

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-88447; File No. SR-CBOE-2020-023)

March 20, 2020

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to amend Rule 5.24

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 March 20, 2020, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend Rule 5.24.

The text of the proposed rule change is provided below.

(additions are italicized; deletions are [bracketed])

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Rules of Cboe Exchange, Inc.

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**Rule 5.24. Disaster Recovery**

(a) – (d) No change.

(e) *Loss of Trading Floor.* If the Exchange trading floor becomes inoperable, the Exchange will continue to operate in a screen-based only environment using a floorless configuration of the System that is operational while the trading floor facility is inoperable. The Exchange will operate using this configuration only until the Exchange’s trading floor facility is operational.

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

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

Open outcry trading will not be available in the event the trading floor becomes inoperable, except in accordance with paragraph (2) below and pursuant to Rule 5.26, as applicable.

(1) *Applicable Rules.* In the event that the trading floor becomes inoperable, trading will be conducted pursuant to all applicable System Rules, except that open outcry Rules will not be in force, including but not limited to the Rules (or applicable portions of the Rules) in Chapter 5, Section G, and as follows (subparagraphs (A) through ([C]D) will until May 15, 2020):

(A) No change.

(B) with respect to complex orders in any exclusively listed index option class:

(1) notwithstanding Rule 5.4(b), the minimum increment for bids and offers on complex orders with any ratio equal to or greater than one-to-twenty-five (0.04) and equal to or less than twenty-five-to-one (25.00) is \$0.01 or greater, which may be determined by the Exchange on a class-by-class basis, and the legs may be executed in \$0.01 increments; and

(2) notwithstanding the definition of “complex order” in Rule 1.1, for purposes of Rule 5.33, the term “complex order” means a complex order with any ratio equal to or greater than one-to-twenty-five (0.04) and equal to or less than twenty-five-to-one (25.00); [and]

([3]C) the contract volume a Market-Maker trades electronically during a time period in which the Exchange operates in a screen-based only environment will be excluded from determination of whether a Market-Maker executes more than 20% of its contract volume electronically in an appointed class during any calendar quarter, and thus is subject to the continuous electronic quoting obligation, as set forth in Rule 5.52(d)[.]; and

(D) a TPH may execute a “Related Futures Cross” or “RFC” order, which is comprised of an SPX or VIX option combo order coupled with a contra-side order or orders totaling an equal number of option combo orders, which is identified to the Exchange as being part of an exchange of option contracts for related futures positions. For purposes of RFC orders:

(1) In order to execute an RFC order:

(a) until the time when System functionality described in subparagraph (b) is available, a TPH may execute an RFC order without exposure on the Exchange by inputting the execution into the Exchange’s Clearing Editor; and

(b) at the time when System functionality is available, a TPH must submit the RFC order to the System, which may execute automatically on entry without exposure.

(2) A TPH may execute an RFC order pursuant to subparagraph (1) above only if: (a) each option leg executes at a price that complies with Rule 5.33(f)(2), provided that no option leg executes at the same price as a Priority Customer Order in the Simple Book; (b) each option leg executes at a price at or between the NBBO for the applicable series; and (c) the execution price is better than the price of any complex order resting in the COB, unless the RFC order is a Priority Customer Order and the resting complex order is a non-Priority Customer Order, in which case the execution price may be the same as or better than the price of the resting complex order. Rule 5.9 (related to exposure of orders on the Exchange) does not apply to executions of RFC orders. The System cancels an RFC order if it cannot execute.

(3) An RFC order may only be entered in the standard increment applicable to the class under Rule 5.4(b).

(4) For purposes of this subparagraph (D), an SPX or VIX options combo order is a two-legged order with one leg to purchase (sell) SPX or VIX calls and another leg to sell (purchase) the same number of SPX or VIX, respectively, puts with the same expiration date and strike price.

(5) For purposes of this subparagraph (D), an exchange of option contracts for related futures positions is a transaction entered into by market participants seeking to swap option positions with related futures positions with related exposures.

(a) A related futures position is a position in a futures contract with either the same underlying as or a high degree of price correlation to the underlying of the option combo in the RFC order so that execution of the option combos in the RFC order would serve as an appropriate hedge for the related future positions.

(b) In an exchange of contracts for related positions, one party(ies) must be the buyer(s) of (or the holder(s) of the long market exposure associated with) the options positions and the seller(s) of corresponding futures contracts and the other party(ies) must be the seller(s) of (or holder(s) of the short market exposure associated with) the options positions and the buyer(s) of the corresponding futures contracts. The quantity of the option contracts executed as part of the RFC order must correlate to the quantity represented by the related futures position portion of the exchange.

