

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-92420; File No. SR-CBOE-2021-040)

July 15, 2021

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Rules Relating to Trading Halts During the Global Trading Hours Session

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 8, 2021, Cboe Exchange, Inc. (“Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III 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 its rules relating to trading halts during the Global Trading Hours session. The text of the proposed rule change is provided in Exhibit 5.

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.

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).

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 purpose of the proposed rule change is to automate the Exchange's process for the halting and resumption of trading in certain circumstances during the Exchange's Global Trading Hours ("GTH") session.

Background

By way of background, Cboe Rule 5.20 describes the Exchange's process for determining if and when to halt trading in any security, including the process for the resumption of trading after a halt. Rule 5.20(a) provides that any two Floor Officials, in consultation with a designated senior executive officer of the Exchange, may halt trading in any security in the interests of a fair and orderly market and to protect investors. Rule 5.20(a) also sets forth various factors that may be considered in making the forgoing determination, including whether there has been an activation of price limits on futures exchanges or the halt of trading in related futures with respect to index options.⁵ Additionally, Rule 5.20(b) provides that trading in a security that has

⁵ See Cboe Options Rule 5.20(a)(6).

been the subject of a halt under subparagraph (a) may be resumed as described in Rule 5.31(g)⁶ upon a determination by two Floor Officials, in consultation with a designated senior executive officer of the Exchange, that the interests of a fair and orderly market are best served by a resumption of trading. Among the factors to be considered in making this determination are whether the conditions which led to the halt are no longer present.

By way of further background, the Chicago Mercantile Exchange (“CME”) recently amended its rules to (1) adopt Dynamic Special Price Fluctuation Limits and trading halt rules for certain CME equity index futures⁷ during CME’s Overnight Trading Hours session (“OTH”⁸) and (2) modify its hard OTH Price Limits.⁹ Specifically, CME amended its rules to provide that if a contract market moves beyond the lower or above the upper dynamic price fluctuation limit during OTH (currently set at 3.5%), CME will trigger a Dynamic Circuit Breaker and halt trading for two (2) minutes.¹⁰ CME also amended its OTH Price Limits for certain CME equity index futures from 5% hard limits to 7% hard limits.¹¹

⁶ Cboe Options Rule 5.31(g) governs the opening auction process that follows a trading halt. Particularly, it provides that the Exchange will open series using the same opening auction process described in Rule 5.31 following a trading halt in the class declared by the Exchange pursuant to Rule 5.20, except: (1) the Queuing Period will begin immediately when the Exchange halts trading in the class; (2) if a User has orders or quotes resting on the Book at the time of a trading halt, the System queues those orders and quotes in the Queuing Book for participation in the opening rotation following the trading halt, unless the User entered instructions to cancel its resting orders and quotes; and (3) the System will initiate the opening rotation for a class upon the Exchange’s determination to resume trading pursuant to Rule 5.20. See Cboe Options Rule 5.31(g).

⁷ See CME Rule 589, Special Price Fluctuation Limits and Daily Price Limits Table, which provides the Dynamic Price Fluctuation Limits apply to, among other products, S&P 500 Futures, E-mini S&P Futures, and Micro E-mini S&P 500 Index Futures.

⁸ CME’s current OTH hours are from 6:00 p.m. – 9:30 a.m. EST.

⁹ See CME Submission No. 20-392.

¹⁰ Id. See also CME Rule 589.D (Dynamic Price Fluctuation Limits).

¹¹ See CME Submission No. 20-392.

Currently, the Exchange employs a manual process to initiate the halting or resumption of trading during GTH. This manual process requires personnel from the Exchange's Trade Desk to become aware of, and react to, any trading halts in related futures, including Dynamic Circuit Breaker-triggered halts, and activation of CME OTH Price Limits, as well as any determination to lift the trading halts in related futures or identify whether the futures are no longer in a limit state. Particularly, the Trade Desk performs proactive monitoring of halt notifications from CME and checks internal tools to identify whether future products have reached a limit state. If Trade Desk personnel become aware that a related future is halted by CME or if it reaches CME's prescribed OTH Price Limit (i.e., reaches a "limit state"¹²) during GTH, current practice is such that Trade Desk personnel would generally, upon determination by two Floor Officials in consultation with a designated senior executive officer, manually implement a trading halt pursuant to the authority provided under Rule 5.20(a)(6). Similarly, Trade Desk personnel will monitor internal tools to identify whether CME has lifted the trading halt or whether the futures are no longer in a limit state. If such determination is made, Trade Desk personnel would generally, upon determination by two Floor Officials in consultation with a designated senior executive officer, manually initiate the reopening process to resume trading pursuant to the authority provided under Rule 5.20(b). Even with the proactive monitoring performed by the Trade Desk, there may be instances where the Exchange has not immediately identified a trading halt, activation of price limits, lifting of a trading halt or whether related futures are no longer in a limit state. As such, there may not be an immediate initiation of a trading halt or manual re-

