SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88424; File No. SR-CBOE-2019-035)

March 19, 2020

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, Regarding Off-Floor Position Transfers

I. Introduction

On July 3, 2019, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend its rule relating to off-floor position transfers. The proposed rule change was published for comment in the Federal Register on July 23, 2019.[3] On August 6, 2019, the Exchange filed Amendment No. 1 to the proposed rule change.[4] On September 4, 2019, the Commission extended the time period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the propose

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 See Securities Exchange Act Release No. 86400 (July 17, 2019), 84 FR 35438 ("Notice").

4 In Amendment No. 1, the Exchange deleted from the proposed rule change the proposal to permit off-floor risk-weighted asset ("RWA") transfers. The Exchange subsequently refiled the RWA transfer proposal as a separate proposed rule change filing in SR-CBOE-2019-044. See Securities Exchange Release No. 87107 (September 25, 2019), 84 FR 52149 (October 1, 2019) (order approving proposed rule change to adopt Cboe Rule 6.49B regarding off-floor RWA transfers). When the Exchange filed Amendment No. 1 to CBOE-2019-035, it also submitted the text of the amendment as a comment letter to the filing, which the Commission made publicly available at https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-5917170-189047.pdf.

rule change, to October 21, 2019.[5] On October 7, 2019, the Exchange filed Amendment No. 2 to the proposed rule change.[6] The Commission received two comment letters on the proposal.[7]

On October 21, 2019, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule changes ("OIP").[8] The Commission received a letter from the Exchange addressing the previous comments,[9] as well as one additional comment in response to the OIP and the Cboe Response Letter.[10] On January 14, 2020, the Commission issued a notice of designation of a longer period for Commission action on proceedings to

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5 See Securities Exchange Act Release No. 86861 (September 4, 2019), 84 FR 47627 (September 10, 2019).

6 In Amendment No. 2, the Exchange updated cross-references to Cboe rules throughout the proposed rule change to reflect separate amendments it made to its rulebook in connection with the Exchange's technology migration, which it subsequently completed on October 7, 2019. When the Exchange filed Amendment No. 2 to CBOE-2019-035, it also submitted the text of the amendment as a comment letter to the filing, which the Commission made publicly available at https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-6258833-192955.pdf. In addition to the cross-references updated in Amendment No. 2, the Exchange relocated Rule 6.49A to Rule 6.7 in its post-migration rulebook and made conforming changes to its proposed rule change to reflect that new rule number.

7 See Letter to Vanessa Countryman, Secretary, Commission, dated September 24, 2019, from John Kinahan, Chief Executive Officer, Group One Trading, L.P., available at https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-6193332-192497.pdf ("Group One Letter") and Letter to Brent J. Fields, Secretary, Commission, dated August 19, 2019, from Gerald D. O'Connell, Compliance Coordinator, Susquehanna International Group, LLP, available at https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-5985436-190350.pdf ("SIG August 2019 Letter").

8 See Securities Exchange Act Release No. 87374, 84 FR 57542 (October 25, 2019) ("OIP").

9 See Letter to Vanessa Countryman, Secretary, Commission, dated November 15, 2019, from Laura G. Dickman, Vice President, Associate General Counsel, Cboe Exchange, Inc., available at https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-6434377-198588.pdf ("Cboe Response Letter").

10 See Letter to Vanessa Countryman, Secretary, Commission, dated December 12, 2019, from Gerald D. O'Connell, Compliance Coordinator, Susquehanna International Group, LLP, available at https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-6535880-200548.pdf ("SIG December 2019 Letter").

determine whether to approve or disapprove the proposed rule change.[11] This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2, on an accelerated basis.

II. Description of the Proposed Rule Change

Cboe generally requires a Trading Permit Holder ("TPH") to effect transactions in listed options on an exchange.[12] Notwithstanding that provision, Cboe permits certain types of transfers involving a TPH's positions to be effected off the Exchange (also referred to as "off-floor" transfers).[13] The Exchange now proposes to delineate in Rule 6.7 (Off-Floor Transfers of Positions) four additional types of permitted off-floor transfers: (1) transfers to correct a bona fide error in the recording of a transaction or the transferring of a position to another account, (2) transfers between accounts where there is no change in ownership provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements, (3) consolidation of accounts where no change in ownership is involved, and (4) transfers through operation of law from death, bankruptcy, or otherwise.[14]

In addition, the Exchange purports to codify its prior guidance that off-floor transfers cannot net against another position and that no position transfer may result in preferential margin or haircut treatment.[15] Further, the Exchange purports to codify into Rule 6.7 its interpretation that the off-floor transfer rule "is intended to facilitate non-routine, non-recurring movements of positions"

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11 See Securities Exchange Act Release No. 87959 (January 14, 2020), 85 FR 3448 (January 21, 2020).

