SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85253; File No. SR-CboeEDGX-2019-009)

March 6, 2019

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Adopt Rule 21.21 (Solicitation Auction Mechanism)

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 February 21, 2019, Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") 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 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 the Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") proposes to adopt Rule 21.21. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), 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

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

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

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. ("Cboe Global"), which is the parent company of Cboe Exchange, Inc. ("Cboe Options") and Cboe C2 Exchange, Inc. ("C2"), acquired the Exchange, Cboe EDGA Exchange, Inc. ("EDGA"), Cboe BZX Exchange, Inc. ("BZX or BZX Options"), and Cboe BYX Exchange, Inc. ("BYX" and, together with C2, Cboe Options, the Exchange, EDGA, and BZX, the "Cboe Affiliated Exchanges"). The Cboe Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the Cboe Affiliated Exchanges, in the context of a technology migration. Cboe Options intends to migrate its technology to the same trading platform used by the Exchange, C2, and BZX Options in the fourth quarter of 2019. The proposal set forth below is intended to add certain functionality to the Exchange's System that is available on Cboe Options in order to ultimately provide a consistent technology offering for market participants who interact with the Cboe Affiliated Exchanges. Although the Exchange intentionally offers certain features that differ from those offered by its affiliates and will continue to do so, the Exchange believes that offering similar functionality to the extent practicable will reduce potential confusion for Users.

The purpose of the proposed rule change is to adopt the Solicitation Auction Mechanism ("SAM"), which is a solicited order mechanism for larger-sized orders. SAM will provide an additional method for market participants to effect orders in a price improvement auction. The proposed rule change is similar to the solicited order mechanism of Cboe Options and other options exchanges. Many aspects of the proposed rule change are similar to the corresponding aspects of the Automated Improvement Mechanism ("AIM"), which is the Exchange's current electronic crossing mechanism.[3] The Exchange believes the similarity of SAM to the Exchange's AIM mechanism and the mechanisms of other exchanges will allow the Exchange's proposed price improvement functionality to fit seamlessly into the options market and benefit market participants who are already familiar with this similar functionality. The Exchange also believes this will encourage Users to compete vigorously to provide the opportunity for price improvement for larger-sized customer orders in a competitive auction process.

An Options Member (the "Initiating Member") may electronically submit for execution an order it represents as agent ("Agency Order") against a solicited order(s)[4] provided it submits the Agency Order for electronic execution into a SAM Auction pursuant to proposed Rule 21.21.[5]

The Initiating Member may initiate a SAM Auction if all of the following conditions are met:

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3 See Rule 21.19; see also SR-CboeEDGX-2019-007 (February 19, 2019).

4 The solicited order(s) cannot be for the same EFID as the Agency Order or for the account of any Options Market Maker registered in the applicable series on the Exchange. Cboe Options Rule 6.74B is silent on how it determines whether both orders submitted to a SAM Auction are solicited for different accounts. The Agency Order and Solicited Order cannot both be for the accounts of a customer. Cboe Options Rule 6.74B does not contain a similar prohibition. The Exchange believes it is appropriate for such customer-to-customer crosses to be submitted to an AIM Auction pursuant to Rule 6.74A, as that rule contains a provision for Customer-to-Customer Immediate AIM Crosses.

5 For purposes of proposed Rule 21.21, the term "NBBO" means the national best bid or national best offer at the particular point in time applicable to the reference, and the term "Initial NBBO" means the national best bid or national best offer at the time a SAM Auction is initiated.

- The Agency Order may be in any class traded on the Exchange.[6]
- The Initiating Member must mark an Agency Order for SAM Auction processing.[7]
- The Agency Order must be for at least the minimum size designated by the Exchange (which may not be less than 500 standard option contracts or 5,000 mini-option contracts). The Solicited Order must be for (or must total, if the Solicited Order is comprised of multiple solicited orders)[8] the same size as the Agency Order. The Initiating Member must designate each of the Agency Order and Solicited Order as all-or-none ("AON").[9]
- The price of the Agency Order and Solicited Order must be in an increment of $0.01.[10]
- An Initiating Member may not designate an Agency Order or Solicited Order as Post Only.[11]

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6 See proposed Rule 21.21(a)(1). Cboe Options Rule 6.74B(a)(1) permits Cboe Options to make SAM available on a class-by-class basis. The Exchange does not believe it currently needs this flexibility.

7 See proposed Rule 21.21(a)(2); see also Cboe Options Rule 6.74B(b)(1)(A).

8 Cboe Options Rule 6.74B does not permit the solicited order to consist of multiple contras. See additional discussion below regarding the provision to permit multiple contra-parties to be solicited to trade against an Agency Order.

9 See proposed Rule 21.21(a)(3); see also Cboe Options Rule 6.74B(a)(1) and (2).

10 See proposed Rule 21.21(a)(4). Cboe Options Rule 6.74B(a)(3) permits Cboe Options to determine the minimum price increment for the Agency Order and Solicited Order, which may not be smaller than $0.01. The Exchange does not believe it needs this flexibility, and thus the proposed rule change applies the $0.01 increment to all classes.

11 See proposed Rule 21.21(a)(5). The Post Only designation is not available on Cboe Options. The Exchange believes this is appropriate, as the purpose of a Post Only order is to not execute upon entry and instead rest in the EDGX Options Book, while the purpose of a SAM Auction is to receive an execution following the auction but prior to entering the EDGX Options Book. See also Rule 21.19(a)(5).

