

*Required fields are shown with yellow backgrounds and asterisks.*

Page 1 of \* 22

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. \* SR - 2016 - \* 036

Amendment No. (req. for Amendments \*)

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"/>
			Rule		
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<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)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) \*

☐

Section 806(e)(2) \*

☐Security-Based Swap Submission pursuant  
to the Securities Exchange Act of 1934

Section 3C(b)(2) \*

☐

Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document

**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposal to extend the operation of its SPXPM pilot program through May 3, 2017.

**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.

First Name \* Nicholas Last Name \* Still

Title \* Counsel

E-mail \* still@cboe.com

Telephone \* (312) 786-7006 Fax

**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.

(Title \*)

Date 04/07/2016

By Nicholas Still

(Name \*)

Counsel

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.

Persona Not Validated - 1444950452474,

SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549	
For complete Form 19b-4 instructions please refer to the EFFF website.	
<div>Form 19b-4 Information *</div> <div><div>Add</div><div>Remove</div><div>View</div></div>	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.
<div>Exhibit 1 - Notice of Proposed Rule Change *</div> <div><div>Add</div><div>Remove</div><div>View</div></div>	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)
<div>Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *</div> <div><div>Add</div><div>Remove</div><div>View</div></div>	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)
<div>Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications</div> <div><div>Add</div><div>Remove</div><div>View</div></div> <div>Exhibit Sent As Paper Document <input type="checkbox"/></div>	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.
<div>Exhibit 3 - Form, Report, or Questionnaire</div> <div><div>Add</div><div>Remove</div><div>View</div></div> <div>Exhibit Sent As Paper Document <input type="checkbox"/></div>	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.
<div>Exhibit 4 - Marked Copies</div> <div><div>Add</div><div>Remove</div><div>View</div></div>	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.
<div>Exhibit 5 - Proposed Rule Text</div> <div><div>Add</div><div>Remove</div><div>View</div></div>	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.
<div>Partial Amendment</div> <div><div>Add</div><div>Remove</div><div>View</div></div>	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 extend the operation of its SPXPM pilot program. The text of the proposed rule change is provided below and in Exhibit 1.

(additions are underlined; deletions are [bracketed])

\* \* \* \* \*

**Chicago Board Options Exchange, Incorporated  
Rules**

\* \* \* \* \*

**Rule 24.9. Terms of Index Option Contracts**

No change.

***. . . Interpretations and Policies:***

**.01 – .13** No change.

**.14** In addition to A.M.-settled Standard & Poor’s 500 Stock Index options approved for trading on the Exchange pursuant to Rule 24.9, the Exchange may also list options on the S&P 500 Index whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (“SPXPM”). The Exchange may also list options on the Mini-SPX Index (“XSP”) whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (“P.M.-settled”). SPXPM options and P.M.-settled XSP options will be listed for trading for a pilot period ending May 3, 201[6]7.

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

**Item 2.        Procedures of the Self-Regulatory Organization**

(a) The Exchange’s President (or designee) pursuant to delegated authority approved the proposed rule change on March 22, 2016.

(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 Nicholas 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

On February 8, 2013, the Exchange received approval of a rule change that established a Pilot Program that allows the Exchange to list options on the S&P 500 Index whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (“SPXPM”).<sup>1</sup> On July 31, 2013, the Exchange received approval of a rule change that amended the Pilot Program to allow the Exchange to list options on the Mini-SPX Index (“XSP”) whose exercise settlement value is derived from closing prices on the last trading day prior to expiration (“P.M.-settled”)<sup>2</sup> (together, SPXPM and P.M.-settled XSP to be referred to herein as the “Pilot Products”).<sup>3</sup> In January 2014, the Exchange filed a proposed rule change that extended the end date of the pilot period from February 8, 2014 to November 3, 2014.<sup>4</sup> Additionally, in October 2014, the Exchange filed a proposed rule change that extended the end date of the pilot period from November 3, 2014 to May 3,

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<sup>1</sup> See Securities Exchange Act Release No. 68888 (February 8, 2013), 78 FR 10668 (February 14, 2013) (SR-CBOE-2012-120) (the “SPXPM Approval Order”).