12 See Cboe Rule 5.12(a) (formerly Rule 6.49(a)).

13 See Cboe Rule 6.7(a) (formerly Rule 6.49A(a)).

14 See proposed Cboe Rule 6.7(a).

15 See proposed Cboe Rule 6.7(b). See also Cboe Options Regulatory Circular RG03-62 (July 24, 2003).

and "is not to be used repeatedly or routinely in circumvention of the normal auction market process."[16]

Finally, as discussed more fully in the Notice,[17] the Exchange proposes other modifications to Rule 6.7, including adding provisions that would provide guidance as to the permitted transfer price at which an off-floor transfer may be effected, specify when written notice would be required prior to effecting an off-floor transfer, and provide for recordkeeping requirements.[18]

III. Discussion and Commission Findings

After careful review of the proposal, as modified by Amendment Nos. 1 and 2, and the comments received thereon, the Commission finds that the proposed rule change is consistent with the requirements of the Act,[19] and the rules and regulations thereunder applicable to a national securities exchange.[20] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[21] which requires, among other things, that the rules of a national securities exchange be designed 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 and that the rules are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's current rule governing off-floor transfers permits such transfers to occur under specified limited circumstances. The Exchange's proposal, among other things, adds four

16 See proposed Cboe Rule 6.7(g).

17 See Notice, supra note 3.

18 See proposed Cboe Rule 6.7(c), (d), and (e).

19 15 U.S.C. 78f.

20 In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

21 15 U.S.C. 78f(b)(5).

new scenarios in which off-floor transfers will be permitted. According to the Exchange, the proposed rule change "adopts no new restrictions on off-floor position transfers, but in fact only adopts narrowly defined, additional circumstances under which such transfers are permissible."[22]

One commenter said it "disagree[s] with the basic premises relied upon by the CBOE for the proposal" and believes that Cboe failed to adequately justify the proposal.[23] Specifically, the commenter said it objects to the Exchange's purported prohibition on transfers involving "no material change of beneficial ownership," which the commenter referred to as "no change transfers," and believes that the existing Rule, as well as the proposed changes thereto, are "overly restrictive" because they limit off-floor "no change" transfers.[24] While Cboe asserts that its proposal is codifying within its rules its longstanding policy on off-floor transfers,[25] the commenter challenges that assertion and characterizes the proposal as based on the "erroneous current view by the CBOE that its longstanding policy" was intended to broadly prohibit off-floor transfers where there is no material change in beneficial ownership.[26] The commenter instead argues that Cboe's longstanding policy was historically intended to require that transactions with "material change of beneficial ownership" occur on an exchange and "to direct no change transfers to the off-floor transfer process," and disagrees with Cboe's assertion that its longstanding policy was to "generally ensure all position movements occur in the open

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22 See Cboe Response Letter, supra note 9, at 6.

23 See SIG December 2019 Letter, supra note 10, at 1. See also SIG August 2019 Letter, supra note 7, at 7.

24 See SIG December 2019 Letter, supra note 10, at 2; SIG August 2019 Letter, supra note 7, at 1.

25 See Cboe Response Letter, supra note 9, at 1.

26 See SIG December 2019 Letter, supra note 10, at 5, fn.15.

market."[27] The commenter contends that language in the 1995 filing that adopted of Rule 6.7 (formerly Rule 6.49A) supports its position that the rule "was not meant to alter no change transfers, as the open market requirement did not apply to them in the first place."[28]

Cboe disagrees with the commenter's characterization of its longstanding policy and states that the commenter's concept of a "no change transfer" that would be permitted to occur off-floor without restriction "conflicts with the long-standing policy and approach reflected in the pending rule change filing."[29] In support of its position, Cboe cites, among other things, to its adoption in 1995 of Rule 6.7 (formerly Rule 6.49A) as permitting only narrow exceptions to the general requirement under Rule 5.12 (formerly Rule 6.49) that transactions be effected on an exchange.[30] Cboe states that "[t]o be clear, it is not, and has not been, the Exchange's intent or interpretation of Rule 6.7 (former Rule 6.49A) that off-floor position transfers may freely occur when there is no change in ownership (or beneficial ownership), particularly in circumstances that result in netting, favorable margin treatment, or repeating or recurring transfers, or that result in the avoidance of the normal auction market process."[31] Cboe further notes that "[n]one of the exceptions currently delineated in Rule 6.7 permit the type of 'no change' transfer [the commenter] believes is currently permissible."[32] Instead, Cboe explains that the current exceptions do not permit off-floor transactions in situations involving "regular business practices, such as risk management or hedging activities" but instead allow them in "infrequent

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27 See SIG December 2019 Letter, supra note 10, at 3, 5; see also SIG August 2019 Letter, supra note 7, at 7.