¹² For purposes of this rule, CME futures are defined to be in a Limit State when CME futures reach the OTH Price Limits (currently 7%) and are bid at their upper limit price or offered at their lower limit price. CME futures are not considered to be in a limit state if CME futures are trading at prices above their lower limit price or below their upper limit price.

opening of a related index option in such cases. The Exchange believes an automated process would be more efficient than this current manual process and accordingly proposes to adopt an automated halt and reopening process, which would avoid the need for manual intervention by Exchange staff.

Proposal

The proposed rule change would adopt new Rule 5.20(f) to implement an automated process for both the halting and resumption of trading during the GTH session if certain events transpire on CME. The Exchange notes the proposed automated process is consistent with authority the Exchange currently has today to halt or resume trading under its existing rules. Particularly, the proposed circumstances that will trigger an automated halt or resumption of trading are circumstances and factors that the Exchange already considers and acts upon today (albeit using a manual process). The Exchange believes automating these processes in these situations eliminates potential inefficiencies with the manual process, as well as provides further transparency in the rules. Particularly, the Exchange proposes to adopt an automated process for the halting and resumption of trading when (1) there is a halt of trading in related futures on CME during the CME OTH session due to the activation of a Dynamic Price Fluctuation Limit (i.e., whenever a “Dynamic Circuit Breaker” is triggered on CME during OTH) (proposed Rule 5.20(f)(1)) or (2) when a related future is in a limit state on CME due to an activation of the CME OTH Price Limit (proposed Rule 5.20(f)(2)), as further described below.

Dynamic Circuit Breakers

With respect to a Dynamic Circuit Breaker, the Exchange proposes to specify that upon its System receiving notice from CME that a Dynamic Circuit Breaker has been triggered during OTH, the Exchange will automatically halt trading for two (2) minutes in the related index

options. The proposed trading halt period would coincide with the trading halt period on CME that is triggered by the Dynamic Circuit Breaker.¹³ Particularly, the two-minute halt period on the Exchange would be triggered when the Exchange's system detects a halt message from CME. Once detected, the System will queue any orders or quotes resting on the Book at the time of a trading halt in the Queuing Book for participation in the opening rotation following the trading halt, unless the user entered instructions to cancel its resting orders and quotes.¹⁴ New orders/quotes, modifications to orders/quotes and cancellations for orders/quotes, would be accepted during the halt period.

The Exchange next proposes to provide that at the conclusion of the two-minute Dynamic Circuit Breaker-triggered halt, the Exchange would automatically resume trading as described in Rule 5.31(g). The proposed rule change results in the Exchange being able to re-open trading in the same manner that it is able to under Rule 5.31(g) today but enables the Exchange to not have to rely on manual procedures to do so.

CME OTH Price Limits

With respect to activation of CME's OTH Price Limits (i.e., if the primary futures contract has reached a limit state), the Exchange proposes to specify that upon receiving notice from CME indicating a limit state condition or upon the Exchange's determination that CME

¹³ If the lead contract month (as identified by CME) of the primary futures contract is traded, bid or offered on Globex at a price below the lower or above the upper dynamic price fluctuation limit, it is considered a triggering event which begins a two (2) minute temporary trading halt in all contract months of the primary futures contract and in all contract months of associated products of the primary futures contract as provided in the Special Price Fluctuation Limits and Daily Price Limits Table. If a non-lead contract month of the primary futures contract is traded, bid or offered on Globex at a price below the lower or above the upper dynamic price fluctuation limit, it shall be considered a triggering event which begins a two (2) minute temporary trading halt in that non-lead contract month of the primary futures contract. See CME Rule 589.D(b)(1).

