

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-90658; File No. SR-CBOE-2020-055)

December 14, 2020

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, to Amend Rule 5.24

I. Introduction

On June 12, 2020, Cboe Exchange, Inc. (the “Exchange” or “CBOE”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt Rule 5.24(e)(3) to make available an audio and video communication program to serve as a “virtual trading floor” in one or more option classes during regular trading hours if the physical trading floor is inoperable. The proposed rule change was published for comment in the Federal Register on June 29, 2020.<sup>3</sup> On July 23, 2020, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>4</sup> On August 10, 2020, the Commission designated a longer period for Commission action on the proposed rule change, until September 27, 2020.<sup>5</sup> On August 21, 2020, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 89131 (June 29, 2020), 85 FR 38951 (“Notice”).

<sup>4</sup> In Amendment No. 1, the Exchange revised the proposal to: (i) clarify that if the virtual trading floor is available in a class, the temporary rules in CBOE Rule 5.24(e)(1) will not apply to that class and (ii) permit clerks to access the virtual trading floor. Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-cboe-2020-055/srcboe2020055-7470763-221281.pdf>.

<sup>5</sup> See Securities Exchange Act Release No. 89514 (August 10, 2020), 85 FR 49696 (August 14, 2020).

superseded the proposed rule change, as modified by Amendment No. 1.<sup>6</sup> On September 21, 2020, the Commission published notice of Amendment No. 2 to the proposed rule change and instituted proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 2.<sup>7</sup> On November 2, 2020, the Exchange filed Amendment No. 3 to the proposed rule change, which replaced and superseded the proposed rule change, as modified by Amendment No. 2.<sup>8</sup> The Commission has received one comment letter on the

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<sup>6</sup> In Amendment No. 2, the Exchange revised the proposal to: (i) eliminate access to the virtual trading floor when the physical trading floor is operating in a modified state; (ii) provide additional description of several aspects of the proposal, including access to the virtual trading floor, recordkeeping of all chats in the virtual trading floor, regulatory surveillance of the virtual trading floor; and (iii) make technical and conforming changes. Amendment No. 2 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-cboe-2020-055/srcboe2020055-7741240-223109.pdf>.

<sup>7</sup> See Securities Exchange Act Release No. 89931 (September 21, 2020), 85 FR 60504 (September 25, 2020).

<sup>8</sup> In Amendment No. 3, the Exchange revised the proposal to: (i) provide additional description on several aspects of the proposal, including operation of the multiple “zones” in the virtual trading floor, interaction of Floor Brokers and Maker Makers in the virtual trading floor, distribution and use of PAR workstations for purposes of participating in the virtual trading floor, market participant outreach and testing of the virtual trading floor, use of chat functionality in the virtual trading floor, regulatory surveillance of the virtual trading floor; and (ii) make technical and conforming changes. Amendment No. 3 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-cboe-2020-055/srcboe2020055-7967230-225008.pdf>.

proposal.<sup>9</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 3, from interested persons and is approving the proposed rule change, as modified by Amendment No. 3, on an accelerated basis.

## II. Description of the Proposed Rule Change, as Modified by Amendment No. 3

Rule 5.24(e) currently provides that if the Exchange trading floor becomes inoperable, the Exchange will continue to operate in a screen-based only environment using a floorless configuration of the system that is operational while the trading floor facility is inoperable. The Exchange would operate using that configuration only until the Exchange’s trading floor facility became operational.<sup>10</sup> Open outcry on the physical trading floor would not be available in the event the trading floor becomes inoperable.<sup>11</sup> In the event that the trading floor becomes inoperable, CBOE Rule 5.24(e)(1) provides that trading will be conducted pursuant to all applicable system rules, except that open outcry rules would not be in force, including but not

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<sup>9</sup> See letter to Secretary, Commission, from Kevin Kennedy, Senior Vice President, North American Markets, Nasdaq, dated July 10, 2020, available at <https://www.sec.gov/comments/sr-cboe-2020-055/srcboe2020055-7409704-219196.pdf> (“Nasdaq Letter”). The Nasdaq Letter expressed support for CBOE’s proposal as described in the Notice, but raised questions about whether options classes should be able to trade in both virtual and floor-based trading environments, whether the virtual trading floor should require the presence of a minimum number of Market-Makers to ensure liquidity, and whether access to the virtual trading floor is limited to current members on CBOE’s floor. The description in the next section of the proposed rule change, as modified by Amendment No. 3, addresses the questions raised by the Nasdaq Letter by explaining that: (i) the proposal only allows access to the virtual trading floor when the physical trading floor is inoperable, (ii) there is no minimum number of Market-Makers required to be present on the virtual trading floor, consistent with the current operation on the physical trading floor, and (iii) current and future Trading Permit Holders (“TPHs”) may be authorized to receive access to the virtual trading floor.