(6) An RFC order may be executed only during Regular Trading Hours and contemporaneously with the execution of the related futures position portion of the exchange.

(7) The transaction involving the related futures position of the exchange must comply with all applicable rules of the designated contract market on which the futures are listed for trading.

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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

The Exchange proposes to amend Rule 5.24 regarding the Exchange's business continuity and disaster recovery plans. Rule 5.24 describes which Trading Permit Holders ("TPHs") are required to connect to the Exchange's backup systems as well as certain actions the Exchange may take as part of its business continuity plans so that it may maintain fair and orderly markets if unusual circumstances occurred that could impact the Exchange's ability to conduct business. This includes what actions the Exchange would take if its trading floor became inoperable. Specifically, Rule 5.24(e) states if the Exchange trading floor becomes inoperable, the Exchange will continue to operate in a screen-based only environment using a

floorless configuration of the System that is operational while the trading floor facility is inoperable. The Exchange would operate using that configuration only until the Exchange's trading floor facility became operational. Open outcry trading would not be available in the event the trading floor becomes inoperable.<sup>3</sup> Rule 5.24(e)(1) also currently states in the event that the trading floor becomes inoperable, trading will be conducted pursuant to all applicable System Rules, except that open outcry Rules would not be in force, including but not limited to the Rules (or applicable portions) in Chapter 5, Section G,<sup>4</sup> and that all non-trading rules of the Exchange would continue to apply.<sup>5</sup> The Exchange recently proposed additional exceptions to Rules that would not apply during a time in which the trading floor is inoperable.<sup>6</sup>

As of March 16, 2020, the Exchange suspended open outcry trading to help prevent the spread of the novel coronavirus and is currently operating in an all-electronic configuration. While the trading floor was open, floor brokers executed crosses of option combos (*i.e.*, synthetic futures) on the trading floor on behalf of market participants who were exchanging futures contracts for related options positions. Market participants enter into these exchanges in order to swap related exposures. For instance, if a market participant has positions in VIX options but would prefer to hold a corresponding position in VIX futures (such as, for example, to reduce margin or risk related to the option positions), that market participant may swap its VIX options

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<sup>3</sup> Pursuant to Rule 5.26, the Exchange may enter into a back-up trading arrangement with another exchange, which could allow the Exchange to use the facilities of a back-up exchange to conduct trading of certain of its products. The Exchange currently has no back-up trading arrangement in place with another exchange.

<sup>4</sup> Chapter 5, Section G of the Exchange's rulebook sets forth the rules and procedures for manual order handling and open outcry trading on the Exchange.

<sup>5</sup> Current Rule 5.24(e)(1)(B)(3) was intended to be Rule 5.24(e)(1)(C), and the proposed rule change corrects that incorrect subparagraph lettering and numbering.

<sup>6</sup> See Securities Exchange Act Release No. 88386 (March 13, 2020), 85 FR 15823 (March 19, 2020). The rule changes adopted in that filing are effective until May 15, 2020, unless extended. See Rule 5.24(e)(1).

positions with another market participant(s)'s VIX futures positions that have corresponding risk exposure.<sup>7</sup>

A key element to these exchanges is that both of the option and future transactions must occur between the same market participants. When a floor broker represented the cross of the option contracts on the trading floor in accordance with applicable rules,<sup>8</sup> while in-crowd market participants had the opportunity to bid or offer to participate on the trade, those participants generally declined to participate upon hearing that the cross was part of an exchange of related futures contracts. While not required by the Rules, the Rules permit in-crowd market participants to decline to accept contracts that would otherwise be allocated to them.<sup>9</sup> The Exchange understands these market participants decline this allocation voluntarily, as they are aware of the need for market participants to execute these crosses cleanly for the transfer of risk between participants to be effective.<sup>10</sup> These are riskless exchanges that carry no profit or loss for the market participants that are party to the transactions, but rather are intended to provide a seamless method for market participants to reduce margin and capital requirements while maintaining the same risk exposure within their portfolios.

In response to feedback the Exchange has received from floor brokers and their customers regarding the inability to complete these crosses in the current all-electronic environment and the potential detrimental impact on those market participants as well as the

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<sup>7</sup> The transaction between the market participants for the futures positions occurs in accordance with the rules of the applicable designated contract market that lists the futures. See, e.g., Cboe Futures Exchange LLC Rule 414.

<sup>8</sup> See Rules 5.85 and 5.87.

<sup>9</sup> See Rule 5.85(a)(2)(C)(iv).

