

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-92912; File No. SR-CBOE-2021-051)

September 9, 2021

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 5.52 in Connection with the Minimum Initial Quote Size Requirement for Market-Makers

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on September 2, 2021, 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 Act⁴ and Rule 19b-4(f)(6) thereunder.⁵ 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 5.52 in connection with the minimum initial quote size requirement for Market-Makers. The text of the proposed rule change is provided in Exhibit 5.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

⁵ 17 CFR 240.19b-4(f)(6).

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 5.52(b) to systematically reject Market-Maker quotes that do not meet the minimum initial quote size requirement determined by the Exchange.

Rule 5.52 governs Market-Maker quoting obligations on the Exchange. Specifically, Rule 5.52(b) provides that a Market-Maker's bid (offer)⁶ for a series must be accompanied by the minimum number of contracts determined by the Exchange on a class-by-class basis, the minimum of which will be one contract at the price of the bid (offer) the Market-Maker is willing to buy (sell). The proposed rule change updates Rule 5.52(b) to provide that the System rejects a Market-Maker's bid (offer) that does not meet the minimum initial quote size determined by the Exchange for that class. Currently, the Exchange's Regulatory Division

⁶ Pursuant to Rule 5.52, a Market Maker's quotes must be firm, two-sided bids (offers) that meet the applicable minimum initial quote size requirement.

conducts surveillances to review for and enforce Market-Maker compliance with the minimum initial quote size requirements.⁷ By allowing the System to automatically reject Market-Maker quotes that do not meet the applicable minimum initial quote requirements for that class, the proposed rule change is designed to reduce a regulatory surveillance burden on the Exchange in having to manually surveil for and enforce Market-Maker compliance with the minimum initial quote size requirements, thereby allowing the Exchange to reallocate regulatory resources to other regulatory processes. The proposed rule change will also serve as an additional risk control for Market-Makers quoting on the Exchange by reducing the compliance risk associated with inadvertently submitting a bid (offer) that does not meet the minimum initial quote size requirement for that class. The Exchange notes, too, that other Exchange Rules provide for systematically enforced compliance with certain trading rules and requirements, including order size requirements.⁸

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

⁷ Currently, the Exchange has an initial minimum quote size in place for SPX during Regular Trading Hours (“RTH”). See Regulatory Circular 20-025, Reinstatement of Minimum Intraday Electronic Quote Size in SPX (April 2, 2020) available at <https://cdn.cboe.com/resources/regulation/circulars/regulatory/RC20-025-Reinstatement-of-Minimum-Intraday-Electronic-Quote-Size-in-SPX.pdf>. The minimum size for all other classes is the default size of one contract.

⁸ See e.g., Rule 5.66(a), which provides that Trading Permit Holders shall not effect Trade-Throughs, however, Rule 5.32(c) provides that the System cancels or rejects an order that would trade through a Protected Quotation (if not otherwise eligible for routing or the price-adjust process); and Rule 5.34(c)(3), which provides that the System cancels or rejects an incoming order or quote with a size that exceeds the maximum contract size (which the Exchange determines).

Exchange and, in particular, the requirements of Section 6(b) of the Act.⁹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁰ 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)¹¹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that, by having the System automatically reject Market-Maker quotes that do not meet the applicable minimum initial quote size requirement in a class, 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, will protect investors. In particular, the Exchange believes that the proposed rule change will reduce a surveillance burden on the Exchange in having to manually surveil for and enforce Market-Maker compliance with the minimum initial quote size requirements, thereby allowing the Exchange to reallocate regulatory resources into other regulatory functions. Additionally, the proposed rule change will benefit market participants by serving as an additional risk control for Market-Makers quoting on the Exchange and reducing the compliance risk associated with inadvertently submitting a bid (offer) that does not meet the

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ Id.

minimum initial quote size requirement in that class. The proposed rule change does not present any new or novel issues or System functionality as other Exchange Rules provide for systematically enforced compliance with certain trading rules and requirements, including order size requirements.¹²

The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,¹³ which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Trading Permit Holders and persons associated with its Trading Permit Holders with the Act, the rules and regulations thereunder, and the rules of the Exchange, as the System will automatically enforce the minimum initial quote size requirement for Market-Makers.

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 that the proposed rule change is competitive in nature, but rather is designed to enhance the Exchange's enforcement of Exchange Rules. The proposed rule change is not adding or amending a Market-Maker quoting obligation; rather, it is merely automating surveillance of an existing obligation. The Exchange does not believe that 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 it will apply equally to all Market-Maker quotes that do not meet the applicable minimum initial quote size requirement for a class. The Exchange does not believe that the proposed rule change will impose any burden on intermarket

¹² See supra note 7.

¹³ 15 U.S.C. 78f(b)(1).

competition that is not necessary or appropriate in furtherance of the purposes of the Act because it is related to compliance with quoting requirements that are applicable only to Market-Makers on the Exchange.

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 Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵ 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 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.

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-2021-051 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-2021-051. 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-2021-051, 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.¹⁶

J. Matthew DeLesDernier
Assistant Secretary

¹⁶ 17 CFR 200.30-3(a)(12).