28 See SIG December 2019 Letter, supra note 10, at 3.

29 See Cboe Response Letter, supra note 9, at 3.

30 See Cboe Response Letter, supra note 9, at 2-3.

31 See Cboe Response Letter, supra note 9, at 3.

32 See Cboe Response Letter, supra note 9, at 4.

occurrences that arise for legal purposes (e.g., mergers, acquisitions, bankruptcies) or other non-business related events (e.g., donations to not-for-profit entities, gifts to minors)."[33] The Exchange points out that according to the commenter, a "'no change' transfer may involve a change – just not a material change – in beneficial ownership, which implies different entities (and thus different Persons) own the accounts" and concludes that such a definition of "no change transfer" is not supported by the commenter's argument that this is analogous to a statement comparing different accounts of the same Person (or same entity).[34]

The Commission believes that the Exchange has addressed the commenter's concerns concerning the scope of Rule 6.7 (formerly Rule 6.49A) and Rule 5.12 (formerly Rule 6.49). While the commenter asserts that the Exchange "has always generally permitted no change position movements to be transferred off-floor,"[35] the Exchange contradicts that assertion as an "unsupported presumption" and, in support of its position, cites language to the contrary in its 1995 filing adopting Rule 6.7 (formerly 6.49A).[36] The Commission believes that the Exchange has presented sufficient information in support of what it considers to be its longstanding policy generally prohibiting off-exchange transfers subject to limited exceptions.

Other aspects of the Exchange's proposal expand the list of permitted off-floor transactions and purport to codify certain preexisting Exchange interpretations concerning the nature and extent of permitted off-floor transfers. In particular, the Exchange proposes to add into the Rule provisions specifying that off-floor transfers may not (1) net against another

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33 See Cboe Response Letter, supra note 9, at 4.

34 See Cboe Response Letter, supra note 9, at 9.

35 See SIG December 2019 Letter, supra note 10, at 5.

36 See Cboe Response Letter, supra note 9, at 4 and 1-2.

position or result in preferential margin or haircut treatment ("netting restriction") or (2) be used to facilitate non-routine, non-recurring movements of positions ("frequency restriction").[37]

Commenters seek clarification on certain of these aspects of the proposal. First, commenters ask which types of transfers would constitute "routine, recurring" transfers.[38] For example, one commenter asks whether more than one transfer per day would be considered "recurring."[39] In response, the Exchange states that "[w]hat constitutes non-routine and non-recurring will be based on facts and circumstances" and notes that "[t]he term 'routine' generally refers to regular or habitual actions taken as part of an established procedure" and "[t]he term recurring general means something that happens repeatedly."[40] The Exchange further explains that "it is important that the transfer could occur only in connection with one of the specific events/episodes listed in Rule 6.7" and that if a "transfer is prescribed by a Person's procedures to occur at specified times in intervals (such as hourly, daily, weekly, or monthly), the Exchange would view that to be routine and recurring and potentially be a violation of the proposed Rule requirement."[41] The Commission believes that the Exchange has addressed the commenter's question and has articulated a reasonably and fairly implied interpretation of how the frequency restriction would apply based on its plain meaning.

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37 See proposed Cboe Rule 6.7(b) and (g). While the amended Rule will continue to allow the Exchange to grant an exemption from Cboe Rule 5.12 to allow additional types of off-floor transfers, the revised rule text makes it clear that such exemptions may only be granted on rare occasions when necessary or appropriate for the maintenance of a fair and orderly market and the protection of investors and where the exemption is in the public interest, including due to unusual or extraordinary circumstances.