<sup>10</sup> Additionally, many market-makers in the crowd that decline their allocations in these crosses often similarly engage in these exchanges for similar purposes, so may similarly benefit from the ability to execute these clean crosses.

market as a whole, the Exchange proposes to provide functionality that would permit TPHs to execute these crosses electronically while the trading floor is inoperable. Specifically, the Exchange proposes to amend Rule 5.24(e)(1) to provide that in the event that the trading floor becomes inoperable, trading will be conducted pursuant to all applicable System Rules, except that open outcry Rules will not be in force, including but not limited to the Rules (or applicable portions of the Rules) in Chapter 5, Section G,<sup>11</sup> and a Trading Permit Holder (“TPH”) may execute a “Related Futures Cross” or “RFC” order, which is comprised of an SPX or VIX option combo order coupled with a contra-side order or orders totaling an equal number of option combo orders, which is identified to the Exchange as being part of an exchange of contracts for related futures positions.

For purposes of RFC orders:

- In order to execute an RFC order:
  - (a) until the time when System functionality described in paragraph (b) is available, a TPH may execute an RFC order without exposure on the Exchange by inputting the execution into the Exchange’s Clearing Editor<sup>12</sup>; and
  - (b) at the time when System functionality is available, a TPH must submit the RFC order to the System, which may execute automatically on entry without exposure.

The Exchange believes the functionality described in paragraph (b) will provide a seamless mechanism to execute these crosses, as it will provide for orders to be systematized and price protections will be systematically enforced. The Exchange needs a small amount of time to

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<sup>11</sup> Like the other exceptions recently added to this provision, the proposed rule change would apply until May 15, 2020. The Exchange will monitor these transactions while the trading floor is inoperable. If the trading floor is inoperable beyond May 15, 2020, based on that review, the Exchange may submit a separate rule filing to extend the effectiveness of this rule.

<sup>12</sup> See Rule 6.6.

implement this functionality, and the functionality in paragraph (a) will provide an intermediate method for TPHs to effect these crosses while the Exchange completes the necessary System work, which it expects to occur the week of March 23.

- A TPH may execute an RFC order pursuant to the preceding bulleted paragraph only if: (a) each option leg executes at a price that complies with Rule 5.33(f)(2),<sup>13</sup> provided that no option leg executes at the same price as a Priority Customer Order in the Simple Book; (b) each option leg executes at a price at or between the national best bid or offer (“NBBO”) for the applicable series; and (c) the execution price is better than the price of any complex order resting in the complex order book (“COB”), unless the RFC order is a Priority Customer Order and the resting complex order is a non-Priority Customer Order, in which case the execution price may be the same as or better than the price of the resting complex order. Rule 5.9 (related to exposure of orders on the Exchange) does not apply to executions of RFC orders. The System cancels an RFC order if it cannot execute. This provision provides that RFC orders must execute in accordance with the same priority principles that apply to all other complex orders on the Exchange, which protects Priority Customer orders in the simple book and COB and prohibits trades through prices available in the book.

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<sup>13</sup> Rule 5.33(f)(2) requires complex orders, which would include an RFC order, which by definition contains two option legs, to execution only if the execution price: at a net price: (i) that would cause any component of the complex strategy to be executed at a price of zero; (ii) worse than the synthetic best bid or offer (“SBBO”) or equal to the SBBO when there is a Priority Customer Order at the SBBO, except all-or-none complex orders may only execute at prices better than the SBBO; (iii) that would cause any component of the complex strategy to be executed at a price worse than the individual component prices on the Simple Book; (iv) worse than the price that would be available if the complex order Legged into the Simple Book; or (v) that would cause any component of the complex strategy to be executed at a price ahead of a Priority Customer Order on the Simple Book without improving the BBO of at least one component of the complex strategy.



- An RFC order may only be entered in the standard increment applicable to the class under Rule 5.4(b). Therefore, RFC orders may only be submitted in the same increments as all other complex orders.
- For purposes of proposed subparagraph (D), an SPX or VIX options combo order is a two-legged order with one leg to purchase (sell) SPX or VIX calls and another leg to sell (purchase) the same number of SPX or VIX, respectively, puts with the same expiration date and strike price.
- For purposes of proposed subparagraph (D), an exchange of options contracts for related futures positions is a transaction entered into by market participants seeking to swap option positions with related futures positions with related exposures.
  - (a) A related futures position is a position in a futures contract with either the same underlying as or a high degree of price correlation to the underlying of the option combo in the RFC order so that execution of the option combos in the RFC order would serve as an appropriate hedge for the related future positions.
  - (b) In an exchange of contracts for related positions, one party(ies) must be the buyer(s) of (or the holder(s) of the long market exposure associated with) the options positions and the seller(s) of corresponding futures contracts and the other party(ies) must be the seller(s) of (or holder(s) of the short market exposure associated with) the options positions and the buyer(s) of the corresponding futures contracts.<sup>14</sup> The quantity of the option contracts executed as part of the RFC order must correlate to the quantity represented by the related futures position portion of the exchange.