¹⁴ See Cboe Options Rule 5.31(g)(2).

futures are in a limit state, the Exchange will halt trading for ten (10) minutes in the related index options. Particularly, the Exchange's System will read CME data feed messages continuously during GTH hours and identify when CME futures are at a limit state. Alternatively, the Exchange's System may receive a message from CME indicating a limit state condition.¹⁵ Under either scenario, the Exchange would automatically halt trading, and the System will queue any orders or quotes resting on the Book at the time of a trading halt in the Queuing Book for participation in the opening rotation following the trading halt, unless the user entered instructions to cancel its resting orders and quotes.¹⁶ New orders/quotes, modifications to orders/quotes and cancellations for orders/quotes, would be accepted during the halt period.

The Exchange next proposes to automate the process for resuming trading following a trading halt during CME futures reaching a limit state. Particularly, the Exchange shall resume trading as described in Rule 5.31(g) once the following two conditions have been satisfied: (1) the 10-minute halt period has passed and (2), the relate CME futures have not been in a limit state for the entirety of a rolling period of time (which the Exchange determines) which begins prior to the conclusion of the halt period.¹⁷ Resumption of trading will occur in the same manner

¹⁵ The Exchange notes that unlike the messages issued by CME relating to Dynamic Circuit Breaker-triggered halts, CME does not currently issue any messages that explicitly indicate that its futures have reached a limit state. However, should CME provide such notice in the future, the Exchange could determine to halt upon receipt of any such notice in addition to or in lieu of its own determination that CME futures have reached a limit state.

¹⁶ See Cboe Options Rule 5.31(g)(2).

¹⁷ For example, if the Exchange determines that the period of consecutive time that CME futures must not be in a limit state is thirty consecutive seconds and the CME OTH Price Limit is activated at 4:00:00 a.m., then the Exchange shall initiate its reopening process at 4:10:00 a.m. so long as the futures were not in a limit state at any point during 4:09:30 and 4:10:00 a.m. Alternatively, for example, if the futures returned to a limit state at 4:09:45 a.m., trading in the related index options shall remain halted until at least 4:10:15 a.m. or until such time thirty consecutive seconds have passed in which CME futures were off the limit price (e.g., if futures hit the limit price again at 4:09:55 a.m., then the

that it is able to under Rule 5.31(g) today, but the Exchange would no longer have to rely on manual procedures for initiating the resumption of trading.

Manual Determinations

The Exchange notes that notwithstanding proposed Rules 5.20(f)(1) and (f)(2), the Exchange would retain the ability to manually resume trading at any time during a trading halt triggered by either a Dynamic Circuit Breaker or activation of CME OTH Price Limits at its discretion pursuant to current Rule 5.20(b) if it believes the interests of a fair and orderly market are best served by doing so. The Exchange also retains the ability to manually implement a trading halt at any time other than described under proposed paragraphs (f)(1) and (f)(2) if it is determined to be in the interests of a fair and orderly market and to protect investors pursuant to paragraph 5.20(a). To maintain clarity and transparency in the rules, the Exchange therefore also proposes to adopt Rule 5.20(f)(3) to directly reference this continuing authority to manually halt and resume trading during GTH, notwithstanding the proposed provisions under Rule 5.20(f)(1) and (f)(2).

In sum, the Exchange believes a trading halt is generally necessary to maintain a fair and orderly market whenever there is a trading halt or activation of price limits in related futures products with respect to index options during GTH. Indeed, upon becoming aware of a halt of trading in related futures with respect to index options or activation of a OTH price limit, current practice is such that two Floor Officials in consultation with a designated senior executive officer of the Exchange would likely determine to halt trading in related index options, as permitted pursuant to current Rule 5.20(a)(6). Although the Exchange currently has discretion to halt trading in these circumstances, the Exchange wishes to automate this process and make it clear in

earliest trading could resume is at 4:10:25 a.m.).

the rules that a trading halt shall automatically be triggered in certain circumstances as detailed above. Similarly, for efficiency and transparency in the rules, the Exchange also wishes to specify when and how the Exchange shall automatically resume trading following a trading halt triggered by a Dynamic Circuit Breaker on CME or activation of a CME OTH Price Limit.¹⁸ As noted above, pursuant to Rule 5.20(b), when the conditions which led to the halt are no longer present, trading in a halted security may be resumed on the Exchange at its discretion. The Exchange notes that when a trading halt in related futures with respect to index options has ended, or a futures product is no longer in a limit state, the Exchange usually determines to resume trading. Accordingly, the Exchange believes its proposal to automatically halt trading when CME employs a Dynamic Circuit Breaker or there is an activation of CME OTH Price Limits is consistent with the Exchange's current authority to consider halting when there is a halt of trading or activation of price limits in related futures.¹⁹ The Exchange similarly believes the proposals relating to automatic resumption of trading following the two-minute Dynamic Circuit Breaker-triggered halt or ten-minute limit state-triggered halt period is consistent with the Exchange's authority to consider resuming trading when the conditions that led to the halt are no longer present.²⁰