- An Initiating Member may only submit an Agency Order to a SAM Auction after the market open.[12]
- An Initiating Member may not submit an Agency Order if the NBBO is crossed (unless the Agency Order is a SAM ISO).[13]

The System rejects or cancels both an Agency Order and Solicited Order submitted to a SAM Auction that do not meet these conditions.[14]

As defined, the Solicited Order may be comprised of multiple solicited orders, in which case they must total the same size as the Agency Order (and thus be for a total of at least 500 contracts). This will accommodate multiple contra-parties and increase the opportunities for customer orders to be submitted into an AIM Auction with the potential for price improvement, since the Initiating Order must stop the full size of the Agency Order. This will have no impact on the execution of the Agency Order, which may trade against multiple contra-parties depending on the final auction price, as set forth in proposed paragraph (e). The Exchange notes that with regard to order entry, the first order submitted into the system is marked as the initiating/agency side and the second order is marked as the contra-side. Additionally, the

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12 See proposed Rule 21.21(a)(6). Cboe Options Rule 6.74B is silent on when a SAM Auction may be initiated. However, the Exchange understands that the proposed rule change is consistent with Cboe Options functionality. See also Rule 21.19(a)(6).

13 See proposed Rule 21.21(a)(7). Cboe Options Rule 6.74B is silent on whether a SAM Auction may be initiated when the NBBO is crossed. However, the proposed rule change is consistent with the proposed requirement (and Cboe Options Rule 6.74B(b)(1)(A) and (2)(A)(1)) that the stop price and execution price be at or better than the initial NBBO (as discussed below), as well as linkage rules that do not permit executions at prices that trade through the NBBO (see Rule 27.2).

14 See proposed Rule 21.21(a). Cboe Options Rule 6.74B does not specify whether an Agency Order and Solicited Order will be rejected or cancelled if they do not meet the SAM eligibility requirements. However, the Exchange understands that the proposed rule change is consistent with Cboe Options functionality. The proposed SAM Auction eligibility requirements (other than the minimum size) are the same as the AIM Auction eligibility requirements. See Rule 21.19(a).

Solicited Order will always be entered as a single order, even if that order consists of multiple contra-parties who are allocated their portion of the trade in a post-trade allocation.[15]

The Solicited Order must stop the entire Agency Order at a price that satisfies the following conditions:

- The stop price for a buy (sell) Agency Order must be at or better than the then-current NBO (NBB).[16]
- If the Agency Order is to buy (sell) and the Exchange best bid (offer) represents (a) a Priority Customer order on the EDGX Options Book, the stop price must be at least $0.01 better than the Exchange best bid (offer); or (b) a quote or order that is not a Priority Customer order on the EDGX Options Book, the auction price must be at least $0.01 better than the Exchange best bid (offer) unless the agency Order is a Priority Customer order and the Exchange has applied the Customer Overlay set forth in Rule 21.8(d)(1), in which case the auction price must be at or better than the Exchange best bid (offer).[17] The Exchange believes this condition

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15 The Exchange notes that while other exchange rules do not specify whether the contra-side order in a solicitation auction mechanism may consist of multiple orders, the contra-side order for Qualified Contingent Cross Orders (see Rule 21.1(d)(10)), which similarly have a minimum quantity requirement and are fully crossed against an initiating order that must be for a minimum number of contracts, may consist of multiple contra-side orders. However, ISE Regulatory Information Circular 2014-013 states that the contra-side order submitted into a crossing mechanism (including the ISE solicited order mechanism) may consist of one or more parties.

16 See proposed Rule 21.21(b)(1); see also Cboe Options Rule 6.74B(b)(1)(A).

17 See proposed Rule 21.21(b)(2). These conditions regarding orders on the same side as the Agency Order are the same as those applicable to AIM for orders of 50 contracts or more. See Rule 21.19(b). Cboe Options Rule 6.74B is silent regarding whether the stop price must be at or better than the same-side Cboe Options best bid or offer; however, the execution price must be at or better than the Cboe Options best bid or offer.

protects orders resting on the EDGX Options Book, including Priority Customer orders.

- If the Agency Order is to buy (sell) and the Exchange best offer (bid) represents (a) a Priority Customer order on the EDGX Options Book, the auction price must be at least $0.01 better than the Exchange best offer (bid); or (b) a quote or order that is not a Priority Customer order on the EDGX Options Book, the auction price must be at or better than the Exchange best offer (bid).[18] The Exchange believes this condition protects orders resting on the EDGX Options Book, including Priority Customer orders.
- If the Initiating Member submits a SAM sweep order to a SAM Auction, the stop price, SAM responses, and executions are permitted at a price inferior to the Initial NBBO. A "SAM sweep order" or "SAM ISO" is the submission of two orders for crossing in a SAM Auction without regard for better-priced Protected Quotes (as defined in Rule 27.1) because the submitting Options Member routed an ISO(s) simultaneously with the routing of the SAM ISO to execute against the full displayed size of any Protected Quote that is better than the stop price and has swept all interest in the EDGX Options Book with a price better than the stop price. Any execution(s) resulting from these sweeps accrue to the AIM Agency Order.[19]

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[18] See proposed Rule 21.21(b)(3). Cboe Options Rule 6.74B is silent regarding whether the auction price must be at or better than the opposite-side Cboe Options best bid or offer; however, the execution price may not be at the same price as priority customer orders resting on the book on the opposite side of the Agency Order (unless the priority customer orders execute against the Agency Order).