<sup>10</sup> See CBOE Rule 5.24(e).

<sup>11</sup> See id.

limited to the rules (or applicable portions) in Chapter 5, Section G,<sup>12</sup> and that all non-trading rules of the Exchange would continue to apply.<sup>13</sup>

On March 16, 2020, the Exchange suspended open outcry trading to help prevent the spread of COVID-19.<sup>14</sup> The Exchange operated in an all-electronic configuration until it reopened its trading floor on June 15, 2020, at which time the Exchange returned to operating as a hybrid exchange with electronic and open outcry trading.<sup>15</sup> However, given the uncertainty related to the ongoing pandemic, which includes the possibility of the Exchange having to close its trading floor again, and given the possibility that the Exchange’s trading floor may be inoperable for other reasons in the future, the Exchange now has proposed to adopt Rule 5.24(e)(3) to permit it to make available an audio and video communication program to serve as a “virtual trading floor” in one or more option classes<sup>16</sup> if the physical trading floor is inoperable. The Exchange represents that if it were to determine to use the virtual trading floor in a more

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<sup>12</sup> Chapter 5, Section G of the Exchange’s rulebook sets forth the rules and procedures for manual order handling and open outcry trading on the Exchange.

<sup>13</sup> See CBOE Rule 5.24(e)(1). The Exchange recently adopted several rule changes that would apply during a time in which the trading floor is inoperable, which are effective until December 31, 2020. See, e.g., Securities Exchange Act Release Nos. 88386 (March 13, 2020), 85 FR 15823 (March 19, 2020) (SR-CBOE-2020-019); 88447 (March 20, 2020) (SR-CBOE-2020-023); 88490 (March 26, 2020), 85 FR 18318 (April 1, 2020) (SR-CBOE-2020-026); 88530 (March 31, 2020), 85 FR 19182 (April 6, 2020) (SR-CBOE-2020-031); 88886 (May 15, 2020), 85 FR 31008 (May 21, 2020) (SR-CBOE-2020-047); 89307 (July 14, 2020), 85 FR 43938 (July 20, 2020) (SR-CBOE-2020-066); 89789 (September 8, 2020), 85 FR 56658 (September 14, 2020) (SR-CBOE-2020-081); and 90174 (October 14, 2020), 85 FR 66617 (October 20, 2020) (SR-CBOE-2020-092).

<sup>14</sup> See Amendment No. 3, supra note 8, at 5.

<sup>15</sup> See id.

<sup>16</sup> Similar to open outcry trading on the physical trading floor, open outcry trading on the virtual trading floor will be available only during Regular Trading Hours. See proposed CBOE Rule 5.24(e)(3).

permanent manner for reasons other than business continuity purposes, the Exchange would submit a separate rule filing to the Commission.<sup>17</sup>

In the program, the Exchange would create “virtual trading pits,” in each of which the Exchange would determine which options class(es) would be available for trading.<sup>18</sup> TPHs would access virtual trading pits via “zones.”<sup>19</sup> Multiple classes may trade in a single virtual trading pit, available for trading in a single zone.<sup>20</sup> The Exchange may determine to divide a virtual trading pit for a single class into multiple zones given the number of TPHs generally present in the trading pit for that class on the physical trading floor.<sup>21</sup> The Exchange will assign each Floor Broker to a zone, and each Market-Maker may determine in which zone it will be present.<sup>22</sup> In each zone, the Exchange will make visible an electronic blotter containing a

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<sup>17</sup> See Amendment No. 3, supra note 8, at 7, n.7.

<sup>18</sup> The Exchange states that this is similar to the Exchange’s authority with respect to open outcry trading on the physical trading floor. See id. at 7.

<sup>19</sup> See proposed CBOE Rule 5.24(e)(3)(D). A “zone” is a virtual room within the communication program in which a subset of participants on the virtual trading floor will be visible. See Amendment No. 3, supra note 8, at 7, n.9.

