

\$5,000 and the Monthly Regulatory Fee from \$3,000 to \$5,000. These fees both apply to CBSX Trading Permit Holders ("CBSX TPHs") (CBSX Traders that are not CBOE Trading Permit Holders ("CBOE TPHs") but are granted access to CBSX via a trading permit) who either apply for CBOE to act as their designated examining authority ("DEA") or for whom CBOE acts as a DEA (CBOE handles all regulatory functions for CBSX, and CBSX pays CBOE for such services). The Initial Regulatory Review Fee is charged to any CBSX TPH applicant that applies for a CBSX Trading Permit that, if approved, would result in CBOE serving as the CBSX TPH's DEA. The Monthly Regulatory Fee is charged to any CBSX TPH for whom CBOE acts as the CBSX TPH's DEA.

Processing the applications for CBOE to act as the DEA and acting as the DEA for these CBSX TPHs are costly and time-intensive, and the Initial Regulatory Review Fee and the Monthly Regulatory Fee only partly offset these costs. In the past year, CBOE's CBSX-related regulatory costs have increased, and the Exchange anticipates such spending to continue to increase in 2013 due to heightened regulatory review. As such, the Exchange proposes to increase the amounts of the Initial Regulatory Review Fee and the Monthly Regulatory Fee in order to partly offset the regulatory cost increases associated with the initial regulatory review and acting as a CBSX TPH's DEA.

The proposed changes are to take effect on January 1, 2013.

## 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>3</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>4</sup> which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. Increasing the amounts of the Initial Regulatory Review Fee and the Monthly Regulatory Fee is reasonable because such increases are necessary to help offset the increased regulatory costs associated with the processing of an application by a CBSX TPH for CBOE to act as that CBSX TPH's DEA and with the ongoing regulatory review and monitoring that

must be undertaken in order for CBOE to act as a CBSX TPH's DEA. These increases are equitable and not unfairly discriminatory because they will apply to all CBSX TPHs to whom the Initial Regulatory Review Fee and the Monthly Regulatory Fee apply.

### *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.

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

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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) <sup>5</sup> of the Act and paragraph (f) of Rule 19b-4 <sup>6</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

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

### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2012-119 on the subject line.

### *Paper Comments*

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

All submissions should refer to File Number SR-CBOE-2012-119. This file

number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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-2012-119 and should be submitted on or before January 8, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68314; File No. SR-ISE-2012-75]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Available a New Market Data Offering

November 28, 2012.

#### *Correction*

In notice document 2012-29218 appearing on pages 71850 through 71852 in the issue of Tuesday, December 4, 2012, make the following correction:

<sup>3</sup> 15 U.S.C. 78f(b).

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

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

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

<sup>7</sup> 17 CFR 200.30-3(a)(12).

On page 71850, in the first column, the release number should read as set forth above.

[FR Doc. C1–2012–29218 Filed 12–17–12; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68414; File No. SR–FINRA–2012–052]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Require Members To Report the Factor to TRACE in Asset-Backed Security Transactions (Except an Asset-Backed Security Traded TBA), in the Limited Instances When Members Effect Such Transactions as Agent and Charge a Commission

December 12, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that, on November 29, 2012, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to amend FINRA Rule 6730(d)(2) to require a member to report to Trade Reporting and Compliance Engine (TRACE) the Factor used to determine the size (volume) of each transaction in an Asset-Backed Security (except an Asset-Backed Security traded To Be Announced), in the limited instances when members effect such transactions as agent and charge a commission.

The text of the proposed rule change is available on FINRA’s Web site at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA 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

In general, Asset-Backed Securities (“ABS”)<sup>3</sup> are traded on a principal basis and only a small number of ABS transactions are traded on an agency basis and charge a commission.<sup>4</sup> In the limited instances when a member executes an ABS transaction (except an ABS traded To Be Announced (a “TBA transaction”)) in an agency capacity and charges a commission, FINRA proposes to require members to report the Factor<sup>5</sup> as discussed below.