[19] See proposed Rule 21.21(b)(4). Cboe Options Rule 6.74B is silent on whether ISOs are permitted with respect to SAM auctions. However, ISOs are similarly permitted for AIM

The System rejects or cancels both an Agency Order and Solicited Order submitted to a SAM Auction that do not meet these conditions.[20]

Upon receipt of an Agency Order that meets the above conditions, the SAM Auction process commences. One or more SAM Auctions in the same series may occur at the same time. To the extent there is more than one SAM Auction in a series underway at a time, the SAM Auctions conclude sequentially based on the exact time each SAM Auction commenced, unless terminated early pursuant to proposed paragraph (d). At the time each SAM Auction concludes, the System allocates the Agency Order pursuant to proposed paragraph (e) and takes into account all SAM Auction responses and unrelated orders in place at the exact time of conclusion. In the event there are multiple SAM Auctions underway that are each terminated early pursuant to proposed paragraph (d), the System processes the SAM Auctions sequentially based on the exact time each SAM Auction commenced.[21]

The Exchange notes it is also possible for various types of auctions (such as an AIM Auction or a complex order auction ("COA")) to occur concurrently in the same series, and at the end of each auction, it is possible for interest resting in the EDGX Options Book to trade against any of the auctioned orders in the series. While these auctions may be occurring at the same time, they will be processed in the order in which they are terminated (similar to how the System processes SAM Auctions as discussed above). In other words, suppose there is an AIM Auction, a SAM Auction, and a COA all occurring in the same series, which began and will

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Auctions, and the proposed definition of a SAM ISO is consistent with linkage rules. See Rules 21.19(b)(3)(A) and 27.1.

20 See proposed Rule 21.21(b).

21 See proposed Rule 21.21(c)(1). This provision regarding concurrent SAM Auctions is similar to the AIM provision that permits concurrent AIM Auctions for Agency Orders of 50 contracts or more. See Rule 21.19(c)(1). The Cboe Options rule does not permit concurrent SAM Auctions.

terminate in that order, and each of which last 100 milliseconds. While it is possible for all three auctions to terminate nearly simultaneously, the System will still process them in the order in which they terminate. When the AIM Auction terminates, the System will process it in accordance with Rule 21.19, and the auctioned order may trade against any resting interest (in addition to the contra-side order and responses submitted to that AIM Auction, which may only trade against the order auctioned in that AIM pursuant to Rule 21.19). The System will then process the SAM Auction when it terminates, and the auctioned order may trade against any resting interest that did not execute against the AIM order (in addition to the contra-side order and responses submitted to that SAM Auction, which may only trade against the order auctioned in that SAM pursuant to proposed Rule 21.21). Finally, the System will then process the COA Auction when it terminates, and the COA order may leg into the EDGX Options Book and trade against any resting interest that did not execute against the AIM order or SAM order (in addition to any interest resting on the complex order book and COA responses pursuant to Rule 21.20).

The Exchange System initiates the SAM Auction process by sending a SAM Auction notification message detailing the side, size, auction price, Auction ID, and options series of the Agency Order to all Options Members that elect to receive SAM Auction notification messages. SAM Auction notification messages are not included in the disseminated BBO or OPRA.[22] The SAM Auction lasts for a period of time determined by the Exchange, which may be no less than 100 milliseconds and no more than one second (the Exchange will announce this time period to Options Members via Exchange Notice and/or technical specifications).[23] An Initiating Member

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22 See proposed Rule 21.21(c)(2); see also Cboe Options Rule 6.74B(b)(1)(B).

23 See proposed Rule 21.21(c)(3); see also Cboe Options Rule 6.74B(b)(1)(C).

may not modify or cancel an Agency Order or Solicited Order after submission to a SAM Auction.[24]

Any User other than the Initiating Member (determined by EFID) may submit responses to a SAM Auction that are properly marked specifying size, side of the market, and the Auction ID for the SAM Auction to which the User is submitting the response. A SAM response may specify a limit price or be treated as market. A SAM response may only participate in the SAM Auction with the Auction ID specified in the response.[25]

- The minimum price increment for SAM responses is $0.01. The System rejects a SAM response that is not in a $0.01 increment.[26]
- SAM responses that cross the Initial NBBO are capped at the Initial NBBO on the same side as the Agency Order and $0.01 better than the EDGX BBO on the same side as the Agency Order if the EDGX BBO is represented by a Priority Customer on the EDGX Options Book (unless the Agency Order is a SAM ISO). The System executes SAM responses, if possible, at the most aggressive permissible price not outside the Initial NBBO.[27] This will ensure the execution price does not cross the Initial NBBO in accordance with linkage rules.

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24 See proposed Rule 21.21(c)(4); see also Rule 21.19(c)(4) (corresponding provision in AIM). Cboe Options Rule 6.74B does not contain this detail; however, the Exchange understands this is consistent with current Cboe Options functionality.

25 See proposed Rule 21.21(c)(5); see also Rule 21.19(c)(5) (corresponding provision in AIM). Cboe Options Rule 6.74B does not specify that a response may be market as well as limit or that a response may only participate in the auction specific in the response.

26 See proposed Rule 21.21(c)(5)(A). Cboe Options permits it to determine the minimum increment of SAM responses, which may not be less than $0.01. See Cboe Options Rule 6.74B(b)(1)(E). The Exchange does not believe it needs that flexibility.