<sup>20</sup> See proposed CBOE Rule 5.24(e)(3)(D)(i).

<sup>21</sup> See proposed CBOE Rule 5.24(e)(3)(D)(ii). The Exchange states that it plans to have eight zones for the SPX pit. See Amendment No. 3, supra note 8, at 7. The Exchange represents that, similar to the arrangement of a physical trading pit, it will assign each Floor Broker to a zone, and each Market-Maker may determine in which zone it will be present. See id. at 7-8.

<sup>22</sup> See proposed CBOE Rule 5.24(e)(3)(D)(ii). The Exchange states that this arrangement is similar to the arrangement of a physical trading pit. See Amendment No. 3, supra note 8, at 8.

running list of unexecuted orders that have been represented by Floor Brokers in that zone.<sup>23</sup>

The Exchange believes that the proposed configuration of the virtual trading pit is a practical replication of the structure of the physical trading floor that will allow market participants to interact in nearly the same manner as they do on the physical trading floor.<sup>24</sup>

In a virtual trading pit, each TPH authorized to access the virtual trading floor (as described below) that enters the virtual trading pit would be visible to all other TPHs in that virtual trading pit.<sup>25</sup> Additionally, all TPHs in a virtual trading pit may speak to each other through the proposed communication program.<sup>26</sup> The Exchange states that this will provide the same communication capabilities TPHs generally have on the physical trading floor so that they may conduct open outcry trading on the virtual trading floor in the same manner as they do on the physical trading floor.<sup>27</sup>

Proposed Rule 5.24(e)(3) states that if the Exchange makes a virtual trading floor available in a class, the rules in Rule 5.24(e)(1) will not apply to that class.<sup>28</sup> All rules related to open outcry trading, including those in Chapter 5, Section G,<sup>29</sup> will apply to open outcry trading

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<sup>23</sup> See proposed CBOE Rule 5.24(e)(3)(D)(iii). The Exchange believes that the blotter will benefit virtual trading floor participants due to the limitations of communication software (such as limitations on how many people may be heard at the same time in a virtual pit or potential buffering or echoing). See Amendment No. 3, *supra* note 8, at 16. Additionally, the information that will be displayed in the blotter is already retained as part of the PAR order audit trail. See *id.* at 18, n.26.

<sup>24</sup> See *id.* at 9.

<sup>25</sup> See *id.*

<sup>26</sup> See *id.*

<sup>27</sup> See *id.*

<sup>28</sup> See *supra* note 13 and accompanying text.

<sup>29</sup> See *supra* note 12.

on the virtual trading floor in the same manner as they apply to open outcry trading on the physical trading floor, except as the context otherwise requires and as set forth in proposed subparagraph (e)(3).<sup>30</sup> Proposed subparagraph (e)(3)(A) lists certain terms in the rules related to open outcry trading on the physical trading floor that would be deemed to refer to corresponding terms related to open outcry trading on the virtual trading floor. Specifically:

- References in the rules to the “floor,” “trading floor,” and “Exchange floor” (and any other terms with the same meaning) will be deemed to refer to the “virtual trading floor.”
- References in the rules to “pit,” “trading station,” and “trading post” (and any other terms with the same meaning) will be deemed to refer to a “virtual trading pit.”
- References in the rules to “physical presence” (any other terms with the same meaning) in a pit or on the trading floor will be deemed to refer to “presence” in a virtual trading pit or on the virtual trading floor, respectively.
- The terms “in-crowd market participant” and “ICMP” mean a Market-Maker, a Designated Primary Market-Maker (“DPM”) or Lead Market-Maker (“LMM”) with an allocation in a class, or a Floor Broker or PAR Official representing an order in a virtual pit on the virtual trading floor.
- References to an “on-floor DPM” or “on -floor LMM” will be deemed to refer to a DPM or LMM, respectively, in a virtual pit for its allocated class(es).

In addition, proposed Rule 5.24(e) states that the temporary rules set forth in Rule 5.24(e)(1) will not be applicable to trading in classes in which the Exchange makes a virtual trading floor

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<sup>30</sup> See proposed CBOE Rule 5.24(e)(3).

available when the physical trading floor is inoperable. As noted above, the temporary rules in Rule 5.24(e)(1) are intended to make electronic trading more similar to open outcry trading when open outcry trading is not available by replicating certain features of open outcry trading in an electronic environment. However, the virtual trading floor will permit open outcry trading to continue in a separate environment if the physical trading floor becomes inoperable. Therefore, trading opportunities that are generally only available in open outcry trading will continue to be available on the virtual trading floor, making the temporary rules in Rule 5.24(e)(1) unnecessary when the virtual trading floor is available.

