

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-90132; File No. SR-CBOE-2020-091)

October 8, 2020

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend Rule 5.1

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 30, 2020, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 5.1.

The text of the proposed rule change is provided below.

(additions are underlined; deletions are [bracketed])

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Rules of Cboe Exchange, Inc.

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¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

Rule 5.1. Trading Days and Hours

(a) No change.

(b) *Regular Trading Hours.*

(1) No change.

(2) *Index Options.* Except as otherwise set forth in the Rules or under unusual conditions as may be determined by the Exchange, Regular Trading Hours for transactions in index options are from 9:30 a.m. to 4:15 p.m., except as follows:

(A) Regular Trading Hours for the following index options are from 9:30 a.m. to 4:00 p.m.:

S&P 500 ESG Index (SPESG)

* * * * *

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

Recently, the Exchange proposed to amend certain rules in connection with the Exchange's plans to list S&P 500 ESG Index options ("SPESG options"), which options first

listed for trading on September 21, 2020. The S&P 500 ESG Index is a broad-based, market-capitalization-weighted index that is designed to measure the performance of securities meeting sustainability criteria, while maintaining similar overall industry group weights as the S&P 500. Each constituent of a S&P 500 ESG Index is a constituent of the S&P 500 Index. S&P Dow Jones Indices' ("S&P DJI") assigns constituents to a S&P 500 ESG Index based on S&P DJI ESG Scores and other environmental, social and governance ("ESG") data to select companies, targeting 75% of the market capitalization of each global industry classification standard ("GICS") industry group within the S&P 500. In addition to the exclusion of companies with S&P DJI ESG Scores in the bottom 25% of companies globally within their GICS industry groups, the S&P 500 ESG Index excludes tobacco, controversial weapons and other companies not in compliance with the UN Global Compact.

Currently, pursuant to Rule 5.1(b)(2), SPESG options trade on the Exchange from 9:30 a.m. until 4:15 p.m. Eastern time. In connection with the listing of SPESG options, the Exchange proposes to amend Rule 5.1(b)(2)(A) to add SPESG options to the list of index options that may trade on the Exchange from 9:30 a.m. until 4:00 p.m. Eastern time. The Exchange understands that market participants, including appointed Market-Makers that trade SPESG options generally use futures on the index to price index options, as they do for other options such as options on the S&P 500 Index. The e-mini S&P 500 ESG Index futures currently trade on the Chicago Mercantile Exchange ("CME") and close for trading at 4:00 p.m. Eastern time each day, unlike the e-mini S&P 500 Index futures, which currently trade on CME and close for trading at 4:15 p.m. Eastern time. Closing trading in SPESG options at the same time the futures

end regular trading⁵ will provide investors with access to robust pricing of the futures they use to price the options, thus reducing investors' price risk. Other index options may currently trade from 9:30 a.m. to 4:00 p.m. Eastern time.⁶

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.⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ 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)⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

⁵ While the futures may continue to trade in an aftermarket trading session on CME exchanges, there is less liquidity in aftermarket trading, which generally leads to wider spreads and more volatile pricing.

⁶ See Rule 5.1(b)(2)(A) (pursuant to which options on the various S&P Select Sector Indexes may trade, the components of each of which are similarly comprised of stocks that are included in the S&P 500 Index).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ Id.

In particular, closing trading in SPESG options at the same time the futures on the same index close for regular trading will provide investors with access to robust pricing of the futures they use to price the options for the entirety of the trading day, which protects investors by reducing their price risk. The Exchange believes lack of futures pricing may cause Market-Makers to widen their quote spreads and reduce their quote sizes for the part of the options trading day during which the futures pricing is not available. The Exchange believes the proposed rule change will, therefore, help maintain meaningful liquidity for the entirety of the SPESG options trading day, which liquidity may otherwise be impacted if appointed Market-Makers quote during times when futures pricing is not available. Other index options may currently trade from 9:30 a.m. to 4:00 p.m. Eastern time, including options on the various S&P Select Sector Indexes, the components of each of which are comprised of stocks that are included in the S&P 500 Index (similar to the S&P 500 ESG Index).¹⁰

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

Cboe Options 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 that is not necessary or appropriate in furtherance of the purposes of the Act, because all market participants will be able to trade SPESG options during the same trading hours. Other index options may currently trade from 9:30 a.m. to 4:00 p.m. Eastern time, including options on the various S&P Select Sector Indexes, the components of each of which are comprised of stocks that are included in the S&P 500 Index (similar to the S&P 500 ESG

¹⁰ See Rule 5.1(b)(2)(A).

Index).¹¹ The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, and may promote competition, because the proposed rule change will align the trading hours for SPESG options with the trading hours of the e-mini S&P 500 ESG Index futures.

Additionally, SPESG options trade exclusively on Cboe Options. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

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

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

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

Because the foregoing proposed rule change does not: (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, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁴ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁵

¹¹ Id.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization 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.

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

permits the Commission to 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. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any novel or unique issues not previously considered by the Commission. The Exchange notes that the proposed rule change applies to SPESG options trading hours currently applicable to other index options and related futures products, like the e-mini S&P 500 ESG Index futures. Accordingly, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby waives the operative delay and designates the proposal as operative upon filing.¹⁶

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments:

¹⁶ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- 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-2020-091 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-2020-091. 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-2020-091 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.¹⁷

J. Matthew DeLesDernier
Assistant Secretary

¹⁷ 17 CFR 200.30-3(a)(12).