27 See proposed Rule 21.21(c)(5)(B). Cboe Options does not have a corresponding provision; however, this is the same as the corresponding provision for the Exchange's AIM Auction. See Rule 21.19(c)(5)(B).

- A User may submit multiple SAM response at the same or multiple prices to a SAM Auction. The System aggregates all of a User's SAM response and orders and quotes on the EDGX Options Book for the same EFID at the same price.[28] The Exchange believes this is appropriate since all interest at a single price is considered for execution against the Agency Order at that price, and can then together be subject to the size cap, as discussed below. This (combined with the proposed size cap) will prevent an Options Member from submitting multiple orders, quotes, or responses at the same price to obtain a larger pro-rata share of the Agency Order.
- SAM responses, or the aggregate size of a User's orders, quotes, and SAM responses for the same EFID at the same price, that exceed the size of the Agency Order are capped at the size of the Agency Order.[29] This Exchange believes this is responsible to prevent an Options Member from submitting an order, quote, or response with an extremely large size in order to obtain a larger pro-rata share of the Agency Order.

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28 See proposed Rule 21.21(c)(5)(C). Cboe Options does not specify whether a participant may submit multiple responses at the same price or whether the size of all of a participant's interest at the same price will be aggregated; however, this is the same as the corresponding provision for the Exchange's AIM Auction. See Rule 21.19(c)(5)(C).

29 See proposed Rule 21.21(c)(5)(D). This is in contrast to Cboe Options, which requires responses to not exceed the size of the Agency Order. See Cboe Options Rule 6.74B(b)(1)(F). However, this is the same as the corresponding provision for the Exchange's AIM Auction. See Rule 21.19(c)(5)(D).

- SAM responses must be on the opposite side of the market as the Agency Order. The System rejects a SAM response on the same side of the market as the Agency Order.[30]
- SAM responses are not visible to SAM Auction participants or disseminated to OPRA.[31]
- A User may modify or cancel its SAM responses during the SAM Auction.[32]

A SAM Auction concludes at the earliest to occur of the following times:

- the end of the SAM Auction period;
- upon receipt by the System of a Priority Customer order on the same side of the market with a price the same as or better than the stop price that would post to the EDGX Options Book;
- upon receipt by the System of an unrelated, nonmarketable order or quote that is not a Priority Customer order on the same side of the market as the Agency Order that would cause the stop price to be outside of the EDGX BBO;
- the market close; and

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30 See proposed Rule 21.21(c)(5)(E). Cboe Options does not specify whether a response will be rejected if it is not on the opposite side of the Agency Order; however, the Exchange understands this is consistent with Cboe Options functionality and the same as the corresponding provision for the Exchange's AIM Auction. Additionally, it is reasonable given that the purpose of a response is to trade against the Agency Order. See Rule 21.19(c)(5)(E).

31 See proposed Rule 21.21(c)(5)(F); see also Cboe Options Rule 6.74B(b)(1)(D).

32 See proposed Rule 21.21(c)(5)(G). Cboe Options does not specify whether responses may be cancelled during the auction; however, this is the same as the corresponding provision for the Exchange's AIM Auction. See Rule 21.19(c)(5)(I). Unlike Cboe Options Rule 6.74B, the proposed rule change permits responses for the account of an options market-maker from another options exchange. Other options exchanges similarly permit such responses in solicited auction mechanisms. See, e.g., ISE Rule 716(e); and MIAX Rule 515A(b).

- any time the Exchange halts trading in the affected series, provided, however, that in such instance the SAM Auction concludes without execution.

An unrelated market or marketable limit order (against the EDGX BBO), including a Post Only Order, on the opposite side of the Agency Order received during the SAM Auction does not cause the SAM Auction to end early and executes against interest outside of the SAM Auction. If contracts remain from such unrelated order at the time the SAM Auction ends, they may be allocated for execution against the Agency Order pursuant to proposed paragraph (e).[33] Because these orders may have the opportunity to trade against the Agency Order following the conclusion of the SAM Auction, which execution must still be at or better than the NBBO and EDGX Options BBO, the Exchange does not believe it is necessary to cause a SAM Auction to conclude early in the event the Exchange receives such orders. This will provide more time for potential price improvement, and the unrelated order will have the opportunity to trade against the Agency Order in the same manner as all other contra-side interest.

At the conclusion of the SAM Auction, the System executes the Agency Order against the Solicited Order or contra-side interest (which includes SAM responses and orders and quotes resting in the EDGX Options Book) at the best price(s) as follows, which price(s) must be at or between the Initial NBBO and at or between the EDGX BBO at the conclusion of the SAM Auction[34]:

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33 See proposed Rule 21.21(d). The proposed reasons why a SAM Auction may conclude early differ from the reasons why a Cboe Options SAM Auction may conclude early, but the proposed reasons are the same as those that will cause an AIM Auction to conclude early. See Rule 21.19(d). Similarly, a Cboe Options SAM Auction will conclude early for the same reasons that cause a Cboe Options AIM Auction to terminate early. See Cboe Options Rule 6.74B(b)(2).

34 See proposed Rule 21.21(e); see also Cboe Options Rule 6.74B(b)(2)(A) (which provides the execution price must be at or better than the initial auction NBBO and that an execution will occur at prices equal to or better than the Cboe Options BBO).