The Exchange represents that access to the virtual trading floor will be substantially similar to access to the physical trading floor.<sup>31</sup> Proposed Rule 5.24(e)(3)(B) states that admission to the virtual trading floor is limited to TPHs, clerks,<sup>32</sup> Exchange employees, and any other persons the Exchange authorizes admission to the virtual trading floor.<sup>33</sup> The Exchange will provide access to the virtual trading floor to TPHs the Exchange has approved to perform a trading floor

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<sup>31</sup> See Amendment No. 3, supra note 8, at 11. The Exchange states that, currently, admission to the physical trading floor is limited to TPHs, Exchange employees, clerks employed by TPHs and registered with the Exchange, service personnel, Exchange visitors that receive authorized admission to the trading floor pursuant to Exchange policy, and any other persons that the Exchange authorizes admission to the trading floor. See id. The proposed rule change excludes service personnel and visitors from accessing the virtual trading floor. See id. at 12.

<sup>32</sup> TPHs and clerks will not be required to display badges on the virtual trading floor. See proposed CBOE Rule 5.24(e)(3)(B). The virtual trading floor program will identify the TPH organization of each participant in a virtual trading pit. See Amendment No. 3, supra note 8, at 13, n.19.

<sup>33</sup> The Exchange states that it does not anticipate granting any other individuals with access to the virtual trading floor outside of TPHs and Exchange personnel; however, the Exchange believes the flexibility to permit Exchange personnel to access the virtual trading floor is appropriate, such as to permit access to make updates to the communication program. See id. at 12, n.15.

function (including Floor Brokers and Market-Makers).<sup>34</sup> Each authorized individual will receive one log-in to the virtual trading floor and may be present in only one virtual trading pit/zone at one time.<sup>35</sup> The Exchange will not require a minimum number of Market-Makers to be present for the virtual trading floor, which is consistent with the manner of operation on the physical trading floor.<sup>36</sup>

Proposed Rule 5.24(e)(3)(C) states that TPHs may use any equipment (e.g., any hardware or software related to a phone, system, or other device, including an instant messaging system, e-mail system, or similar device) to access the virtual trading floor and do not need to register devices they use while on the virtual trading floor.<sup>37</sup> TPHs must use Exchange-provided equipment to access PAR workstations while transacting on the virtual trading floor.<sup>38</sup> The Exchange states that

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<sup>34</sup> See proposed CBOE Rule 5.24(e)(3)(B). This includes TPHs (and individuals that represent TPH organizations) that are currently authorized to perform trading floor functions, as well as any TPHs that receive such authorization in the future. See Amendment No. 3, supra note 8, at 12.

<sup>35</sup> See proposed CBOE Rule 5.24(e)(3)(B). The Exchange will track which individuals participate in the virtual trading floor, including when they log in and log out. See id.

<sup>36</sup> See Amendment No. 3, supra note 8, at 12.

<sup>37</sup> See id. at 15.

<sup>38</sup> The Exchange states that it has already distributed to TPHs the necessary equipment for accessing PAR for purposes of the virtual trading floor. See id. at 13-14. The Exchange represents that the PAR will be used and work in the same manner for the virtual trading floor as it is on the physical trading floor. See id. at 14. For more detail on the ways in which a Floor Broker may use a PAR workstation for the virtual trading floor in the same manner as it would on the physical trading floor, see pages 14-15 of Amendment No. 3.

the requirements in Rule 5.81(a) would otherwise apply in the same manner to the virtual trading floor as it does to the physical trading floor (to the extent the context requires).<sup>39</sup>

Proposed Rule 5.24(e)(3)(E) provides that the Exchange may determine to require any Market-Maker or Floor Broker in a virtual trading pit/zone that wants to trade against an order represented for execution to express its bid or offer in a chat available in the virtual trading pit.<sup>40</sup> Additionally, chats will be visible to all participants in a zone and will not be permitted directly between individual participants.<sup>41</sup>

Finally, if the virtual trading floor encounters issues that cause it to become unavailable, the Exchange will operate in an all-electronic configuration, pursuant to CBOE Rule 5.24(e), until the communication program is available again.<sup>42</sup>

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<sup>39</sup> The Exchange states that this would include requirements related to audit trail and record retention, prohibition on using any device for the purpose of recording activities in the virtual trading pit or maintaining an open line of continuous communication whereby a non-associated person not located in the trading crowd may continuously monitor the activities in the trading crowd, and the prohibition on using devices to disseminate quotes or last sale reports. See id. at 15.