<sup>2</sup> See Securities Exchange Act Release No. 70087 (July 31, 2013), 78 FR 47809 (August 6, 2013) (SR-CBOE-2013-055) (the “P.M.-settled XSP Approval Order”).

<sup>3</sup> For more information on the Pilot Products or the Pilot Program, see the SPXPM Approval Order and the P.M.-settled XSP Approval Order.

<sup>4</sup> See Securities Exchange Act Release No. 71424 (January 28, 2014), 79 FR 6249 (February 3, 2014) (SR-CBOE-2014-004).

2016.<sup>5</sup> The Exchange hereby proposes to further extend the end date of the pilot period to May 3, 2017.

During the course of the Pilot Program and in support of the extensions of the Pilot Program, the Exchange submits to the Securities and Exchange Commission (the “Commission”) reports regarding the Pilot Program that detail the Exchange’s experience with the Pilot Program, pursuant to the SPXPM Approval Order and the P.M.-settled XSP Approval Order. To date, the Exchange has submitted two annual Pilot Program reports to the Commission, as well as various periodic interim reports, as required by the Commission while the Pilot Program is in effect. The annual reports contain an analysis of volume, open interest, and trading patterns. The analysis examines trading in Pilot Products as well as trading in the securities that comprise the underlying index. Additionally, for series that exceed certain minimum open interest parameters, the annual reports provide analysis of index price volatility and share trading activity. The periodic interim reports contain some, but not all, of the information contained in the annual reports. In providing the annual and periodic interim reports (the “pilot reports”) to the Commission, the Exchange has requested confidential treatment of the pilot reports under the Freedom of Information Act (“FOIA”).<sup>6</sup> The confidentiality of the pilot reports is subject to the provisions of FOIA.

The pilot reports both contain the following volume and open interest data:

- (1) monthly volume aggregated for all trades;
- (2) monthly volume aggregated by expiration date;

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<sup>5</sup> See Securities Exchange Act Release No. 73338 (October 10, 2014), 79 FR 62502 (October 17, 2014) (SR-CBOE-2014-076).

<sup>6</sup> 5 U.S.C. 552.

- (3) monthly volume for each individual series;
- (4) month-end open interest aggregated for all series;
- (5) month-end open interest for all series aggregated by expiration date; and
- (6) month-end open interest for each individual series.

The annual reports also contain the information noted in Items (1) through (6) above for Expiration Friday, A.M.-settled, S&P 500 index options traded on CBOE, as well as the following analysis of trading patterns in the Pilot Products options series in the Pilot Program:

- (1) a time series analysis of open interest; and
- (2) an analysis of the distribution of trade sizes.

Finally, for series that exceed certain minimum parameters, the annual reports contain the following analysis related to index price changes and underlying share trading volume at the close on Expiration Fridays:

- (1) a comparison of index price changes at the close of trading on a given Expiration Friday with comparable price changes from a control sample. The data includes a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by the CBOE Volatility Index (VIX), is provided; and
- (2) a calculation of share volume for a sample set of the component securities representing an upper limit on share trading that could be attributable to expiring in-the-money series. The data includes a comparison of the

calculated share volume for securities in the sample set to the average daily trading volumes of those securities over a sample period.

The minimum open interest parameters, control sample, time intervals, method for randomly selecting the component securities, and sample periods are determined by the Exchange and the Commission. In proposing to extend the Pilot Program, the Exchange will continue to abide by the reporting requirements described herein, as well as in the SPXPM Approval Order and the P.M.-settled XSP Approval Order.<sup>7</sup> Additionally, all such pilot reports provided by the Exchange will continue to include a request for confidential treatment under FOIA.<sup>8</sup>

The Exchange proposes the extension of the Pilot Program in order to continue to give the Commission more time to consider the impact of the Pilot Program. To this point, CBOE believes that the Pilot Program has been well-received by its Trading Permit Holders and the investing public, and the Exchange would like to continue to provide investors with the ability to trade SPXPM and P.M.-settled XSP options. All terms regarding the trading of the Pilot Products shall continue to operate as described in the SPXPM Approval Order and the P.M.-settled XSP Approval Order. The Exchange merely proposes herein to extend the term of the Pilot Program to May 3, 2017.