- The System executes the Agency Order against the Solicited Order at the stop price if (a) there is insufficient size among contra-side trading interest at a price(s) better than the stop price to satisfy the Agency Order, and (b) there are no displayed Priority Customer Orders on the opposite side of the Agency Order resting in the EDGX Options Book at the auction price.
- The System executes the Agency Order against contra-side interest (and cancels the Solicited Order) if the aggregate size of (a) any contra-side interest at a price(s) better than the stop price and (b) any displayed Priority Customer Orders on the opposite side of the Agency Order resting on the EDGX Options Book at the stop price is sufficient to satisfy the Agency Order. Execution of the Agency Order against such contra-side interest occurs at each price level better than the stop price in the following order:
  - Priority Customer orders on the EDGX Options Book (in time priority);
  - remaining contra-side trading interest (including non-Priority Customer orders and quotes on the EDGX Options Book and SAM responses) pursuant to Rule 21.8(c); and
  - any nondisplayed Reserve Quantity (Priority Customer before non-Priority Customer, each in time priority).

  Execution of the Agency Order against Priority Customer orders on the opposite side of the Agency Order resting on the EDGX Options Book at the stop price execute at that price in time priority.
- The System cancels the Agency Order and Solicited Order with no execution if:

- execution of the Agency Order against the Solicited Order at the stop price would not be at or between the EDGX BBO at the conclusion of the SAM Auction or at or between the Initial NBBO; or
- there is a Priority Customer Order(s) resting on the opposite side of the Agency Order at the stop price on the EDGX Options Book, and the aggregate size of that Priority Customer Order(s) at the stop price and any contra-side interest at a price(s) better than the stop price is insufficient to satisfy the Agency Order.[35]

- The System cancels or rejects any unexecuted SAM responses (or unexecuted portions) at the conclusion of the SAM Auction.

The proposed provisions regarding the execution of the Agency Order at the conclusion of a SAM Auction is consistent with the corresponding provisions for a Cboe Options SAM, except as proposed, if there is a Priority Customer order resting on the EDGX Options Book at the stop price and, with other contra-side interest at the stop price, there is sufficient size to satisfy the Agency Order, the Agency Order will be cancelled, while it would execute against such Priority Customer order and contra-side interest at the stop price on Cboe Options.[36] The

35 See proposed Rule 21.21(e). Cboe Rule 6.74B(b)(2) is silent regarding how the Agency Order will be allocated against contra-side interest. The proposed allocation of contra-side interest is consistent with current Exchange allocation rules. See Rule 21.8. This will ensure the Agency Order is allocated consistent with the standard priority of allocation on the Exchange rules that distinguish between Priority Customers and displayed and nondisplayed interest in a manner that will help ensure a fair and orderly market by maintaining priority of orders and quotes while still affording the opportunity for price improvement in each SAM Auction commenced on the Exchange.

36 See Cboe Options Rule 6.74B(b)(2)(A) (which states if there are priority customer orders and there is sufficient size (considering all resting orders, electronic quotes and responses) to execute the Agency Order, the Agency Order will be executed against these interests and the solicited order will be cancelled, and if there are priority customer orders

Exchange believes the proposed rule change is consistent with the AON nature of solicitation mechanisms and the priority order applicable to executions following a SAM Auction at the stop price, as well as general priority provisions,[37] which is:

- Priority Customer orders resting on the EDGX Options Book;
- Solicited Order;
- non-Priority Customer orders and quotes resting on the EDGX Options Book and SAM responses; and
- nondisplayed orders resting on the EDGX Options Book (Priority Customers ahead of non-Priority Customers).

For example, pursuant to Cboe Options Rule 6.74B(b)(2) and proposed Rule 21.21(e), if there are no Priority Customer orders resting on the book at the stop price, if there is not sufficient contra-side interest to satisfy the Agency Order at a better price but there is sufficient non-Priority Customer contra-side interest at the stop price, the Solicited Order has priority and executes against the Agency Order at the stop price. The purpose of SAM is to provide a facility for Options Members that locate liquidity for their large customer orders to execute these orders (and potentially obtain better prices). Given the large size of these orders and the work involved

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and there is not sufficient size (considering all resting orders, electronic quotes and responses), both the Agency Order and the solicited order will be cancelled).

37 See Rule 21.8, which provides that at a single price level: (a) Priority Customer orders have priority over non-Priority Customer orders, and Priority Customer orders at the same price are allocated in time priority; (b) non-customer orders have next priority and are allocated in a pro-rata manner; and (c) displayed orders have priority over nondisplayed orders, and nondisplayed portions of Reserve Orders are allocated in a pro-rata manner, except nondisplayed portions of Priority Customer Reserve Orders trade ahead of non-customer Reserve Orders. The Exchange notes it may apply an entitlement for Designated Primary Market Makers or Preferred market Makers, which entitlement would apply after Priority Customer orders. This entitlement is inapplicable in the setting of an auction; however, it is comparable to order when a Solicited Order receives priority.

to locate sufficient interest that will trade against these customers order completely at the best then available price, Options Members that solicit this interest in exchange receive priority to trade against the entire size of these customer orders at the stop price over non-Priority Customer orders. The Exchange believes this will protect Priority Customer orders resting on the EDGX Options Book while encouraging Options Members to continue to seek liquidity against which their customers may execute their large orders, as well as encourage non-Priority Customer orders to submit interest at improved prices if they seek to execute against Agency Orders. The Exchange does not believe it is fair for non-Priority Customer interest at the stop price to trade ahead of the Solicited Order because there happens to be a Priority Customer order at that price, when that interest would not otherwise trade ahead of the Solicited Order.

