

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-94513; File No. SR-CBOE-2022-012)

March 24, 2022

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Rules Relating to the Continuing Education for Registered Persons as Provided under Exchange Rule 3.33 and to Amend Related Registration Requirements as Provided under Rule 3.30

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 15, 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 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 Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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

The Exchange proposes to amend its rules relating to the Continuing Education for Registered Persons as provided under Exchange Rule 3.33 and to amend related Registration Requirements as provided under Rule 3.30. The text of the proposed rule change is provided in Exhibit 5.

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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> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 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

(i) Background

The continuing education program for registered persons of broker-dealers ("CE Program") currently requires registered persons to complete continuing education consisting of a Regulatory Element and a Firm Element. The Regulatory Element is delivered through a web-based delivery method called "CE Online," which is administered through the Financial Industry Regulatory Authority, Inc. ("FINRA") online continuing education system, and focuses on regulatory requirements and industry standards, while the Firm Element is provided by each firm and focuses on securities products, services and strategies the firm offers, firm policies and industry trends. The CE Program for registered persons is codified under Exchange Rule 3.33.

The Securities and Exchange Commission (the “SEC” or the “Commission”) recently approved a proposal submitted by FINRA relating to its CE Program.<sup>5</sup> The Exchange understands that other exchanges have or will propose similar amendments based on FINRA’s rule changes. Therefore, the Exchange proposes to amend and enhance its own CE Program as provided under Rule 3.33 and its related Registration Requirements as provided under Rule 3.30 in response to FINRA’s amended CE Program and to facilitate compliance with the Exchange’s CE Program requirements by members of multiple exchanges. The Exchange proposes to implement the proposed rule changes to align with FINRA’s CE Program implementation dates.<sup>6</sup> Specifically, the proposed implementation dates are as follows: changes relating to proposed Rule 3.33(c) (Continuing Education Program for Persons Maintaining Their Qualification Following the Termination of a Registration Category) will become effective March 15, 2022; changes relating to Rule 3.30.09 (Waiver of Examination for Individuals Working for a Financial Services Industry Affiliate of a TPH)<sup>7</sup> (referred to as the “FSA waiver program” or “FSAWP”) will become effective March 15, 2022; and all other changes, including changes to Rules 3.33(a) (Regulatory Element)<sup>8</sup> and 3.33(b) (Firm Element) will become effective January 1, 2023.

a. Regulatory Element

Exchange Rule 3.33(a) currently requires a registered person to complete the applicable Regulatory Element initially within 120 days after the person’s second registration anniversary date

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<sup>5</sup> See Securities and Exchange Act No. 93097 (September 21, 2021), 86 FR 53358 (September 27, 2021) (SR-FINRA-2021-015) (Order Approving a Proposed Rule Change To Amend FINRA Rules 1210 (Registration Requirements) and 1240 (Continuing Education Requirements)).

<sup>6</sup> See FINRA Regulatory Notice 21-41 (November 17, 2021).

<sup>7</sup> “TPH” refers to Trading Permit Holder. See Rule 1.1.

<sup>8</sup> An individual’s initial annual Regulatory Element due date will be December 31, 2023.

and, thereafter, within 120 days after every third registration anniversary date.<sup>9</sup> The Exchange may extend these time frames for good cause shown.<sup>10</sup> Unless otherwise determined, any registered persons who have not completed the Regulatory Element of the program within the prescribed time frames will have their registration(s) deemed inactive and will be designated as “CE inactive” in the CRD system until the requirements of the Regulatory Element have been satisfied.<sup>11</sup> A CE inactive person is prohibited from performing, or being compensated for, any activities requiring registration, including supervision. Moreover, if registered persons remain CE inactive for two consecutive years, they must requalify by retaking required examinations (or obtain a waiver of the applicable qualification examinations).<sup>12</sup>

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<sup>9</sup> See Rule 3.33(a). An individual’s registration anniversary date is generally the date they initially registered in the Central Registration Depository (“CRD®”) system. However, an individual’s registration anniversary date would be reset if the individual has been out of the industry for two or more years and is required to requalify by examination, or obtain an examination waiver, in order to reregister. An individual’s registration anniversary date would also be reset if the individual obtains a conditional examination waiver that requires them to complete the Regulatory Element by a specified date. Non-registered individuals who are participating in the waiver program under Rule 3.30.09 (Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a TPH) (“FSAWP participants”) are also subject to the Regulatory Element. See also proposed Rule 3.33(a)(5) (Definition of Covered Person). The Regulatory Element for FSAWP participants correlates to their most recent registration(s), and it must be completed based on the same cycle had they remained registered. FSAWP participants are eligible for a single, fixed seven-year waiver period from the date of their initial designation, subject to specified conditions. Registered persons who become subject to a significant disciplinary action, as specified in Rule 3.33(a)(2) (Disciplinary Actions), may be required to retake the Regulatory Element within 120 days of the effective date of the disciplinary action, if they remain registered. Further, their cycle for participation in the Regulatory Element may be adjusted to reflect the effective date of the disciplinary action rather than their registration anniversary date.