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<sup>7</sup> Pursuant to Securities Exchange Act Release No. 75914 (September 14, 2015), 80 FR 56522 (September 18, 2015) (SR-CBOE-2015-079), the Exchange added SPXPM and P.M.-settled XSP options to the list of products approved for trading during Extended Trading Hours (“ETH”). The Exchange will also include the applicable information regarding SPXPM and P.M.-settled XSP options that trade during ETH in its annual and interim reports.

<sup>8</sup> See supra note 6 and surrounding discussion. If the Exchange seeks permanent approval of the pilot program, the Exchange recognizes that certain information in the pilot reports may need to be made available on a public basis.

(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.<sup>9</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</sup> 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)<sup>11</sup> 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 extension of the Pilot Program will continue to provide greater opportunities for investors. Further, the Exchange believes that it has not experienced any adverse effects or meaningful regulatory concerns from the operation of the Pilot Program. As such, the Exchange believes that the extension of the Pilot Program does not raise any unique or prohibitive regulatory concerns. Also, the Exchange believes that such trading has not, and will not, adversely impact fair and orderly markets on Expiration Fridays for the underlying stocks comprising the S&P 500 index. The extension of the Pilot Program will continue to

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> Id.



provide investors with the opportunity to trade the desirable products of SPXPM and P.M.-settled XSP, while also providing the Commission further opportunity to observe such trading of the Pilot Products.

**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. The Exchange does not believe the continuation of the Pilot Program will impose any unnecessary or inappropriate burden on intramarket competition because it will continue to apply equally to all CBOE market participants, and the Pilot Products will be available to all CBOE market participants. The Exchange believes there is sufficient investor interest and demand in the Pilot Program to warrant its extension. The Exchange believes that, for the period that the Pilot Program has been in operation, it has provided investors with desirable products with which to trade. Furthermore, the Exchange believes that it has not experienced any adverse market effects or regulatory concerns with respect to the Pilot Program. The Exchange further does not believe that the proposed extension of the Pilot Program will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it only applies to trading on CBOE. To the extent that the continued trading of the Pilot Products may make CBOE a more attractive marketplace to market participants at other exchanges, such market participants may elect to become CBOE market participants.

**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 Act<sup>12</sup> and Rule 19b-4(f)(6)<sup>13</sup> 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.

The Exchange believes the proposed rule change does not propose any new, unique or substantive changes to the Pilot Program; it merely proposes to extend the

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

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

existing Pilot Program. This proposed extension will continue to provide opportunities to investors to trade the Pilot Products.

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 30-day operative delay will allow the Exchange to extend the pilot program prior to its expiration on May 3, 2016. In addition, the Exchange believes that waiver of the operative delay is also consistent with the protection of investors and the public interest because it will allow for the least amount of market disruption as the pilot will continue as it currently does maintaining the status quo.

(c) Not applicable.

(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 not based on a rule either of another self-regulatory organization or of the Commission.

**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 1

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CBOE-2016-036]

[Insert date]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to SPXPM Pilot Program

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 [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 Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 Exchange proposes to extend the operation of its SPXPM pilot program through May 3, 2017. The text of the proposed rule change is provided below.

(additions are underlined; deletions are [bracketed])

\* \* \* \* \*

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<sup>1</sup> 15 U.S.C. 78s(b)(1).  
<sup>2</sup> 17 CFR 240.19b-4.  
<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).  
<sup>4</sup> 17 CFR 240.19b-4(f)(6).

**Chicago Board Options Exchange, Incorporated**  
**Rules**

\* \* \* \* \*

**Rule 24.9. Terms of Index Option Contracts**

No change.

***. . . Interpretations and Policies:***

**.01 – .13** No change.

**.14** In addition to A.M.-settled Standard & Poor's 500 Stock Index options approved for trading on the Exchange pursuant to Rule 24.9, the Exchange may also list options on the S&P 500 Index whose exercise settlement value is derived from closing prices on the last trading day prior to expiration ("SPXPM"). The Exchange may also list options on the Mini-SPX Index ("XSP") whose exercise settlement value is derived from closing prices on the last trading day prior to expiration ("P.M.-settled"). SPXPM options and P.M.-settled XSP options will be listed for trading for a pilot period ending May 3, 201[6]7.