Proposed Rule 21.21, Interpretation and Policy .01 provides that prior to entering Agency Orders into a SAM Auction on behalf of customers, Initiating Members must deliver to the customer a written notification informing the customer that his order may be executed using the SAM Auction. The written notification must disclose the terms and conditions contained in this Rule 21.21 and be in a form approved by the Exchange.[38]

Rule 22.12 prevents an Options Member from executing agency orders to increase its economic gain from trading against the order without first giving other trading interests on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the Options Member was already bidding or offering on the book. However, the Exchange recognizes that it may be possible for an Options Member to establish a relationship with a Priority Customer or other person to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency order

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[38] See also Cboe Options Rule 6.74B, Interpretation and Policy .02.

as principal. Under Rule 21.21, Initiating Members may enter contra-side orders that are solicited. SAM provides a facility for Options Members that locate liquidity for their customer orders. Options Members may not use the SAM Auction to circumvent Rule 21.19 or 22.12 limiting principal transactions. This may include, but is not limited to, Options Members entering contra-side orders that are solicited from (a) affiliated broker-dealers or (b) broker-dealers with which the Options Member has an arrangement that allows the Options Member to realize similar economic benefits from the solicited transaction as it would achieve by executing the customer order in whole or in part as principal.[39]

The following examples demonstrate how orders will be executed in a SAM Auction:

Example #1

XYZ Jan 50 Calls

NBBO: 1.10 – 1.25

BBO: 1.10 – 1.30 (no Priority Customer orders included in the BBO)

Paired order to execute 2000 contracts AON (Agency Order to sell) at 1.10

A SAM Auction notification message is sent to all Options Members that elect to receive SAM Auction notification messages, which shows the option, size, side, and price. The SAM Auction timer begins, and the System starts the SAM Auction to sell at 1.10.

During the SAM Auction, the System receives the following responses in the following order:

- Response 1 to buy 2000 at 1.10

[39] See proposed Interpretation and Policy .02; see also Cboe Options Rule 6.74B, Interpretation and Policy .03. The proposed rule change also amends Rule 22.12 to add a reference to SAM as an exception to the general restriction on the execution of orders as principal against orders they represent as agent. See proposed Rule 22.12(c); see also Cboe Options Rule 6.45, Interpretation and Policy .01.

- Response 2 to buy 2000 at 1.10
- Response 3 to buy 5000 at 1.10
- Response 4 to buy 1000 at 1.20

The aggregate responses did not improve the price of the entire Agency Order, and there are no displayed Priority Customer orders at the stop price, so at the conclusion of the SAM Auction, the System executes the Solicited Order against the Agency Order at a price of 1.10 and cancels the SAM responses.

Example #2

XYZ Jan 50 Calls

NBBO: 1.10 – 1.25

BBO: 1.10 – 1.30 (no Priority Customer orders included in the BBO)

Paired order to execute 2000 contracts AON (Agency Order to sell) at 1.10

A SAM Auction notification message is sent to all Options Members that elect to receive SAM Auction notification messages, which shows the option, size, side, and price. The SAM Auction timer begins, and the System starts the SAM Auction to sell at 1.10.

During the SAM Auction, the System receives the following responses in the following order:

- Response 1 to buy 2000 at 1.10
- Response 2 to buy 2000 at 1.10
- Response 3 to buy 5000 at 1.10
- Response 4 to buy 1000 at 1.20
- Response 5 to buy 2000 at 1.15

There is sufficient size among the SAM responses to improve the price of the entire Agency Order, so at the conclusion of the SAM Auction, the System executes 1000 contracts of the Agency Order at a price of 1.20 against Response 4 and 1000 contracts of the Agency Order at a price of 1.15 against Response 5, and cancels the Solicited Order and Responses 1, 2, 3, and 5 (the remaining 1000).

Example #3

XYZ Jan 50 Calls

NBBO: 1.10 – 1.25

BBO: 1.10 (200) – 1.30 (no Priority Customer orders included in the BBO)

Paired order to execute 2000 contracts AON (Agency Order to sell) at 1.11

A SAM Auction notification message is sent to all Options members that elect to receive SAM Auction notification messages, which shows the option, size, side, and price. The SAM Auction timer begins, and the System starts the SAM Auction to sell at 1.11.

During the SAM Auction, the System receives the following responses in the following order:

- Response 1 to buy 2000 at 1.11
- Response 2 to buy 2000 at 1.11
- Response 3 to buy 5000 at 1.11
- Response 4 to buy 1000 at 1.12
- Unrelated Order A to sell 500 at 1.10

The SAM Auction terminates when the System receives Unrelated Order A, because it is marketable against the EDGX best bid of 1.10, and would cause the stop price to be outside of the EDGX BBO if it immediately executed. The aggregate responses did not improve the price of the entire Agency Order, and there are no displayed Priority Customer orders at the stop price, so at the conclusion of the SAM Auction, the System executes the Solicited Order against the Agency Order at a price of 1.11 and cancels the SAM responses. The System then executes 200 contracts of Unrelated Order A against the resting order at a 1.10 at that price, and then enters 300 contracts of Unrelated Order A onto the Book. The EDGX BBO then becomes 1.08 – 1.10 (which, as noted above, would have caused the stop price to be outside of the EDGX BBO).