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<sup>14</sup> As proposed, one side of the cross will consist of one party, and the other side may consist of multiple parties.

- An RFC order may be executed only during Regular Trading Hours and contemporaneously with the execution of the related futures position portion of the exchange.
- The transaction involving the related futures position of the exchange must comply with all applicable rules of the designated contract market on which the futures are listed for trading.

The Exchange understands from customers that the need to reduce risk is prevalent in VIX and SPX based on current market conditions, and have corresponding futures that could make these exchanges possible. For example, Cboe Futures Exchange LLC (“CFE”) permit these types of exchanges with respect to VIX futures pursuant to CFE Rule 414.<sup>15</sup> The proposed rule will require that the executing TPH identify these crosses as related to an exchange for related positions. As a result, the Exchange’s Regulatory Division has put in place a regulatory review plan that will permit it to ensure any RFC orders that are executed are done in conjunction with an exchange of contract for related positions as required by the proposed rule.

Allowing TPHs, and particularly market-makers, to exchange synthetic futures (long (short) call, short (long) put – combos) for listed futures would replicate functionality that was previously available while Cboe was operating with an open outcry environment and would provide them with needed relief from the effect of the current exposure method (“CEM”) on the options market. The Exchange believes there are four reasons that make the proposed rule change for VIX and SPX products necessary and appropriate to maintain fair and orderly markets.

First, existing margin models do not fully recognize similar risks present in VIX and SPX derivatives positions held by the Exchange’s liquidity providing community. This results in an

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<sup>15</sup> Currently, CME, which lists futures that correspond to SPX options, does not offer similar exchange opportunities. If CME implements a rule to permit them, the proposed rule change will permit TPHs to similar use RFC orders to swap exposure with corresponding futures that transact pursuant to CME’s rules.

overestimation of risk causing Clearing TPHs to require out-sized margin deposits from their market-maker clients, which restricts the liquidity market-makers can provide to the markets. Second, because the Clearing TPHs carrying these positions are bank-owned broker/dealers they are subject to further bank regulatory capital requirements pursuant to CEM, which result in these additional punitive capital requirements being passed on to their market-maker clients.<sup>16</sup> Third, as noted above, the Exchange's necessary response to the novel coronavirus global pandemic caused the Exchange to suspend open outcry trading, which has temporarily eliminated one method of executing necessary position reducing trades in VIX and SPX options on the trading floor. Finally, the historic levels of market volatility has made providing liquidity in VIX and SPX options immensely more challenging. The execution of options trades through in an electronic trading environment independent of the underlying futures hedge introduces additional risk to these transactions, which further reduces available liquidity a liquidity provider may provide to the market.

The Exchange believes the proposed rule change to make available functionality that will allow liquidity providers to execute trades tied to the underlying future (i.e. "delta-neutral") in a substantially similar manner as they were able to do on the trading floor will considerably reduce the risk inherent in trying to maintain a hedged portfolio. The combination of these four factors is negatively impacting the market-making community, which is reducing liquidity available in an extremely volatile market, which is when the market needs this liquidity the most. The Exchange believes the proposed rule change will temporarily reduce existing inefficiencies that have resulted from closure of the trading floor which will free up liquidity providers' much

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<sup>16</sup> See Letter from Cboe, New York Stock Exchange, and Nasdaq, Inc., to the Honorable Randal Quarles, Vice Chair for Supervision of the Board of Governors of the Federal Reserve System, March 18, 2020.

needed capital, which will benefit the entire market and all investors.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>17</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>18</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>19</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change will temporarily provide liquidity providers and other market participants with the ability to exchange SPX and VIX options positions with corresponding futures positions electronically in a substantially similar manner as they were able to do when the trading floor was open. These exchange allow market participants to reduce options positions in their hedged portfolios while maintain the same risk exposure,

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<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> Id.

which would reduce the necessary capital associated with those positions and permit them to provide more liquidity in the market. This additional liquidity may result in tighter spreads and more execution opportunities, which benefits all investors, particularly in the current volatile markets.