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The text of the proposed rule change is also 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.

**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

On February 8, 2013, the Exchange received approval of a rule change that established a Pilot Program that allows the Exchange to list options on the S&P 500 Index whose exercise settlement value is derived from closing prices on the last trading day prior to expiration ("SPXPM").<sup>5</sup> On July 31, 2013, the Exchange received approval of a rule change that amended the Pilot Program to allow the Exchange to list options on the Mini-SPX Index ("XSP") whose exercise settlement value is derived from closing prices on the last trading day prior to expiration ("P.M.-settled")<sup>6</sup> (together, SPXPM and P.M.-settled XSP to be referred to herein as the "Pilot Products").<sup>7</sup> In January 2014, the Exchange filed a proposed rule change that extended the end date of the pilot period from February 8, 2014 to November 3, 2014.<sup>8</sup> Additionally, in October 2014, the Exchange filed a proposed rule change that extended the end date of the pilot period from November 3, 2014 to May 3, 2016.<sup>9</sup> The Exchange hereby proposes to further extend the end date of the pilot period to May 3, 2017.

During the course of the Pilot Program and in support of the extensions of the Pilot Program, the Exchange submits to the Securities and Exchange Commission (the "Commission") reports regarding the Pilot Program that detail the Exchange's experience with the Pilot Program, pursuant to the SPXPM Approval Order and the P.M.-settled

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<sup>5</sup> See Securities Exchange Act Release No. 68888 (February 8, 2013), 78 FR 10668 (February 14, 2013) (SR-CBOE-2012-120) (the "SPXPM Approval Order").

<sup>6</sup> See Securities Exchange Act Release No. 70087 (July 31, 2013), 78 FR 47809 (August 6, 2013) (SR-CBOE-2013-055) (the "P.M.-settled XSP Approval Order").

<sup>7</sup> For more information on the Pilot Products or the Pilot Program, see the SPXPM Approval Order and the P.M.-settled XSP Approval Order.

<sup>8</sup> See Securities Exchange Act Release No. 71424 (January 28, 2014), 79 FR 6249 (February 3, 2014) (SR-CBOE-2014-004).

<sup>9</sup> See Securities Exchange Act Release No. 73338 (October 10, 2014), 79 FR 62502 (October 17, 2014) (SR-CBOE-2014-076).

XSP Approval Order. To date, the Exchange has submitted two annual Pilot Program reports to the Commission, as well as various periodic interim reports, as required by the Commission while the Pilot Program is in effect. The annual reports contain an analysis of volume, open interest, and trading patterns. The analysis examines trading in Pilot Products as well as trading in the securities that comprise the underlying index. Additionally, for series that exceed certain minimum open interest parameters, the annual reports provide analysis of index price volatility and share trading activity. The periodic interim reports contain some, but not all, of the information contained in the annual reports. In providing the annual and periodic interim reports (the “pilot reports”) to the Commission, the Exchange has requested confidential treatment of the pilot reports under the Freedom of Information Act (“FOIA”).<sup>10</sup> The confidentiality of the pilot reports is subject to the provisions of FOIA.

The pilot reports both contain the following volume and open interest data:

- (1) monthly volume aggregated for all trades;
- (2) monthly volume aggregated by expiration date;
- (3) monthly volume for each individual series;
- (4) month-end open interest aggregated for all series;
- (5) month-end open interest for all series aggregated by expiration date; and
- (6) month-end open interest for each individual series.

The annual reports also contain the information noted in Items (1) through (6) above for Expiration Friday, A.M.-settled, S&P 500 index options traded on CBOE, as well as the following analysis of trading patterns in the Pilot Products options series in the Pilot Program:

- (1) a time series analysis of open interest; and

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<sup>10</sup> 5 U.S.C. 552.



- (2) an analysis of the distribution of trade sizes.