Currently, under FINRA Rule 6730(c)(2) and Rule 6730(d)(2), a member is required to report the size of TRACE-Eligible Securities,<sup>6</sup> including certain ABS, by reporting the total par or principal value of the debt securities traded. However, in a transaction in an ABS that is backed by mortgages or other assets that amortize over the life of the security (an “amortizing ABS”), instead of reporting the total par or principal value, a member reports two items from which the size is calculable: (1) The original face value of the ABS, which is the size at issuance; and (2) the Factor, but only if the Factor used to execute the transaction is not the most current Factor that is publicly available at the time of execution of such transaction (a “non-conforming Factor”).<sup>7</sup>

<sup>3</sup> See FINRA Rule 6710(m) for the definition of Asset-Backed Security.

<sup>4</sup> From May 2011, when TRACE began receiving reports on ABS, to the present, whether measured by par value or number of transactions, transactions, in ABS that are executed in an agency capacity and subject to a commission represent only approximately one percent of all ABS transactions.

<sup>5</sup> See FINRA Rule 6710(w) for the definition of FACTOR.

<sup>6</sup> See FINRA Rule 6710(w) for the definition of TRACE-Eligible Security.

<sup>7</sup> When a member uses the most current Factor that is publicly available at the time of execution of the transaction, the member is not required to

A Factor is the decimal value that represents the proportion of (1) the principal value (or face value) of the pool of assets underlying an amortizing ABS remaining at the time of the execution of a transaction (typically referred to as “remaining principal balance” or “RPB”) to (2) the original face value of the ABS. Such Factors are published monthly by federal agencies or government-sponsored enterprises for ABS that are issued or guaranteed by them. Factors for other ABS generally are consolidated by certain commercial vendors that obtain them from servicers.

FINRA proposes to amend FINRA Rule 6730(d)(2) to require a member to report the Factor to TRACE for every transaction in an ABS (except TBA transactions) in the limited instances when the member effects that transaction as agent and charges a commission. The amendment is proposed to prepare for the dissemination of Specified Pool Transactions, and transactions in additional ABS market segments, if such transactions subsequently are disseminated under Rule 6750 in the future.<sup>8</sup> The proposed rule change is necessary to ensure the accuracy of the disseminated price of an ABS transaction, which, if traded on an agency basis and subject to a commission charge, is calculated using the Factor, the price and other information reported by a member that is a party to the transaction.

Though very few ABS transactions are executed in an agency capacity with a commission charged, when done so the TRACE system must calculate the disseminated price (or all-in price) based on the reported price, which is reported as a percentage of the RPB (e.g., 97), and add the proportionate amount of commission. However, the commission is reported as the total gross dollar amount (e.g., \$3,000.00).<sup>9</sup> To account for the commission impact on

report the Factor. Instead, the TRACE system incorporates the most current Factor publicly available at the Time of Execution of the transaction. FINRA receives such information from commercial data vendors.

<sup>8</sup> FINRA proposes the dissemination of certain Specified Pool Transactions in SR–FINRA–2012–042, which was approved recently by the SEC but is not yet effective. See Securities Exchange Act Release No. 68084 (October 23, 2012), 77 FR 65436 (October 26, 2012) (SEC Order Approving File No. SR–FINRA–2012–042 regarding a proposal to disseminate Agency Pass-Through Mortgage-Backed Securities traded in Specified Pool Transactions and SBA-Backed ABS traded TBA and in Specified Pool Transactions). The effective date of the amendments in SR–FINRA–2012–042 will be announced in a Regulatory Notice.

<sup>9</sup> FINRA Rules 6730(c)(3) and 6730(d)(1) require members to report the price, which must exclude the commission, and separately report the total dollar amount of the commission.

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

<sup>2</sup> CFR 240.19b–4.