38 See Group One Letter, supra note 7, at 2; SIG August 2019 Letter, supra note 7, at 6.

39 See Group One Letter, supra note 7, at 2.

40 See Cboe Response Letter, supra note 9, at 10.

41 See Cboe Response Letter, supra note 9, at 10.

In addition, one commenter argues that the proposal is ambiguous in its description of what constitutes a separate account with respect to proposed Rule 6.7(a)(2).[42] Proposed Rule 6.7(a)(2) allows for off-floor transfers involving "the transfer of positions from one account to another account where no change in ownership is involved (i.e., accounts of the same Person (as defined in Rule 1.1)), provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements." In response, the Exchange asserts that "the phrases 'information barriers' and 'aggregation units' are widely understood throughout the financial industry."[43] The Exchange explains the purpose behind this restriction as follows:

> Ultimately, these are methods used by Persons to separate accounts for different business (e.g., to separate a market-maker trading unit from a proprietary trading unit) or regulatory purposes (e.g., Regulation SHO). If accounts are subject to such separation for any such purpose, the Exchange believes it is reasonable to not permit off-floor position transfers between such accounts that are otherwise required to be kept separate, as such transfers could be seen as 'breaching the wall' put in place by that separation.[44]

The Commission believes that the Exchange has addressed the commenter's concern and has articulated a fair basis for the restriction, and that such restriction is consistent with the requirements of the Act, and the rules and regulations thereunder.

Further, both commenters generally object to the prohibitions on netting and routine-use, and say that those prohibitions restrict their ability to perform risk-reducing off-floor transfers.[45] For example, one commenter believes the rule's prohibition on repeated or routine use is too

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42 See SIG December 2019 Letter, supra note 10, at 2; SIG August 2019 Letter, supra note 7, at 3.

43 See Cboe Response Letter, supra note 9, at 13.

44 See Cboe Response Letter, supra note 9, at 13.

45 See Group One Letter, supra note 7, at 2; SIG December 2019 Letter, supra note 10, at 3, 8; SIG August 2019 Letter, supra note 7, at 6, 8.

restrictive, as it is "unaware of any normal auction market process that would allow for a single market participant to transact with itself in order to move a position across two accounts maintained by that same market participant."[46] This commenter argues that "[i]n a no-change transfer, there is no buyer and there is no seller," as the positions are already owned and ownership is not changing; therefore no-change transfers should be available "as frequently as necessary."[47] In response, Cboe "reiterates that Rule 5.12 prohibits all off-floor positions transfers, unless specifically permitted by an exception."[48] The Exchange further explains that:

> [w]hile [the commenter] references accounts of the "same market participant," it also references a "no change transfer" which, again, could result in a position transfer between accounts of different entities (and thus different market participants) with the same beneficial owner. The Exchange believes accounts of different Persons, even with the same beneficial owner, could be used to circumvent the normal auction process if, for example, those accounts were being used for different trading businesses. Therefore, the Exchange limited the proposed exception to transfers between accounts of the same Person.[49]

In short, Cboe believes that the commenters seek an interpretation that is beyond the scope of the proposed rule change.[50]

Similarly, one commenter argues that to the extent that the proposal overly restricts off-floor transfers of positions that could otherwise be netted for risk management purposes, the

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46 See Group One Letter, supra note 7, at 1.

47 See Group One Letter, supra note 7, at 2. See also SIG December 2019 Letter, supra note 10, at 9 (noting that pursuant to Rule 5.12, no member "acting as principal or agent may effect transactions . . . " and arguing that "[n]o change transfers do not reflect one's intent to buy from and sell to oneself, but simply to move what one already holds on one's books and records for risk management.").

48 Cboe Response Letter, supra note 9, at 11.

49 Cboe Response Letter, supra note 9, at 11.

50 See Cboe Response Letter, supra note 9, at 9.

result is to potentially harm some market makers and needlessly inflate open interest.[51] The commenter suggests that the proposal may force market makers who wish to avoid the appearance of wash sales to undertake expensive alternatives like carrying positions until expiration or paying the spread to trade out of a position.[52] According to the commenter, market makers often assume unwanted positions from customer facilitations and some market makers that do not use a "universal account" nevertheless may find post-trade opportunities to hedge or close positions, which could be more efficiently accomplished through an off-floor transfer.[53] The commenter states that the inability to use off-floor transfers to reduce risk could raise a market maker's expenses and result in wider quotes by impacted market makers that ultimately could harm investors.[54]

In response, the Exchange notes that is proposal "adopts no new restrictions on off-floor position transfers, but in fact only adopts narrowly defined, additional circumstances under which such transfers are permissible" and it "disputes the characterization of the Proposal as creating restrictions and curtailing flexibility."[55] Further, the Exchange points to other procedures that "support and encourage Market-Maker liquidity and foster tighter quotes," such as the "universal account" through which "positions in Market-Maker subaccounts registered

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51 See SIG December 2019 Letter, supra note 10, at 3; SIG August 2019 Letter, supra note 7, at 8. In addition, the commenter stated that the prohibition on netting stemmed from concerns from floor brokers "troubled by apparent changes in publicly disseminated open interest (from off-floor transferring) without the opportunity to trade in those instances." See SIG December 2019 Letter, supra note 10, at 10.