<u>Example #4</u>

XYZ Jan 50 Calls

NBBO: 1.10 – 1.25

BBO: 1.10 – 1.30 (Priority Customer order for 20 included in the bid, and no Priority Customer order included in the offer)

Paired order to execute 2000 contracts AON (Agency Order to sell) at 1.11 (one increment better than a resting Priority Customer order on the opposite side of the EDGX Options Book).

A SAM Auction notification message is sent to all Options Members that elect to receive SAM Auction notification messages, which shows the option, size, side, and price. The SAM Auction timer begins, and the System starts the SAM Auction to sell at 1.11.

During the SAM Auction, the System receives the following responses in the following order:

- Response 1 to buy 2000 at 1.11
- Response 2 to buy 2000 at 1.11
- Response 3 to buy 1000 at 1.15
- Response 4 to buy 900 at 1.12

- Priority Customer order to buy 100 at 1.11

There is sufficient size among the SAM responses at prices better than the stop price and the Priority Customer order at the stop price, so at the conclusion of the SAM Auction, the System executes 1000 contracts of the Agency Order at a price of 1.15 against Response 3, 900 contracts of the Agency Order at a price of 1.12 against Response 4, and 100 contracts of the Agency Order at a price of 1.11 against the Priority Customer order, and cancels the Solicited Order and Responses 1 and 2.

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.[40] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[41] 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)[42] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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40 15 U.S.C. 78f(b).

41 15 U.S.C. 78f(b)(5).

42 Id.

The proposed rule change is generally intended to add certain system functionality currently offered by Cboe Options to the Exchange's System in order to provide a consistent technology offering for the Cboe Affiliated Exchanges. A consistent technology offering, in turn, will simplify the technology implementation, changes and maintenance by Users of the Exchange that are also participants on Cboe Affiliated Exchanges. This will provide Users with greater harmonization of price improvement auction mechanisms available among the Cboe Affiliated Exchanges.

The proposed rule change will provide market participants with an additional auction mechanism that will provide them with greater flexibility in pricing larger-sized orders and may provide more opportunities for price improvement.[43] SAM as proposed will function in a similar manner as AIM, the Exchange's current price improvement mechanism – the differences relating primarily to the minimum size requirement and all-or-none nature of SAM. Additionally, the proposed auction mechanism provides equal access to the exposed Agency Orders for all market participants, as all Options Members that subscribe to the Exchange's data feeds with the opportunity to interact with orders submitted into SAM Auctions.[44] SAM is intended to benefit investors, because it is designed to provide investors seeking to execute large option orders with opportunities to access additional liquidity and receive price improvement. It will provide Options Members that locate liquidity for their customers' larger-sized orders a facility in which to execute those orders, potentially at improved prices. The proposed rule change may result in increased liquidity available at improved prices for larger-sized orders, with competitive final

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43 See Securities Exchange Act Release Nos. 49141 (January 28, 2004), 69 FR 5625 (February 5, 2004) (SR-ISE-2001-22); 57610 (April 3, 2008), 73 FR 19535 (April 10, 2008) (SR-CBOE-2008-14); and 72009 (April 23, 2014), 79 FR 24032 (April 29, 2014) (SR-MIAX-2014-09).

44 Any Options Member can subscribe to the options data disseminated through the Exchange's data feeds.

pricing out of the Initiating Member's control. The Exchange believes SAM will promote and foster competition and provide more options contracts with the opportunity for price improvement.

The Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because the proposed SAM Auction is similar to other solicitation auction mechanisms currently available at other options exchanges.[45] The general framework of the proposed SAM Auction process (such as the eligibility requirements, the auction response period, the same-side stop price requirements, response requirements, and auction notification process),[46] is substantively the same as the framework for the AIM price improvement auction the Exchange's current price improvement auction. The primary features of the proposed SAM Auction process are similar to the solicitation auction mechanisms of other options exchanges, including Cboe Options SAM, as discussed above and below. The clarity in how the proposed price improvement auction will function and its consistency with similar auctions at other exchanges will help promote a fair and orderly national options market system.

Further, the new functionality may lead to an increase in Exchange volume and should allow the Exchange to better compete against other markets that already offer an electronic solicitation mechanism, while providing an opportunity for price improvement for Agency Orders. The Exchange believes that its proposal will allow the Exchange to better compete for solicited transactions, while providing an opportunity for price improvement for Agency Orders and assuring that Priority Customers on the EDGX Options Book are protected. The new

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45 See, e.g., Cboe Options Rule 6.74B; ISE Rule 716(e); and MIAX Rule 515A(b).

46 See Rule 21.19.

solicitation mechanism should promote and foster competition and provide more options contracts with the opportunity for price improvement, which should benefit market participants.

The Exchange believes the proposed rule change will result in efficient trading and reduce the risk for investors that seek access to additional liquidity and price improvement for larger-sized orders by providing additional opportunities to do so. The proposed priority and allocation rules in the SAM Auction are consistent with the Exchange's current priority and allocation rules that give priority to displayed Priority Customer orders,[47] which will ensure a fair and orderly market by maintaining priority of orders and quotes while still affording the opportunity for price improvement during each SAM Auction commenced on the Exchange. The proposed allocation ensures that the Agency Order will be filled if there is a displayed Priority Customer order on the EDGX Options Book at the stop price that, when combined with price-improving interest that otherwise could not fill the Agency Order on its own (and thus providing price improvement for part of the Agency Order).