The Exchange believes that its proposal is also consistent with the Act in that it seeks to mitigate the potentially negative effects of the bank capital requirements on liquidity in the VIX and SPX markets. As described above, current regulatory capital requirements could potentially impede efficient use of capital and undermine the critical liquidity role that Market-Makers and other liquidity providers play in the SPX and VIX options market by limiting the amount of capital Clearing TPHs (“CTPHs”) allocate to clearing member transactions. Specifically, the rules may cause CTPHs to impose stricter position limits on their clearing members. In turn, this could force Market-Makers to reduce the size of their quotes and result in reduced liquidity in the market. The Exchange believes that permitting TPHs to reduce options positions in SPX and VIX options that will permit them to maintain a hedged portfolio would likely contribute to the availability of liquidity in the SPX and VIX options market and help ensure that these markets retain their competitive balance. The Exchange believes that the proposed rule would serve to protect investors by helping to ensure consistent continued depth of liquidity, particularly given current market conditions when liquidity is needed the most by investors.

The Exchange also believes the proposed rule change is consistent with the Act, because the proposed procedure is consistent with transactions that were otherwise permitted on the trading floor. The proposed rule would provide an electronic mechanism to replicate a process that was used on the trading floor. The proposed rule change imposes similar priority requirements to those in open outcry, which will protect Priority Customer orders and orders on

top of the book that comprise the BBO. Additionally, the proposed rule change requires RFCs to execute in the same increments as all other complex orders. While these orders were exposed on the trading floor, the Exchange observed that market participants generally deferred their allocations to permit a clean cross, as that is necessary for these transactions to achieve their intended effect. Because these orders were generally not broken up on the trading floor, and because the purpose of these trades is unrelated to profits and losses (making the price at which the transaction is executed relatively unimportant like competitive trades), the Exchange believes it is appropriate to not expose these orders in an electronic setting. The Exchange believes the proposed rule change, which is limited to two classes the Exchange believes are being significantly impacted by the inability to execute these crosses, and to option orders that qualify as combos tied to related futures positions, is narrowly tailored for the specific purpose of facilitating the ability of liquidity providers to reduce positions requiring significant capital as a result of current bank regulatory capital requirements and the current historic levels of market volatility. The Exchange believes the proposed rule change will protect investors by helping to ensure continued depth of liquidity in the SPX and VIX options market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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 proposed rule change will impose any burden on intramarket competition, RFC orders will be available to all market participants. As discussed above, while the proposed rule change is directed at market-makers, all market participants may use these orders in the same manner as long as all criteria of the proposed rule are satisfied. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition, as

it will apply only to products currently listed on the Exchange. Additionally, the proposed order is intended to accommodate riskless transactions for which parties are not seeking price improvement, but rather looking to swap risk exposure to free up capital that will permit those parties to continue to provide liquidity to the market, and thus is not intended to have a competitive impact.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>20</sup> and Rule 19b-4(f)(6) thereunder.<sup>21</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, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>22</sup> and Rule 19b-4(f)(6) thereunder.<sup>23</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>24</sup> normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>25</sup>

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<sup>20</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>21</sup> 17 CFR 240.19b-4(f)(6).

<sup>22</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>23</sup> 17 CFR 240.19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii) under the Act, the Exchange is required to give 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 has satisfied this requirement.

<sup>24</sup> 17 CFR 240.19b-4(f)(6).

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 proposed rule change may become operative immediately. Given current market conditions that have created historic levels of volatility, the Exchange believes the proposed rule change will help it maintain fair and orderly markets by providing an electronic avenue for market participants, particularly liquidity providers, to continue to provide liquidity to the VIX and SPX markets. Additionally, the Exchange understands market participants generally engage in these attempts to reduce their options positions in connection with the third-Friday of the month expirations, as well as part of their monthly capital calculations. The Exchange also understands that in connection with bank capital regulatory requirements, CTPHs recalculate their leverage ratios at the end of each calendar quarter, which could result in their need to add capital based on their clients' positions and further reduce availability liquidity. Waiver of the operative delay would permit TPHs to engage in these transactions in connection with the March 2020 expiration and expected first quarter CTPH capital recalculation, which could permit continued liquidity and a fair and orderly market. As discussed above, the proposed rule change would apply temporarily, and only to two exclusively listed index option classes, during the time the trading floor is unavailable for open outcry trading. Waiver of the operative delay would allow the proposed changes, which are designed to help maintain fair and orderly markets, to be in effect immediately. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public

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<sup>25</sup> 17 CFR 240.19b-4(f)(6)(iii).



interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>26</sup>

#### 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-2020-023 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-2020-023. 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

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<sup>26</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 offices 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-2020-023, 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>27</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>27</sup> 17 CFR 200.30-3(a)(12), (59).