Finally, for series that exceed certain minimum parameters, the annual reports contain the following analysis related to index price changes and underlying share trading volume at the close on Expiration Fridays:

- (1) a comparison of index price changes at the close of trading on a given Expiration Friday with comparable price changes from a control sample. The data includes a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by the CBOE Volatility Index (VIX), is provided; and
- (2) a calculation of share volume for a sample set of the component securities representing an upper limit on share trading that could be attributable to expiring in-the-money series. The data includes a comparison of the calculated share volume for securities in the sample set to the average daily trading volumes of those securities over a sample period.

The minimum open interest parameters, control sample, time intervals, method for randomly selecting the component securities, and sample periods are determined by the Exchange and the Commission. In proposing to extend the Pilot Program, the Exchange will continue to abide by the reporting requirements described herein, as well as in the SPXPM Approval Order and the P.M.-settled XSP Approval Order.<sup>11</sup> Additionally, all such pilot reports provided by the Exchange will continue to include a request for confidential treatment under FOIA.<sup>12</sup>

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<sup>11</sup> Pursuant to Securities Exchange Act Release No. 75914 (September 14, 2015), 80 FR 56522 (September 18, 2015) (SR-CBOE-2015-079), the Exchange added

The Exchange proposes the extension of the Pilot Program in order to continue to give the Commission more time to consider the impact of the Pilot Program. To this point, CBOE believes that the Pilot Program has been well-received by its Trading Permit Holders and the investing public, and the Exchange would like to continue to provide investors with the ability to trade SPXPM and P.M.-settled XSP options. All terms regarding the trading of the Pilot Products shall continue to operate as described in the SPXPM Approval Order and the P.M.-settled XSP Approval Order. The Exchange merely proposes herein to extend the term of the Pilot Program to May 3, 2017.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with 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>13</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>14</sup> 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

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SPXPM and P.M.-settled XSP options to the list of products approved for trading during Extended Trading Hours (“ETH”). The Exchange will also include the applicable information regarding SPXPM and P.M.-settled XSP options that trade during ETH in its annual and interim reports.

<sup>12</sup> See supra note 10 and surrounding discussion. If the Exchange seeks permanent approval of the pilot program, the Exchange recognizes that certain information in the pilot reports may need to be made available on a public basis.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

proposed rule change is consistent with the Section 6(b)(5)<sup>15</sup> 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 extension of the Pilot Program will continue to provide greater opportunities for investors. Further, the Exchange believes that it has not experienced any adverse effects or meaningful regulatory concerns from the operation of the Pilot Program. As such, the Exchange believes that the extension of the Pilot Program does not raise any unique or prohibitive regulatory concerns. Also, the Exchange believes that such trading has not, and will not, adversely impact fair and orderly markets on Expiration Fridays for the underlying stocks comprising the S&P 500 index. The extension of the Pilot Program will continue to provide investors with the opportunity to trade the desirable products of SPXPM and P.M.-settled XSP, while also providing the Commission further opportunity to observe such trading of the Pilot Products.

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 does not believe the continuation of the Pilot Program will impose any unnecessary or inappropriate burden on intramarket competition because it will continue to apply equally to all CBOE market participants, and the Pilot Products will be available to all CBOE market participants. The Exchange believes there is sufficient investor interest and demand in the Pilot Program to warrant its extension. The Exchange believes that, for the period that the Pilot Program has been in operation, it has provided

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<sup>15</sup> Id.

investors with desirable products with which to trade. Furthermore, the Exchange believes that it has not experienced any adverse market effects or regulatory concerns with respect to the Pilot Program. The Exchange further does not believe that the proposed extension of the Pilot Program will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it only applies to trading on CBOE. To the extent that the continued trading of the Pilot Products may make CBOE a more attractive marketplace to market participants at other exchanges, such market participants may elect to become CBOE market participants.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

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 Act<sup>16</sup> and Rule 19b-4(f)(6)<sup>17</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

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<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

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

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### **IV. Solicitation of Comments**

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

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2016-036 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-2016-036. 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-2016-036 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>18</sup>

Secretary

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<sup>18</sup> 17 CFR 200.30-3(a)(12).