

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-90593; File No. SR-CBOE-2020-050)

December 8, 2020

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Amend Rules 5.37 and 5.73 Related to the Solicitation of Market Makers for SPX Initiating Orders in the Automated Improvement Mechanism and FLEX Automated Improvement Mechanism

On June 3, 2020, Cboe Exchange, Inc. (“Exchange”) 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 permit orders for the accounts of market makers with an appointment in S&P 500® Index Options (“SPX”) to be solicited for the initiating order submitted for execution against an agency order into an Automated Improvement Mechanism (“AIM”) auction or a FLEX AIM auction. The proposed rule change was published for comment in the Federal Register on June 18, 2020.³ On July 2, 2020, the Exchange submitted Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change in its entirety.⁴ On July 22, 2020, the Exchange

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 89062 (June 12, 2020), 85 FR 36907. Comments received on the proposed rule change are available on the Commission’s website at: <https://www.sec.gov/comments/sr-cboe-2020-050/srcboe2020050.htm>.

⁴ In Amendment No. 1, the Exchange: (1) limited the scope of its original proposal, which would have permitted orders for the accounts of market makers with an appointment in any class to be solicited for the initiating order in an AIM or FLEX AIM auction in that class, to only allow market makers with an appointment in SPX to be solicited for the initiating order in an AIM or FLEX AIM auction in SPX; and (2) provided additional data, justification, and support for its modified proposal. The full text of Amendment No. 1 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-cboe-2020-050/srcboe2020050-7382058-218888.pdf>.

submitted Amendment No. 2 to the proposed rule change.⁵ On July 27, 2020, pursuant to Section 19(b)(2) of the Act,⁶ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁷ On August 21, 2020, the Commission published notice of Amendment Nos. 1 and 2 and instituted proceedings under Section 19(b)(2)(B) of the Act⁸ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment Nos. 1 and 2.⁹

Section 19(b)(2) of the Act¹⁰ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The date of publication of notice of filing of the proposed rule change was June 18, 2020. December 15, 2020, is 180 days from that date, and February 13, 2021, is 240 days from that date.

⁵ In Amendment No. 2, the Exchange: (1) provided additional data, justification, and support for its proposal; and (2) made technical corrections and clarifications to the description of the proposal. The full text of Amendment No. 2 is available on the Commission's website at: <https://www.sec.gov/comments/sr-cboe-2020-050/srcboe2020050-7464399-221161.pdf>.

⁶ 15 U.S.C. 78s(b)(2).

⁷ See Securities Exchange Act Release No. 89398, 85 FR 46197 (July 31, 2020). The Commission designated September 16, 2020 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

⁸ 15 U.S.C. 78s(b)(2)(B).

⁹ See Securities Exchange Act Release No. 89635, 85 FR 53051 (August 27, 2020).

¹⁰ 15 U.S.C. 78s(b)(2).

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹¹ designates February 13, 2021, as the date by which the Commission shall either approve or disapprove the proposed rule change, as modified by Amendment Nos. 1 and 2 (File No. SR-CBOE-2020-050).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

J. Matthew DeLesDernier
Assistant Secretary

¹¹ Id.

¹² 17 CFR 200.30-3(a)(57).