<sup>10</sup> See Rule 3.33(a)(1).

<sup>11</sup> Supra note 9. Individuals must complete the entire Regulatory Element session to be considered to have “completed” the Regulatory Element; partial completion is the same as non-completion.

<sup>12</sup> See Rule 3.33(g). This CE inactive two-year period is calculated from the date such persons become CE inactive, and it continues to run regardless of whether they terminate

The Regulatory Element currently consists of a subprogram for registered persons generally, and a subprogram for principals and supervisors.<sup>13</sup> While some of the current Regulatory Element content is unique to particular registration categories, most of the content has broad application to both representatives and principals.<sup>14</sup> The Regulatory Element was originally designed at a time when most individuals had to complete the Regulatory Element at a test center, and its design was shaped by the limitations of the test center-based delivery model. In 2015, the delivery of the Regulatory Element was transitioned to an online platform, referred to above as CE Online, which allows individuals to complete the content online at a location of their choosing, including their private residence. This online delivery provides for much greater flexibility in updating content in a timelier fashion, developing content tailored to each registration category and presenting the material in an optimal learning format.

b. Firm Element

Rule 3.33(c) (Firm Element) currently requires each firm to develop and administer an annual Firm Element training program for covered registered persons.<sup>15</sup> The rule requires firms to

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their registrations before the end of the two-year period. Therefore, if registered persons terminate their registrations while in a CE inactive status, they must satisfy all outstanding Regulatory Element prior to the end of the CE inactive two-year period in order to reregister with a member without having to requalify by examination or having to obtain an examination waiver.

<sup>13</sup> The S101 (General Program for Registered Persons) and the S201 (Registered Principals and Supervisors).

<sup>14</sup> The current content is presented in a single format leading individuals through a case that provides a story depicting situations that they may encounter in the course of their work.

<sup>15</sup> The rule defines “covered registered persons” as any registered person or any associated person who has direct contact with customers in the conduct of a Trading Permit Holder’s or TPH organization’s securities sales, trading or investment banking activities, and the immediate supervisors of any such persons. See Rule 3.33(c)(1) (Persons Subject to the Firm Element).

conduct an annual needs analysis to determine the appropriate training.<sup>16</sup> Currently, at a minimum, the Firm Element must cover training in ethics and professional responsibility as well as the following items concerning securities products, services and strategies offered by the member: (1) general investment features and associated risk factors; (2) suitability and sales practice considerations; and (3) applicable regulatory requirements.<sup>17</sup> A firm, consistent with its needs analysis, may determine to apply toward the Firm Element other required training. The current rule does not expressly recognize other required training, such as training relating to the anti-money laundering (“AML”) compliance program and training relating to the annual compliance meeting, for purposes of satisfying Firm Element training.<sup>18</sup>

c. Termination of a Registration

Currently, individuals whose registrations as representatives or principals have been terminated for two or more years may reregister as representatives or principals only if they requalify by retaking and passing the applicable representative- or principal-level examination or if they obtain a waiver of such examination(s) (the “two-year qualification period”).<sup>19</sup> The two-year

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<sup>16</sup> See Rule 3.33(c)(2) (Standards).

<sup>17</sup> Id.

<sup>18</sup> See, e.g. Rules 8.12 and 8.16(g).

<sup>19</sup> See Rule 3.33(g). The two-year qualification period is calculated from the date individuals terminate their registration and the date the Exchange receives a new application for registration. The two-year qualification period does not apply to individuals who terminate a limited registration category that is a subset of a broader registration category for which they remain qualified. Such individuals have the option of reregistering in the more limited registration category without having to requalify by examination or obtain an examination waiver so long as they continue to remain qualified for the broader registration category. Further, the two-year qualification period only applies to the representative- and principal-level examinations; it does not extend to the Securities Industry Essentials (“SIE”) examination. The SIE examination is valid for four years, but having a valid SIE examination alone does not qualify an individual for registration as a representative or principal. Individuals whose registrations as representatives or principals have been revoked pursuant to Exchange Rule 13.11

qualification period was adopted prior to the creation of the CE Program and was intended to ensure that individuals who reregister are relatively current on their regulatory and securities knowledge.

