be done in a manner reasonably designed to protect against the misuse of material, nonpublic information. For example, pursuant to Rule 4.18, a DPM on the Exchange could be in the same independent trading unit, a defined in Rule 200(f) of Regulation SHO,¹⁰ as an equities Market-Maker and other trading desks within the firm, including options trading desks, so that the firm could share post-trade information to better manage its risk across related securities. The Exchange believes it is appropriate, and consistent with Rule 4.18 and section 15(g) of the Act¹¹ for a firm to share options position and related hedging position information (e.g., equities, futures, and foreign

¹⁰ 17 CFR Part 242.200(f).

¹¹ 15 U.S.C. 78o(g).

currency) within a firm to better manage risk on a firm-wide basis. The Exchange notes, however, that if so structured, a firm would need to have appropriate policies and procedures, including information barriers as applicable, to protect against the misuse of material non-public information, and specifically customer information consistent with Rule 4.18. The Exchange further notes that Federal rules supersede Exchange rules in the event of any conflicts regarding the misuse of material non-public information.

The Exchange believes that the proposed reliance on the principles-based Rule 4.18 would ensure that a TPH that operates a DPM or LMM would be required to protect against the misuse of any material nonpublic information. As noted above, Rule 4.18 already requires that firms refrain from trading while in possession of material nonpublic information concerning imminent transactions in a security or related product. The Exchange believes that moving to a principles-based approach rather than prescribing how and when to wall off a DPM or LMM from the rest of the firm would provide TPH operating DPMs or LMMs with appropriate tools to better manage risk across a firm, including integrating options positions with other positions of the firm or, as applicable, by the respective independent trading unit. Specifically, the Exchange believes that it is appropriate for risk management purposes for a TPH operating a DPM or LMM to be able to consider both DPM/LMM traded-positions for the purposes of calculating net positions consistent with Rule 200 of Regulation SHO¹², calculating intra-day net capital positions, and managing risk both generally as well as in compliance with Rule 15c3-5 under the Act (the “Market Access Rule”).¹³ The Exchange notes that any risk

¹² 17 CFR Part 242.200.

¹³ 17 CFR Part 240.15c3-5.

management operations would need to operate consistent with the requirement to protect against the misuse of material non-public information.

The Exchange further notes that if DPMs or LMMs are integrated with other Market-Making operations, they would be subject to existing rules that prohibit TPH from disadvantaging their customers or other market participants by improperly capitalizing of a TPH organization's access to the receipt of material nonpublic information. As such, a TPH organization that integrates its DPM or LMM operations together with equity Market-Making, would need to protect customer information consistent with existing obligations to protect such information. The Exchange has rules prohibiting TPHs from disadvantaging their customers or other market participants by improperly capitalizing on the TPH's access to or receipt of material nonpublic information. For example, Rule 4.24(e) requires Each TPH shall establish, maintain, and enforce written supervisory procedures reasonably designed to prevent and detect violations of applicable securities laws and regulations, and applicable Exchange rules. Additionally Rule 6.9(e) prevents a TPH or person associated with a TPH, who has knowledge of all material terms and conditions of an original order and a solicited order, including a facilitation order, to enter, based on such knowledge, an order to buy or sell an option of the same class as an option that is the subject of the original order, or an order to buy or sell the security underlying such class, or an order to buy or sell any related instrument unless certain circumstances are met.

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.¹⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁵ 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)¹⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market by adopting a principles-based approach to permit a TPH operating a DPM or LMM to maintain and enforce policies and procedures to, among other things, prohibit the misuse of material nonpublic information. The proposed rule change would further eliminate restrictions on how a TPH structures its DPM and LMM operations. The Exchange notes that the proposed rule change is based on an approved rule of the Exchange to which DPMs and LMMs are already subject-Rule 4.18-and harmonizes the rules governing DPMs, LMMs and Market-Makers. Moreover, TPH operating DPMs and LMMs would continue to be subject to federal and Exchange requirements for protecting material nonpublic order

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ Id.

information.¹⁷ The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market because it would harmonize the Exchange's approach to protecting against the misuse of material nonpublic information and no longer subject DPMs and LMMs to redundant requirements. The Exchange does not believe that the existing requirements applicable to DPMs and LMMs are narrowly tailored to their respective roles because neither market participant has access to Exchange trading information in a manner different from any other market participant on the Exchange and they do not have agency responsibilities to the Order Book.

The Exchange further believes the proposal is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because existing rules make clear to all TPH the type of conduct that is prohibited by the Exchange. While the proposal eliminates certain requirements relating to the misuse of material nonpublic information, DPMs, LMMs and all other TPH would remain subject to existing Exchange rules requiring them to establish and maintain systems to supervise their activities, and to create, implement, and maintain written procedures that are reasonably designed to comply with applicable securities laws and Exchange rules, including the prohibition on the misuse of material nonpublic information.