<sup>40</sup> The Exchange states that it will announce with sufficient advance notice to all TPHs any determination to require bids and offers to be expressed in a chat within the communication program pursuant to Rule 1.5 (such as by Exchange notice or regulatory circular). See id. at 16, n.25.

<sup>41</sup> The Exchange will retain records of all chats, participant logs, and any other records related to the virtual trading floor that are subject to the Exchange's record retention obligations under the Act. See proposed CBOE Rule 5.24(e)(3)(F). The Exchange states that it does not currently plan to make video recordings of the virtual trading floor; however, if the Exchange determines to make such recordings, it would retain those video recordings in accordance with its record retention obligations. See Amendment No. 3, supra note 8, at 18. Moreover, the Exchange represents that it will disable the ability of TPHs to record the virtual trading floor through the communication program. See id. at 18, n.28.

<sup>42</sup> See id. at 18-19.

### **III. Discussion and Commission Findings**

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 3, is consistent with the requirements of the Act,<sup>43</sup> and the rules and regulations thereunder applicable to a national securities exchange.<sup>44</sup> In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 3, is consistent with Section 6(b)(5) of the Act,<sup>45</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

As discussed above, CBOE proposes to adopt rules for a virtual trading floor for when the physical trading floor is inoperable. Currently, Rule 5.24(e) provides that, if the physical trading floor becomes inoperable, the Exchange will operate in all-electronic screen-based only environment. The proposed virtual trading floor is designed to facilitate open outcry trading on the Exchange when the physical trading floor is inoperable, which would allow trading on the Exchange to occur more similarly to physical floor trading than the current rules for all-electronic trading. Among other things, the Exchange believes that the proposed enhancement to its business continuity plans through the implementation of a virtual trading floor environment would ameliorate some of the features in open outcry trading that are difficult to replicate in an all-electronic environment, particularly the small segment of trading strategies that benefit from

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<sup>43</sup> 15 U.S.C. 78f.

<sup>44</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>45</sup> 15 U.S.C. 78f(b)(5).

human interactions to negotiate pricing and to facilitate executions of large orders and high-risk and complicated trading strategies.<sup>46</sup> The Exchange believes that the proposed rule change may facilitate continued trading of these orders if and when the trading floor is inoperable. As a result, the Exchange believes that providing continuous access to open outcry trading when the physical trading floor becomes inoperable will remove impediments to a free and open market and will ultimately benefit investors, particularly those executing high-risk and complex trading strategies.

The Commission finds that the proposed implementation of the virtual trading floor for business continuity purposes is consistent with the Act. The Commission believes that the proposed virtual trading floor will allow the Exchange to provide a trading environment to TPHs that is reasonably designed to facilitate open outcry trading when circumstances prevent physical human interaction. The Commission notes that the Exchange has conducted several town halls with TPHs on the virtual trading floor and made the functionality available for testing so that the Exchange will be ready to implement it if necessary. The Exchange states that it has received positive feedback from TPHs regarding the tool and will continue to make updates as necessary

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<sup>46</sup> The Exchange states that, while the recent amendments to Rule 5.24(e)(1) allowed all-electronic trading to occur more similarly to open outcry trading, an all-electronic trading environment cannot fully replicate open outcry trading. See Amendment No. 3, supra note 8, at 5. The Exchange states that from January 2 through March 13, 2020 (the last day on which the trading floor was open), complex orders for SPX options with more than six legs represented approximately 5.3% of the total SPX complex order average daily volume (“ADV”) during that timeframe. See id. at 6. However, from March 16, 2020 (the first day on which the trading floor was closed) through April 30, 2020, complex orders for SPX options with more than six legs represented only approximately 2.2% of the total SPX complex order ADV during that similar timeframe. See id. Similarly, the corresponding ADV percentages for VIX options complex orders were approximately 6.2% (prior to the trading floor closing) and 1.8% (after the trading floor closing), respectively. See id.

and appropriate in response to member feedback.<sup>47</sup> As a result, the Commission finds that the virtual trading floor is reasonably designed to allow continuous access to open outcry trading, which will remove impediments to a free and open market and will ultimately benefit investors, particularly those facilitating executions of large orders and complex trading strategies.