(ii) Proposed Rule Change

After extensive work with the Securities Industry/Regulatory Council on Continuing Education (“CE Council”), FINRA, other Self-Regulatory Organizations and industry participants, the Exchange proposes the following changes under Rules 3.30 and 3.33 to align with FINRA’s Rule 1240.

a. Transition to Annual Regulatory Element for Each Registration Category

As noted above, currently, the Regulatory Element generally must be completed every three years, and the content is broad in nature. Based on changes in technology and learning theory, the Regulatory Element content can be updated and delivered in a timelier fashion and tailored to each registration category, which would further the goals of the Regulatory Element.<sup>20</sup> Therefore, to provide registered persons with more timely and relevant training on significant regulatory developments, the Exchange proposes amending Rule 3.33(a) to require registered persons to

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(Judgment and Sanction) may only requalify by retaking the applicable representative- or principal-level examination in order to reregister as representatives or principals, in addition to satisfying the eligibility conditions for association with a firm. Waivers are granted either on a case-by-case basis under Rule 3.30.03 (Qualification Examinations and Waivers of Examinations) or as part of the FSA waiver program under Rule 3.30.09 (Waiver of Examination for Individuals Working for a Financial Services Industry Affiliate of a TPH).

<sup>20</sup> When the CE Program was originally adopted in 1995, registered persons were required to complete the Regulatory Element on their second, fifth and 10th registration anniversary dates. See Securities Exchange Act Release No. 35341 (February 8, 1995), 60 FR 8426 (February 14, 1995) (Order Approving File Nos. SR-AMEX-94-59; SR-CBOE-94-49; SR-CHX-94-27; SR-MSRB-94-17; SR-NASD-94-72; SR-NYSE-94-43; SR-PSE-94-35; and SR-PHLX-94-52). The change to the current three-year cycle was made in 1998 to provide registered persons more timely and effective training, consistent with the overall purpose of the Regulatory Element. See Securities Exchange Act Release No. 39712 (March 3, 1998), 63 FR 11939 (March 11, 1998) (Order Approving File Nos. SR-CBOE-97-68; SR-MSRB-98-02; SR-NASD-98-03; and SR-NYSE-97-33).

complete the Regulatory Element annually by December 31.<sup>21</sup> The proposed amendment would also require registered persons to complete Regulatory Element content for each representative or principal registration category that they hold, which would also further the goals of the Regulatory Element.<sup>22</sup>

Under the proposed rule change, TPHs and TPH organizations would have the flexibility to require their registered persons to complete the Regulatory Element sooner than December 31, which would allow TPHs and TPH organizations to coordinate the timing of the Regulatory Element with other training requirements, including the Firm Element.<sup>23</sup> For example, a TPH or TPH organization could require its registered persons to complete both their Regulatory Element and Firm Element by October 1 of each year.

Individuals who would be registering as a representative or principal for the first time on or after the implementation date of the proposed rule change would be required to complete their initial Regulatory Element for that registration category in the next calendar year following their registration.<sup>24</sup> In addition, subject to specified conditions, individuals who would be reregistering as a representative or principal on or after the implementation date of the proposed rule change would also be required to complete their initial Regulatory Element for that registration category in the next calendar year following their reregistration.<sup>25</sup>

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<sup>21</sup> See proposed Rules 3.33(a)(1) and (a)(4).

<sup>22</sup> See proposed Rules 3.30.07 and 3.33(a)(1).

<sup>23</sup> See proposed Rules 3.33(a)(1) and (a)(4).

<sup>24</sup> See proposed Rule 3.33(a)(1).

<sup>25</sup> See proposed Rule 3.33(a)(4).

Consistent with current requirements, individuals who fail to complete their Regulatory Element within the prescribed period would be automatically designated as CE inactive.<sup>26</sup> However, the proposed rule change preserves the Exchange's ability to extend the time by which a registered person must complete the Regulatory Element for good cause shown.<sup>27</sup>

The Exchange also proposes amending Rule 3.33(a) to provide that: (1) individuals who are designated as CE inactive would be required to complete all of their pending and upcoming annual Regulatory Element, including any annual Regulatory Element that becomes due during their CE inactive period, to return to active status;<sup>28</sup> (2) the two-year CE inactive period is calculated from the date individuals become CE inactive, and it continues to run regardless of whether individuals terminate their registrations;<sup>29</sup> (3) individuals who become subject to a significant disciplinary action may be required to complete assigned continuing education content as prescribed by the Exchange;<sup>30</sup> (4) individuals who have not completed any Regulatory Element content for a registration category in the calendar year(s) prior to reregistering would not be approved for registration for that category until they complete that Regulatory Element content, pass an examination for that registration category or obtain an unconditional examination waiver for that registration category, whichever is applicable;<sup>31</sup> and (5) the Regulatory Element requirements apply

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<sup>26</sup> See proposed Rule 3.33(a)(2).

