

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup> Because the proposed rule change does not (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>16</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(ii),<sup>17</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that this proposal establishes rules that enhance an existing test, which is designed to ensure that securities in a halted state are released in an orderly manner and that there are no order imbalances in a security emerging from a halt. In addition, the Exchange stated that the proposal is designed to protect market participants from seemingly erroneous pricing of securities for resumption of trading. Thus, the Exchange believes that it is in the interest of protecting investors to provide the amended process, which will eliminate the possibility of such a disruption, at the earliest time possible. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.<sup>18</sup>

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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 has satisfied this requirement.

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(ii).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>18</sup> For purposes only of waiving the 30-day operative delay, the Commission has also

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>19</sup> of the Act to determine whether the proposed rule 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2013-143 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-NASDAQ-2013-143. 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

considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>19</sup> 15 U.S.C. 78s(b)(2)(B).

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-NASDAQ-2013-143 and should be submitted on or before December 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

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

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70918; File No. SR-NYSEArca-2013-42]

#### Self-Regulatory Organizations; NYSEArca, Inc.; Notice of Withdrawal of Proposed Rule Change Amending NYSE Arca Rule 6.72 To Make the Penny Pilot Program for Options Permanent

November 21, 2013.

#### I. Introduction

On August 20, 2013, NYSEArca, Inc. ("NYSEArca" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend NYSEArca Rule 6.72 to make permanent the penny quoting program for options ("Penny Trading Program" or "Program"). The proposed rule change was published for comment in the **Federal Register** on September 10, 2013.<sup>3</sup> The Commission received 11 comment letters on this proposal.<sup>4</sup> On

<sup>20</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 70317 (September 4, 2013), 78 FR 55312.

<sup>4</sup> See Position Paper from Michael J. Simon, Secretary, International Securities Exchange, LLC, dated September 19, 2013; and letters to Elizabeth M. Murphy, Secretary, Commission, from John M. Liftin, Managing Director and General Counsel, D.E. Shaw & Co., L.P., dated September 30, 2013; Michael J. Simon, Secretary, ISE, dated October 1, 2013; Benjamin R. Londergan, Chief Executive Officer, Group One Trading, L.P., dated October 1, 2013; Jenny L. Golding, Senior Attorney, Legal Division, Chicago Board Options Exchange, Incorporated, dated October 7, 2013; John C. Nagel,

October 22, 2013, the Commission extended to December 9, 2013, the time period in which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>5</sup>

On November 20, 2013, NYSEArca withdrew the proposed rule change (SR-NYSEArca-2013-42).

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70917; File No. SR-CME-2013-24]

### Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing of Proposed Rule Change Regarding the Designation of a Primary Backup Data Center

November 21, 2013.

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 15, 2013, Chicago Mercantile Exchange Inc. ("CME") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II and III, below, which items have been prepared primarily by CME. The Commission is publishing this notice to solicit comments on the proposed rule change for interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME proposes to activate its New York Data Center ("1NE Data Center") as its primary backup data center. The 1NE Data Center currently operates in part as a tertiary data center for CME. The 1NE

Data Center will be redesigned and become the primary backup data center in place of CME's current backup data center, the Remote Data Center ("RDC"). The proposed change does not involve any changes to CME's rulebook.

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

In its filing with the Commission, CME included statements concerning the purpose 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. CME 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

As a derivatives clearing organization ("DCO") registered with the Commodity Futures Trading Commission ("CFTC"), CME has an obligation to establish and maintain a business continuity and disaster recovery plan. The procedures associated with this plan are intended to ensure that CME has sufficient physical, technological and personnel resources to enable the timely recovery and resumption of operations following disruptions. Maintaining backup data centers is one component of these procedures.

With this filing, CME proposes to activate its New York Data Center ("1NE Data Center") as its primary backup data center. The 1NE Data Center currently operates in part as a tertiary data center for CME. The 1NE Data Center will be redesigned and will become the primary backup data center in place of CME's current backup data center, the Remote Data Center ("RDC"). The 1NE Data Center will be an "all disaster recovery data center" housing the primary backup for electronic trading, clearing, and regulatory infrastructures. It will also continue to house CME's New York trading floor and office staff systems as well.

CME believes the proposed change will increase the reliability and security of its backup facilities. First, the new back-up facility is located in a distinct geographic area from CME's primary facility and therefore CME Group would have capabilities to mitigate risks associated with a large scale disruption associated with only one geographical area (for example, a weather event). In addition, because CME Group's new

datacenter strategy employs single IP connectivity, customers will no longer have to change their configurations or take any additional steps to connect to the backup datacenter and therefore the switch from CME Group's production to back-up data center will be seamless for CME Group's customers.

CME believes that implementation of the proposed change will therefore allow it to continue to maintain a robust and effective business continuity program. The proposed change does not involve any changes to CME's rulebook. CME currently plans to operationalize the new 1 NE Data Center as soon as all required regulatory approvals are obtained. CME is currently making preparations to implement the change as of November 25, 2013. CME notes that it has also submitted the proposed changes to the CFTC in a separate filing, CME Submission 13-379, as an "Advance Notice" filing pursuant to CFTC Regulation 40.10(a).

CME believes the proposed rule changes are consistent with the requirements of the Act including Section 17A of the Act.<sup>3</sup> The proposed rule changes involve enhancements to CME's business continuity and disaster recovery plan procedures and, as such, are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Act.<sup>4</sup> The proposed rule changes designate a new location as CME's primary backup data center in the event of a disruption. The area that is proposed to be designated as the new back-up area currently operates as a tertiary data center for CME. This proposed new back-up facility is not located near CME's primary facilities. This means that CME will be able to mitigate risks associated with a large scale disruption associated with only one geographical area (for example, a weather event). In addition, because CME's new datacenter strategy employs single IP connectivity, customers will no longer have to change their configurations or take any additional steps to connect to the backup datacenter and therefore the switch from CME's production to back-up data center will be seamless for CME's customers. Further, the new backup

Managing Director and General Counsel, Citadel Securities, dated October 15, 2013; Michael J. Simon, Secretary, ISE, dated October 16, 2013; Harris Bock, Chief Executive Officer, Dynamex Trading LLC, dated October 17, 2013; Jeffrey Kaufman, Managing Partner, Lakeshore Securities LP, dated October 25, 2013; Gerald D. O'Connell, Chief Compliance Officer, Susquehanna International Group, LLP, dated October 30, 2013; and Ronald M Pittelkau, MNR Executions, LLC, dated November 7, 2013.

<sup>5</sup> See Securities Exchange Act Release No. 70733, 78 FR 64257 (October 28, 2013).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 15 U.S.C. 78q-1.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).