Additionally, the design of the virtual trading zones to closely replicate the arrangement of the physical trading floor will facilitate the rollout of the virtual trading floor to TPHs and help remove impediments to a free and open market when the physical trading floor is inoperable. Virtual trading zones will provide flexibility for a Market-Maker to enter and exit zones for particular trading interest, which may make it easier for a Market-Maker to trade with Floor Brokers that are otherwise too far away on the physical trading floor for them to trade (as movement inside a trading pit is practically not possible, and is currently not permitted while the physical trading floor operates in a modified state).

Furthermore, the Commission finds that the design of the virtual trading floor will help prevent fraudulent and manipulative acts and practices, and promote just and equitable principles of trade by requiring that the Rules and regulatory requirements apply in the substantially the same manner as open outcry of the physical trading floor. Specifically, the Exchange represents that all Rules related to open outcry trading, including those in Chapter 5, Section G, will apply to open outcry trading on the virtual trading floor.<sup>48</sup> In addition, all risk controls and price protection mechanisms in Rule 5.34 that currently apply to open outcry trading will apply in the same manner on the virtual trading floor.<sup>49</sup> TPHs participating on the virtual trading floor will

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<sup>47</sup> See id. at 19.

<sup>48</sup> See Amendment No. 3, supra note 8, at 9.

<sup>49</sup> See id. at 19.

be subject to the same regulatory requirements on the virtual trading floor as they are on the physical trading floor, including those set forth in Chapters 8 and 9 of the Rules.<sup>50</sup> Orders on the virtual trading floor will be systematized and represented, and transactions reported, in the same manner as on the physical trading floor.<sup>51</sup> CBOE’s Regulatory Division staff will continue to utilize preexisting floor surveillances to surveil for the activity occurring on the virtual trading floor and will access the virtual trading floor as necessary and appropriate, including records of any chats, participant logs, and any other records related to the virtual trading floor consistent with the Exchange’s record retention obligations under the Act.<sup>52</sup> Finally, Floor Officials will also have access to all zones in the virtual trading floor and will retain the same authority to act in the virtual trading floor as they do on the physical trading floor.<sup>53</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 3 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2020-055 on the subject line.

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<sup>50</sup> See id. at 20

<sup>51</sup> See id.

<sup>52</sup> See id.

<sup>53</sup> See id. at 18. The Exchange represents that an Exchange employee will be available in each zone to provide technical and operational support (in addition to regular Exchange support staff for floor operations) if participants in the virtual trading floor need assistance. See id.

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-2020-055. 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-2020-055 and should be submitted by [insert date 21 days from date of publication in the Federal Register]. Rebuttal comments should be submitted by [insert date 35 days from date of publication in the Federal Register].

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 3

The Commission finds good cause for approving the proposed rule change, as amended by Amendment No. 3, prior to the 30<sup>th</sup> day after the date of publication of notice in the Federal

Register. Amendment No. 3 provided additional detail and clarity on several points.<sup>54</sup> Specifically, the Exchange revised the proposal to provide additional description on several aspects of the proposal, including operation of the multiple “zones” in the virtual trading floor, interaction of Floor Brokers and Maker Makers in the virtual trading floor, distribution and use of PAR workstations for purposes of participating in the virtual trading floor, market participant outreach and testing of the virtual trading floor, use of chat functionality in the virtual trading floor, regulatory surveillance of the virtual trading floor, and make technical and conforming changes. Amendment No. 3 does not change the substance of the proposed rule change, but merely adds detail and clarification to several items of the proposal. Accordingly, the Commission finds good cause for approving the proposed rule change, as amended, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.<sup>55</sup>

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<sup>54</sup> See Amendment No. 3, supra note 8.

<sup>55</sup> 15 U.S.C. 78s(b)(2).

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>56</sup> that the proposed rule change, as modified by Amendment No. 3 (SR-CBOE-2020-055), be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>57</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>56</sup> Id.

<sup>57</sup> 17 CFR 200.30-3(a)(57) and (58).