

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-95647; File No. SR-CBOE-2022-043)

August 31, 2022

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Rule Relating to Minimum Market-Maker Quote Size

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 August 25, 2022, 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, 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 Rule relating to minimum Market-Maker quote size. The text of the proposed rule change is provided below.

(additions are *italicized*; deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

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 5.52. Market-Maker Quotes

(a) No change.

(b) *Size.* A Market-Maker's bid (offer) for a series must be accompanied by the minimum number of contracts determined by the Exchange on a class-by-class basis, *and if the Exchange determines on a premium basis and/or expiration basis for series with expirations (1) no more than one week, (2) between one week and two weeks, (3) between two weeks and one month, (4) between one month and two months, (5) between two months and three months, (6) between three months and six months, (7) between six months and nine months, (8) between nine months and 15 months, and (9) 15 months or more, the minimum of which will be one contract at the price of the bid (offer) the Market-Maker is willing to buy (sell). 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.*

[(1) For SPX, the Exchange may also determine a minimum initial quote size on a premium basis and an expiration basis for series with expirations (1) no more than one week, (2) between one week and three months, (3) between three months and six months, (4) between six months and 15 months, and (5) 15 months or more.

(2)] The obligation of Market- Makers to make competitive markets under Rule 5.51 does not preclude Trading Permit Holders in a trading crowd from discussing a request for a market that is greater than the disseminated size for that option class, for the purpose of making a single bid (offer) based upon the aggregate of individual bids (offers) by Trading Permit Holders in the trading crowd, but only when the Trading Permit Holder representing the order asks for a single bid (offer). Whenever a single bid (offer) pursuant to this paragraph is made, such bid (offer) is a firm quote, and each ICMP participating in the bid (offer) must fulfill his portion of the single bid (offer) at the single price.

* * * * *

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 its Rule relating to minimum Market-Maker quote size. Specifically, the Exchange proposes to amend Rule 5.52(b)⁵ to permit the Exchange to determine a minimum initial quote size on a premium basis and/or an expiration basis for any option class, not just S&P 500 Index (“SPX”) options.⁶ Currently, Rule 5.52 permits the Exchange to determine a minimum initial quote size on a class-by-class basis. Subparagraph (b)(1) of that rule also permits the Exchange, for SPX, to determine a minimum initial quote size on a premium and an expiration basis for series with expirations (1) no more than one week, (2) between one week and three months, (3) between three months and six months, (4) between six months and 15 months, and (5) 15 months or more.

While different classes may exhibit different trading characteristics, which make different minimum quote sizes appropriate as permitted by the current Rule, the same may be true of series with different premiums and expirations within a class to ensure the quote size is not burdensome on Market-Makers. For example, series with higher premiums or farther expirations generally have wider spreads and lower trading volumes, and positions in those series carry additional risk. These

⁵ The proposed rule change moves the language from Rule 5.52(b)(1), as amended, into the main part of Rule 5.52(b). As a result, the proposed rule change deletes the numbering for subparagraph (2), as that would be the only subparagraph for Rule 5.52(b) and thus will no longer require numbering.

⁶ The Exchange will announce any minimum quote size requirements for any class with sufficient advance notice in accordance with Rule 1.5.

characteristics make lower minimum quote size requirements more appropriate and less burdensome on Market-Makers. This is generally true for all classes, not just SPX options.

Therefore, the Exchange proposes to permit the Exchange to determine minimum initial quote size on a premium and/or expiration basis for all classes.⁷ Additionally, it proposes to amend the groupings of expirations to provide the Exchange with sufficient flexibility to determine minimum quote sizes appropriate for each class. Specifically, the proposed rule change will permit the Exchange to determine the minimum quote size for any class on a premium basis and/or expiration basis for series with expirations (1) no more than one week, (2) between one week and two weeks, (3) between two weeks and one month, (4) between one month and two months, (5) between two months and three months, (6) between three months and six months, (7) between six months and nine months, (8) between nine months and 15 months, and (9) 15 months or more.⁸ To the extent the Exchange determines the minimum quote size for a class will not be on a premium and/or expiration basis, the Exchange will determine the minimum quote size for that class as it does today, which is determining a minimum quote size for all series in that class.

⁷ The minimum quote size must continue to be at least one contract at the price of the bid (offer) the Market-Maker is willing to buy (sell). 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.

⁸ As noted above, Rule 5.52(b)(1) already permits the Exchange to set minimum quote sizes on a premium and expiration basis for SPX options. The proposed expiration groupings will permit the Exchange to determine minimum quote sizes for SPX options in the same manner as it does today, as it could determine the same minimum quote size for multiple expiration groupings to conform to the current expiration groupings (for example, the same minimum quote size for proposed expiration groups two through five is equivalent to having a minimum quote size equal to current expiration group two).

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.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.

In particular, the Exchange believes the proposed rule change will promote just and equitable principles of trade by permitting the Exchange to impose more effective and not overly burdensome minimum size requirements on Market-Makers in all classes, which the Exchange believes will lead to continued liquidity on the Exchange, ultimately benefiting investors. The Exchange believes the proposed rule change maintains an appropriate balance of obligations and benefits. The Exchange believes it is appropriate to have authority to establish minimum quote sizes in a class on an expiration or premium basis to reflect the different trading characteristics of

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ Id.

those series within that class. The Exchange believes these proposed changes will continue to incentivize Market-Makers to have appointments in any class in which the Exchange may impose minimum quote size requirements on a premium or expiration basis, which increases liquidity and in general protects investors.

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 will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the Act because any minimum size requirements the Exchange imposes in a class on a premium or expiration basis will apply in the same manner to all Market-Makers with appointments in that class. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act because it relates solely to quoting obligations the Exchange imposes on Market-Makers on the Exchange. The Exchange believes the proposed rule change will maintain an appropriate balance of Market-Maker obligations and benefits and will permit the Exchange to impose more effective minimum size requirements in a class without being overly burdensome on Market-Makers given the differing trade characteristics applicable to series with different expirations and premiums.

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)(iii) of the Act¹² and subparagraph (f)(6) of Rule 19b-4 thereunder.¹³

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 under Section 19(b)(2)(B)¹⁴ of the Act 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-2022-043 on the subject line.

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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 15 U.S.C. 78s(b)(2)(B).

Paper Comments:

- Send paper comments in triplicate to the Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2022-043. 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-2022-043 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.¹⁵

J. Matthew DeLesDernier

Deputy Secretary

¹⁵ 17 CFR 200.30-3(a)(12).