<sup>27</sup> Id. The proposed rule change clarifies that the request for an extension of time must be in writing and include supporting documentation, which is consistent with current practice.

<sup>28</sup> Id.

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> See proposed Rule 3.33(a)(4).

to individuals who are registered, or in the process of registering, as a representative or principal.<sup>32</sup> In addition, the Exchange proposes making conforming amendments to Rule 3.30.07.

Under the proposed rule change, the amount of content that registered persons would be required to complete in a three-year, annual cycle for a particular registration category is expected to be comparable to what most registered persons are currently completing every three years. In some years, there may be more required content for some registration categories depending on the volume of rule changes and regulatory issues. In addition, an individual who holds multiple registrations may be required to complete additional content compared to an individual who holds a single registration because, as noted above, individuals would be required to complete content specific to each registration category that they hold. However, individuals with multiple registrations would not be subject to duplicative regulatory content in any given year. The more common registration combinations would likely share much of their relevant regulatory content each year. For example, individuals registered as General Securities Representatives and General Securities Principals would receive the same content as individuals solely registered as General Securities Representatives, supplemented with a likely smaller amount of supervisory-specific content on the same topics. The less common registration combinations may result in less topic overlap and more content overall.

b. Recognition of Other Training Requirements for Firm Element and Application of Firm Element to Covered Registered Persons

To better align the Firm Element requirement with other required training, the Exchange proposes to revise/adopt proposed Rule 3.33(b) to expressly allow TPHs and TPH organizations to consider training relating to the AML compliance program and the annual compliance meeting toward satisfying an individual's annual Firm Element requirement.<sup>33</sup> The Exchange also proposes

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<sup>32</sup> See proposed Rule 3.33(a)(5).

<sup>33</sup> See proposed Rule 3.33(b)(2)(D).

amending the definition of “covered registered persons” who are subject to the Firm Element requirement to any person registered with a TPH, including any person who maintains solely a permissive registration consistent with Rule 3.30.02 (Permissive Registrations), thereby further aligning the description of “covered registered persons” in the Firm Element requirement with the description of “covered persons” in the Regulatory Element requirement.<sup>34</sup> In conjunction with this proposed change, the Exchange proposes modifying the current minimum training criteria under Rule 3.33(b) to instead provide that the training must cover topics related to the role, activities, or responsibilities of the registered person and to professional responsibility.

c. Maintenance of Qualification After Termination of Registration

The Exchange proposes to adopt Rules 3.33(c), 3.33.01, and 3.33.02 to provide eligible individuals who terminate any of their representative or principal registrations the option of maintaining their qualification for any of the terminated registrations by completing continuing education. The proposed rule change would not eliminate the two-year qualification period. Rather, it would provide such individuals an alternative means of staying current on their regulatory and securities knowledge following the termination of a registration(s). Eligible individuals who elect not to participate in the proposed continuing education program would continue to be subject to the current two-year qualification period. The proposed rule change is generally aligned with other professional continuing education programs that allow individuals to maintain their qualification to work in their respective fields during a period of absence from their careers

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<sup>34</sup> The group of persons who may be considered a “covered registered person” under the Firm Element provisions in proposed Rule 3.33(b)(1) is a subset of the group of persons who may be considered a “covered person” under the Regulatory Element provisions in proposed Rule 3.33(a)(5). See also note 15, *supra*, and surrounding discussion for comparison on the current definition of “covered registered person.”

(including an absence of more than two years) by satisfying continuing education requirements for their credential.