Implementation Date

¹⁸ The Exchange notes that notwithstanding the proposed automated procedures for reopening, the Exchange would retain the ability to manually resume trading prior to the end of either trading halt period at its discretion pursuant to current Rule 5.20(b). Similarly, the Exchange retains the ability to manually extend the halting period pursuant to current Rule 5.20(a).

¹⁹ See Cboe Options Rule 5.20(a)(6).

²⁰ See Cboe Options Rule 5.20(a)(6).

The Exchange proposes to announce the implementation date of the proposed rule change in an Exchange Notice, to be published no later than sixty (60) days following the operative date. The implementation date will be no later than ninety (90) days following the operative date.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,²¹ in general, and Section 6(b)(5) of the Act,²² in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes its proposal is consistent with the Exchange's current authority to determine when to halt and resume trading pursuant to Rules 5.20(a) and (b). Today, two Floor Officials, in consultation with a designated senior executive officer of the Exchange, may halt trading in any security in the interests of a fair and orderly market and to protect investors. As discussed above, in making their determination, they may consider whether unusual conditions or circumstances are present, which may include the activation of price limits on futures exchanges or the halt of trading in related futures with respect to index options.²³ Similarly, two Floor Officials, in consultation with a designated senior executive officer of the Exchange, may determine when in the interests of a fair and orderly market are best served by a resumption of trading. Among the factors to be considered in this determination are whether the

²¹ 15 U.S.C. § 78f(b).

²² 15 U.S.C. § 78f(b)(5).

²³ See Rule 5.20(a)(6).

conditions which led to the halt are no longer present.²⁴ Although the Exchange's current rules provide the Exchange discretion to (i) halt trading when there is a halt of trading in related futures or activation of price limits and (2) resume when the conditions that led to a halt are no longer present, the Exchange historically was likely to halt and reopen in such situations. The Exchange believes that adopting an automated process in these situations would be more consistent and reliable for market participants and investors as such a process would be more efficient and not rely on manual processing by Exchange personnel. Moreover, the Exchange believes the proposed rule change provides further transparency to investors with respect to the process the Exchange will use in the event the circumstances discussed above transpire.

The proposed rule change would promote the public interest and the protection of investors by eliminating the need for manual determinations and replacing it with a more consistent and transparent procedure that would be applied by the Exchange's trading systems on an automated basis. Indeed, instead of relying on Trade Desk staff to manually halt or re-open trading, the trading halt or resumption of trading would automatically take place in the manner detailed above. Additionally, notwithstanding the proposed automated processes, the Exchange would continue to have the authority to manually halt and resume trading outside of these processes if it's determined to be in the interests of a fair and orderly market or under other enumerated circumstances set forth under Rules 5.20(a) and (b).

The Exchange believes the proposed rule change is designed to help ensure that halting and resumption of trading happens in an automated and efficient fashion, while also maintaining the important link between the trading of index options on the Exchange and the trading of related futures on CME during GTH.

²⁴ See Rule 5.20(b).

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to facilitate a more efficient and automated halting of trading and resumption of trading in limited circumstances during the Exchange's GTH session and is not designed to address any competitive issues. The Exchange therefore does not believe that the proposed rule change would have any significant impact on competition. Rather than impact the competitive environment, the proposed rule change would benefit members and investors by eliminating the need for manual processes under certain circumstances and provide further transparency in the rules.

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

No written comments were solicited or received 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:

- A. significantly affect the protection of investors or the public interest;
- B. impose any significant burden on competition; and
- C. 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 Act²⁵ and Rule 19b-4(f)(6)²⁶ thereunder. 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,

²⁵ 15 U.S.C. 78s(b)(3)(A).

²⁶ 17 CFR 240.19b-4(f)(6).

for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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:

- 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-2021-040 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-2021-040. 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-2021-040 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.²⁷

J. Matthew DeLesDernier
Assistant Secretary

²⁷ 17 CFR 200.30-3(a)(12).