52 See SIG December 2019 Letter, supra note 10, at 3, 10; SIG August 2019 Letter, supra note 7, at 3-4, 6.

53 See SIG December 2019 Letter, supra note 10, at 8-9.

54 See SIG December 2019 Letter, supra note 10, at 9; SIG August 2019 Letter, supra note 7, at 4.

55 Cboe Response Letter, supra note 9, at 6.

across multiple options exchanges automatically transfer into a single universal account and net against other positions in the universal account."[56] Accordingly, the Exchange asserts that "there is in fact a cost-efficient method available for Market-Makers to offset positions, and thus not create this perceived harm on investors."[57] The Exchange further asserts that:

> The Commenters have not provided any reasoning as to why the proposed exceptions will create new burdens that do not exist today; they merely wish the Exchange would expand the exceptions to address issues that the Proposal is not intended to address. The Exchange notes again that if the Commission disapproves the Proposal, Commenters would continue to be prohibited from effecting the "no change" transfers they support.[58]

The Commission believes that the Exchange has addressed the commenters' concerns. Accepting the Exchange's position that its proposal is not designed to materially change the existing intended scope of its off-floor transfer rule, the Commission finds that the Exchange has articulated a reasonable explanation for its proposal and that commenters are seeking material changes to the underlying rule itself that are beyond the scope of its more narrowly-tailored proposal. The current and proposed exceptions that allow certain off-floor transfers are based on specified, limited legal situations or one-time events, not regular business practices such as risk management or hedging activities. As the Exchange notes, other alternatives, including universal accounts, exist and may be utilized to avoid the potential harms envisioned by one commenter, such as excessive risk, wash sales, and overstating open interest. The Commission believes that the proposed provisions, including the netting restriction and frequency restriction, are designed to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, by assuring that off-floor transfers are

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56 Cboe Response Letter, supra note 9, at 7.

57 Cboe Response Letter, supra note 9, at 7.

58 Cboe Response Letter, supra note 9, at 9.

conducted in a manner consistent with the Exchange's rules. In addition, the Commission believes that the requirement for the parties to provide written notice to the Exchange and maintain detailed records of each transfer will ensure that the Exchange is made aware of off-floor transfers and is able to review them for compliance with applicable rules.

IV. Solicitation of Comments on Amendment Nos. 1 and 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment Nos. 1 and 2 are 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. Please include File Number SR-CBOE-2019-035 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-2019-035. 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, 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2019-035 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment Nos. 1 and 2, prior to the thirtieth day after the date of publication of notice of the filing of Amendment Nos. 1 and 2 in the Federal Register. As discussed above, in Amendment No. 1, the Exchange deleted from the proposed rule change its proposal to permit RWA transfers.[59] The Commission notes that the Exchange subsequently refiled the RWA transfer proposal as a separate proposed rule change filing in SR-CBOE-2019-044.[60] Additionally, in Amendment No. 2 the Exchange revised the proposal to update cross-references to Cboe rules throughout the proposed rules to reflect separate amendments it made to its rulebook in connection with the Exchange's technology migration; relocated the proposed Rule 6.49A to Rule 6.7; and made conforming changes to its proposed rule change to reflect the new rule number.[61] The Commission believes that Amendment Nos. 1 and 2 make technical amendments

59 See Amendment No. 1, supra note 4.

60 See Amendment No. 1, supra note 4.

61 See Amendment No. 2, supra note 6.

to the proposed rule changes and do not raise any novel regulatory issues. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[62] to approve the proposed rule change, as modified by Amendment Nos. 1 and 2, on an accelerated basis.

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[63] that the proposed rule change (SR-CBOE-2019-035), as modified by Amendment No. 1 and 2, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[64]

J. Matthew DeLesDernier
Assistant Secretary

62 15 U.S.C. 78s(b)(2).

63 15 U.S.C. 78s(b)(2).

64 17 C.F.R. 200.30-3(a)(12).