The proposed rule change would impose the following conditions and limitations:

- individuals would be required to be registered in the terminated registration category for at least one year immediately prior to the termination of that category;<sup>35</sup>
- individuals could elect to participate when they terminate a registration or within two years from the termination of a registration;<sup>36</sup>
- individuals would be required to complete annually all prescribed continuing education;<sup>37</sup>
- individuals would have a maximum of five years in which to reregister;<sup>38</sup>
- individuals who have been CE inactive for two consecutive years, or who become CE inactive for two consecutive years during their participation, would not be eligible to participate or continue;<sup>39</sup> and
- individuals who are subject to a statutory disqualification, or who become subject to a statutory disqualification following the termination of their registration or during their participation, would not be eligible to participate or continue.<sup>40</sup>

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<sup>35</sup> See proposed Rule 3.33(c)(1).

<sup>36</sup> See proposed Rule 3.33(c)(2).

<sup>37</sup> See proposed Rule 3.33(c)(3). However, upon a participant's request and for good cause shown, the Exchange would have the ability to grant an extension of time for the participant to complete the prescribed continuing education. A participant who is also a registered person must directly request an extension of the prescribed continuing education from the Exchange.

<sup>38</sup> See proposed Rule 3.33(c).

<sup>39</sup> See proposed Rule 3.33(c)(4) and (c)(5).

<sup>40</sup> See proposed Rules 3.33(c)(1) and (c)(6). Individuals who are subject to a statutory disqualification would not be eligible to enter the proposed continuing education program. Individuals who become subject to a statutory disqualification while participating in the proposed continuing education program would not be eligible to

The proposed rule change also includes a look-back provision that would, subject to specified conditions, extend the proposed option for maintaining qualifications following a registration category termination to (i) individuals who have been registered as a representative or principal within two years immediately prior to the planned March 15, 2022 implementation date of the proposed rule change, and (ii) individuals who have been FSAWP participants immediately prior to the planned March 15, 2022 implementation date of the proposed rule change.<sup>41</sup> With respect to the FSAWP, the Exchange proposes to make the look-back provision available to individuals who are participants in the Exchange's FSAWP or the FSA waiver programs of Exchange's affiliate, Cboe C2 Exchange, Inc. ("C2 Options"), and/or FINRA immediately preceding March 15, 2022. In addition, effective March 15, 2022, the Exchange proposes to not accept any new initial designations for individuals under the Exchange's FSAWP. Effectively,

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continue in the program. Further, any content completed by such participants would be retroactively nullified upon disclosure of the statutory disqualification. The following example illustrates the application of the proposed rule change to individuals who become subject to a statutory disqualification while participating in the proposed continuing education program. Individual A participates in the proposed continuing education program for four years and completes the prescribed content for each of those years. During year five of his participation, he becomes subject to a statutory disqualification resulting from a foreign regulatory action. In that same year, the Exchange receives a Form U4 submitted by a member on behalf of Individual A requesting registration with the Exchange. The Form U4 discloses the statutory disqualification event. the Exchange would then retroactively nullify any content that Individual A completed while participating in the proposed continuing education program. Therefore, in this example, in order to become registered with the Exchange, he would be required to requalify by examination. This would be in addition to satisfying the eligibility conditions for association with an Exchange TPH or TPH Organization. See also Exchange Act Sections 3(a)(39) and 15(b)(4).

<sup>41</sup> See proposed Rule 3.33.01. Such individuals would be required to elect whether to participate by the March 15, 2022 implementation date of the proposed rule change. If such individuals elect to participate, they would be required to complete their initial annual content by the end of 2022 (*i.e.*, by the end of the calendar year in which the proposed rule change is implemented). In addition, if such individuals elect to participate, their initial participation period would be adjusted based on the date that their registration was terminated.

upon implementation, the FSAWP would not be available for new participants and what remains of the program would only be applicable to pre-existing participants. Ultimately, the FSAWP will expire in favor of the new proposed maintenance of qualification requirements.<sup>42</sup>

In addition, the proposed rule change includes a re-eligibility provision that would allow individuals to regain eligibility to participate each time they reregister with a TPH or TPH Organization for a period of at least one year and subsequently terminate their registration, provided that they satisfy the other participation conditions and limitations.<sup>43</sup> Finally, the Exchange proposes making conforming amendments to Rule 3.30, including making ministerial changes and adding references to proposed Rules 3.33(a) and (c) under Rule 3.30.08. The proposed rule change will have several important benefits. It will provide individuals with flexibility to address life and career events and necessary absences from registered functions without having to requalify each time. It will also incentivize them to stay current on their respective securities industry knowledge following the termination of any of their registrations. The continuing education under the proposed option will be as rigorous as the continuing education of registered persons, which promotes investor protection. Further, the proposed rule change will enhance diversity and inclusion in the securities industry by attracting and retaining a broader and diverse group of professionals.