The Exchange notes that the proposed rule change would still require that a TPH operating DPMs and LMMs maintain and enforce policies and procedures designed to ensure compliance with applicable federal securities laws and regulations and with Exchange rules. Even though there would no longer be pre-approval of DPM

¹⁷ See 15 U.S.C. 78o(g) and Rule 4.18.

information barriers, and DPM or LMM written policies and procedures would continue to be subject to oversight by the Exchange and therefore the elimination of specific restrictions should not reduce the effectiveness of the Exchange rules to protect against the misuse of material nonpublic information. Rather, TPH will be able to utilize a flexible, principles-based approach to modify their policies and procedures as appropriate to reflect changes to their business model, business activities, or to the securities market itself. Moreover, while specified information barriers may no longer be required, a TPH's business model or business activities may dictate that an information barrier or functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange rules. The Exchange therefore believes that the proposed rule change will maintain the existing protection of investors and the public interest that is currently applicable to DPM's and LMM's, while at the same time removing impediments to and perfecting a free and open market by moving to a principles-based approach to protect against the misuse of material nonpublic information.

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. To the contrary, the Exchange believes that the proposal will enhance competition by allowing DPMs and LMMs to comply with applicable Exchange rules in a manner best suited to their business models, business activities and the securities markets, thus reducing regulatory burdens while still ensuring compliance with applicable securities

laws and regulations and Exchange rules. The Exchange believes that the proposal will foster a fair and orderly marketplace without being overly burdensome upon DPMs and LMMs.

Moreover, the Exchange believes that the proposed rule change would eliminate a burden on competition for TPH which currently exists as a result of disparate rule treatment between the options and equities markets regarding how to protect against the misuse of material, nonpublic information. For those TPH that are also members of equities exchanges their respective equity Market-Maker operations are now subject to a principles-based approach to protecting against the misuse of material nonpublic information. The Exchange believes it would remove a burden on competition to enable TPH to similarly apply a principles-based approach to protecting against the misuse of material nonpublic information in the options space. To this end, the Exchange notes that Rule 4.18 still requires a TPH that operates as a Market-Maker on the Exchange, including a DPM or LMM, to evaluate its business to assure that its policies and procedures are reasonably designed to protect against the misuse of material, non-public information. However, with this proposed rule change, a TPH that trades equities and options could look at its firm more holistically to structure its operations in a manner that provides it with better tools to manage risks across multiple security classes, while at the same time protecting against the misuse of material nonpublic information.

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 proposed rule change does not:

- A. significantly affect the protection of investors or the public interest;
- B. impose any significant burden on competition; and
- C. become operative for 30 days from the date on which it was filed, or such

shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁸ and Rule 19b-4(f)(6)¹⁹ 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

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2016-007 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-2016-007. 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-2016-007 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.²⁰

Secretary

²⁰ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

* * * * *

**Chicago Board Options Exchange, Incorporated
Rules**

* * * * *

**Rule 8.15. Lead Market-Makers and Supplemental Market-Makers in Hybrid 3.0
Classes**

(a) No change.

(b) The obligations of an LMM are as follows:

1.-4. No change

[5. subject to Rule 54.7(d), to maintain information barriers that are reasonably designed to prevent the misuse of material, non-public information with any affiliates that may conduct a brokerage business in option classes allocated to the LMM or act as specialist or Market-Maker in any security underlying options allocated to the LMM, and otherwise comply with the requirements of Rule 4.18 regarding the misuse of material, non-public information.]

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Rule 8.15A. Lead Market-Makers in Hybrid Classes

(a) No change.

(b) LMM Obligations. LMMs are required to:

(i)-(vi) No change.

[(vii) subject to Rule 54.7(d), maintain information barriers that are reasonably designed to prevent the misuse of material, non-public information with any affiliates that may conduct a brokerage business in option classes allocated to the LMM or act as specialist or Market-Maker in any security underlying options allocated to the LMM, and otherwise comply with the requirements of Rule 4.18 regarding the misuse of material, non-public information.]

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Rule 8.91. Deleted. [Limitations on Dealings of DPMs and Affiliated Persons of DPMs

(a) Except as provided in paragraph (b) below, a DPM shall maintain information barriers that are reasonably designed to prevent the misuse of material, non-public information with any affiliates that may conduct a brokerage business in option classes allocated to the DPM or act as specialist or market-maker in any security underlying options allocated to the DPM, and otherwise comply with the requirements of Rule 4.18 regarding the misuse of material non-public information. A DPM shall provide its information barriers to the Exchange and obtain prior written approval.

(b) A DPM in an option overlying an IPR, IPS or TIR that meets the criteria set forth in Rule 54.7, Interpretation and Policy .03, is not required to maintain information barriers that restrict the flow of information between it and any affiliates that act as a specialist or market-maker in the underlying IPR, IPS or TIR.]

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