

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-95314; File No. SR-CBOE-2022-015)

July 19, 2022

Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, to Amend Rule 10.3 Regarding Margin Requirements

I. Introduction

On March 30, 2022, Cboe Exchange, Inc. (“Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR-CBOE-2022-015 (“Proposed Rule Change”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)¹ and Rule 19b-4² thereunder, to amend Cboe Rule 10.3 regarding margin requirements that provide margin relief for a cash-settled index option written against a holding in an exchange-traded fund that tracks the same index as the index underlying the index option. On April 13, 2022, the Exchange filed Amendment No. 1 to the Proposed Rule Change.³ The Proposed Rule Change was published for public comment in the Federal Register on April 20, 2022.⁴ On June 2, 2022 the Exchange consented to an extension of the time period in which the Commission must approve the Proposed Rule Change, disapprove the Proposed Rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 is available on the Commission’s website at <https://www.sec.gov/comments/sr-cboe-2022-015/srcboe2022015-20123573-279781.pdf>.

⁴ See Exchange Act Release No. 94723 (Apr. 14, 2022), 87 FR 23629 (Apr. 20, 2022) (File No. SR-CBOE-2022-015) (“Notice”). The Commission received one comment letter on the Proposed Rule Change. See letter from Andrew Robison, (Apr. 22, 2022), available at: <https://www.sec.gov/comments/sr-cboe-2022-015/srcboe2022015.htm>. The comments expressed by the commenter are not relevant to the Proposed Rule Change.

Change, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change to July 19, 2022. The Commission is publishing this order to institute proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act⁵ to determine whether to approve or disapprove the Proposed Rule Change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1

The Exchange is proposing to amend Rule 10.3 regarding margin requirements. Generally, the Proposed Rule Change would amend Rule 10.3(c)(5)(C)(iii)(b) to update the exception to margin requirements applicable to cash-settled short option positions or warrants on indexes that are offset by positions in an underlying stock basket, non-leveraged index mutual fund, or non-leveraged exchange-traded fund (collectively referred to as “ETFs”) that is based on the same index, as well as move it within Rule 10.3 to Rule 10.3(c)(5)(C)(iv).⁶

The Proposed Rule Change would amend the form of margin required to be held in an account for a short in-the-money index call (put) option if there is a long position in an ETF based on the same index to be the amount by which the value of an ETF is below (above) the aggregate index value. Rather than necessitating the purchase or deposit of additional ETF shares to address a deficiency in the value of the ETF compared to the aggregate index value (regardless of the amount of the deficiency), the Proposed Rule Change would enable excess maintenance margin equity in a margin account to support the requirement. If excess maintenance margin is insufficient or nonexistent, a deposit of

⁵ 15 U.S.C. 78s(b)(2)(B).

⁶ See Notice, 87 FR at 23630.

additional margin would be required, which can be in any form (e.g., cash and/or marginable securities) from the account owner in an amount equal to any deficit.

Additionally, the Proposed Rule Change will require no margin when an option is at- or out-of-the-money, regardless of whether the ETF market value is at least equal to the aggregate index value, and eliminates the requirement to mark the price of a long ETF with an index call option written against it at the lower of the ETF's market value or the index option strike price.⁷

The Proposed Rule Change also makes clarifying, nonsubstantive changes to conform to the language used throughout Rule 10.3.

III. Proceedings to Determine Whether to Approve or Disapprove SR-CBOE-2022-015 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act to determine whether the Proposed Rule Change, as modified by Amendment No. 1, should be approved or disapproved.⁸ Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the Proposed Rule Change, as modified by Amendment No. 1. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the Proposed Rule Change, as modified by Amendment No. 1.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,⁹ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis and input concerning whether the Proposed

⁷ Id., at FR 23631.

⁸ 15 U.S.C. 78s(b)(2)(B).

⁹ Id.

Rule Change, as modified by Amendment No. 1, is consistent with the Exchange Act and the rules thereunder.

IV. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the Proposed Rule Change, as modified by Amendment No. 1. In particular, the Commission invites the written views of interested persons concerning whether the Proposed Rule Change, as modified by Amendment No. 1, is consistent with the Exchange Act and the rules thereunder.

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4 any request for an opportunity to make an oral presentation.¹⁰

Interested persons are invited to submit written data, views, and arguments regarding whether the Proposed Rule Change, as modified by Amendment No. 1, should be approved or disapproved by [insert date 15 days from the publication in the Federal Register]. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by [insert 21 days from publication in the Federal Register].

Comments may be submitted by any of the following methods:

¹⁰ Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94-29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding – either oral or notice and opportunity for written comments – is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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-2022-015 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-2022-015. 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, as modified by Amendment No. 1, that are filed with the Commission, and all written communications relating to the Proposed Rule Change, as modified by Amendment No. 1, 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, D.C. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-CBOE-2022-015 and should be submitted on or before [insert date 15 days from publication in the Federal Register]. Rebuttal comments should be submitted by [insert 21 days from the date of publication in the Federal Register]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

J. Matthew DeLesDernier,
Deputy Secretary.

¹¹ 17 CFR 200.30-3(a)(57).