Significantly, the proposed rule change will be of particular value to women, who continue to be the primary caregivers for children and aging family members and, as a result, are likely to be absent from the industry for longer periods.<sup>44</sup> In addition, the proposed rule change will provide

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<sup>42</sup> See proposed changes to Rule 3.30.09.

<sup>43</sup> See proposed Rule 3.33.02.

<sup>44</sup> See The Female Face of Family Caregiving (November 2018), available at <https://www.nationalpartnership.org/our-work/resources/economic-justice/femaleface-family-caregiving.pdf>.

longer-term relief for women, individuals with low incomes and other populations, including older workers, who are at a higher risk of a job loss during certain economic downturns and who are likely to remain unemployed for longer periods.<sup>45</sup>

d. Other Changes to Rule 3.33

The Exchange proposes to restructure and modify the rule text of Rule 3.33 to align with FINRA Rule 1240 numbering, provisions and rule text.

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.<sup>46</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>47</sup> 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

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<sup>45</sup> See The COVID-19 Recession is the Most Unequal in Modern U.S. History (September 30, 2020), available at <https://www.washingtonpost.com/graphics/2020/business/coronavirus-recessionequality/> and Unemployment’s Toll on Older Workers Is Worst in Half a Century (October 21, 2020), available at <https://www.aarp.org/work/working-at-50-plus/info-2020/pandemic-unemployment-older-workers/>.

<sup>46</sup> 15 U.S.C. 78f(b).

<sup>47</sup> 15 U.S.C. 78f(b)(5).

is consistent with the Section 6(b)(5)<sup>48</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposal to move to an annual Regulatory Element training with content tailored to an individual's representative or principal registration categories is designed to protect investors and is in the public interest. As noted in the order approving the similar changes to the FINRA CE Program,<sup>49</sup> the Commission found that "the rule is reasonably designed to minimize the potential adverse impact on firms and their registered persons. Furthermore, increasing the timeliness of registered persons' training, as well as the relevance of the training's content by tailoring it to each registration category that they hold, would enhance their education and compliance with their regulatory obligations."

The Exchange believes that the proposed changes to the Regulatory Element and Firm Element portions of its CE Program will ensure that all registered persons receive timely and relevant training, which will, in turn, enhance compliance and investor protection. Further, the Exchange believes that establishing a path for individuals to maintain their qualification following the termination of a registration will reduce unnecessary impediments to requalification and promote greater diversity and inclusion in the securities industry without diminishing investor protection.

The Exchange also believes that the proposed rule change will bring consistency and uniformity with FINRA's recently amended CE Program, which will, in turn, assist TPHs and their associated persons in complying with these rules and improve regulatory efficiency. The proposed rule changes makes ministerial changes to the Exchange's continuing education rules

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<sup>48</sup>

Id.

<sup>49</sup>

Supra note 5.

to align them with registration and qualification rules of FINRA and other exchanges as discussed above, in order to prevent unnecessary regulatory burdens and to promote efficient administration of the rules. The change also makes minor updates and corrections to the Exchange's rules which improve readability.

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 believes that the proposed rule changes which are, in all material respects, based upon and substantially similar to, recent rule changes adopted by FINRA, will reduce the regulatory burden placed on market participants engaged in trading activities across different markets. The Exchange believes that the harmonization of the CE Program requirements across the various markets will reduce burdens on competition by removing impediments to participation in the national market system and promoting competition among participants across the multiple national securities exchanges.

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 Act<sup>50</sup> and Rule 19b-4(f)(6) thereunder.<sup>51</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that this proposed rule change may become operative immediately upon filing. In addition, Rule 19b-4(f)(6)(iii)<sup>52</sup> requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

Waiver of the 30-day operative delay would allow the Exchange to implement proposed changes to its Continuing Education Rules by March 15, 2022 to coincide with one of FINRA's announced implementation dates, thereby eliminating the possibility of a significant regulatory gap between the FINRA and Exchange rules, providing more uniform standards across the securities industry, and helping to avoid confusion for registered persons of the Exchange that are also FINRA members. For this reason, the Commission believes that waiver of the 30-day operative delay for this proposal is consistent with the protection of investors and the public

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<sup>50</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>51</sup> 17 CFR 240.19b-4(f)(6).

<sup>52</sup> 17 CFR 240.19b-4(f)(6)(iii).

interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>53</sup>

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 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2022-012 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-2022-012. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

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<sup>53</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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, 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.

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-2022-012 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.<sup>54</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>54</sup> 17 CFR 200.30-3(a)(12).