The proposed allocation is similar to the priority of orders in other options' solicitation auction mechanism rules, pursuant to which interest at improved prices have priority over the stop order (if there is sufficient size at improved prices to satisfy the entire Agency Order) and the Solicited Order has priority over non-Priority Customer interest at the stop price (*e.g.*, if there is sufficient non-Priority Customer interest and no Priority Customer interest at the stop price). However, the proposed allocation rules differ in one circumstance. As proposed, if there is a Priority Customer order resting on the EDGX Options Book at the stop price and, with other contra-side interest at the stop price, there is sufficient size to satisfy the Agency Order, the

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[47] Pursuant to Rule 21.8, at a single price level, Priority Customer orders have priority over non-Priority Customer orders, which have priority over all nondisplayed orders (*i.e.*, the Reserve Portion of Priority Customer and non-Priority Customer Reserve Orders).

Agency Order will be cancelled, while it would execute against such Priority Customer order and contra-side interest at the stop price on Cboe Options.[48] The Exchange believes the proposed rule change is consistent with the AON nature of solicitation mechanisms and the priority order applicable to executions following a SAM Auction at the stop price, as well as general priority provisions,[49] which is:

- Priority Customer orders resting on the EDGX Options Book;
- Solicited Order (which may only execute in its entirety or not at all);
- non-Priority Customer orders and quotes resting on the EDGX Options Book and SAM responses; and
- nondisplayed orders resting on the EDGX Options Book (Priority Customers ahead of non-Priority Customers).

For example, pursuant to Cboe Options Rule 6.74B(b)(2) and proposed Rule 21.21(e), if there are no Priority Customer orders resting on the book at the stop price, and there is not sufficient

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48 See Cboe Options Rule 6.74B(b)(2)(A) (which states if there are priority customer orders and there is sufficient size (considering all resting orders, electronic quotes and responses) to execute the Agency Order, the Agency Order will be executed against these interests and the solicited order will be cancelled, and if there are priority customer orders and there is not sufficient size (considering all resting orders, electronic quotes and responses), both the Agency Order and the solicited order will be cancelled).

49 See Rule 21.8, which provides that at a single price level: (a) Priority Customer orders have priority over non-Priority Customer orders, and Priority Customer orders at the same price are allocated in time priority; (b) non-customer orders have next priority and are allocated in a pro-rata manner; and (c) displayed orders have priority over nondisplayed orders, and nondisplayed portions of Reserve Orders are allocated in a pro-rata manner, except nondisplayed portions of Priority Customer Reserve Orders trade ahead of non-customer Reserve Orders. The Exchange notes it may apply an entitlement for DPMs and PMM receive this entitlement after Priority Customers and before all other interest as a benefit in exchange for the increased quoting they perform. Similarly, the Solicited Order receives priority after Priority Customers and before all other interest as a benefit in exchange for the work the Initiating Member performs to locate sufficient liquidity to execute against a large customer order

contra-side interest to satisfy the Agency Order at a better price but there is sufficient non-Priority Customer contra-side interest at the stop price, the Solicited Order has priority and executes against the entire Agency Order at the stop price. The Exchange does not believe it is fair for non-Priority Customer interest at the stop price to trade ahead of the Solicited Order because there happens to be a Priority Customer order at that price, when that interest would not otherwise trade ahead of the Solicited Order.

The purpose of SAM is to provide a facility for Options Members that locate liquidity for their large customer orders to execute these orders (and potentially obtain better prices). Given the large size of a customer order submitted into a SAM Auction, an Initiating Member that solicits and locates sufficient interest to execute against the entire order at the best then-available price (or better) receives in exchange for that effort execution priority over non-Priority Customers (who do not expend similar efforts to trade against the Agency Order and do not provide price improvement) to trade against the entire size of the customer order at the stop price.[50] The Exchange believes the proposed rule change promotes just and equitable principles of trade, because it will protect Priority Customer orders resting on the EDGX Options Book while encouraging Options Members to continue to seek liquidity against which their customers may execute their large orders. The Exchange believes this may also encourage non-Priority Customers to submit interest at improved prices if they seek to execute against Agency Orders since they will not have the opportunity to trade against an Agency Order at the stop price. The Exchange believes any potential impact related to the elimination of the opportunity for non-Priority Customers to trade against Agency Orders at the stop price will be offset by the

[50] The Exchange notes, as proposed in Interpretation and Policy .01, an Initiating Member must provide written notice to its customers that their orders may be submitted into a SAM Auction, which notice must disclose the terms and conditions of the auction, so customers will be aware of the priority provisions applicable to SAM.

additional opportunities for price improvement that may result. Options Members will have additional incentive to submit customer orders into SAM Auctions, and other market participants will also have additional incentive to provide liquidity as part of the Solicited Order, because they will have more certainty and reduced market risk regarding execution of their orders against the Agency Order. This may result in additional SAM Auctions, and other participants will have additional incentive to submit interest at better prices. Any potential impact is further minimized because, as proposed, the stop price must be better than the EDGX BBO if there a Priority Customer order resting at the BBO (except if the Agency Order is for a Priority Customer), and as a result this situation would only occur if a Priority Customer order entered the EDGX Options Book at the stop price during the SAM Auction period and there is also sufficient other contra-side interest to satisfy the Agency Order.[51] Non-Priority Customers will continue to have the opportunity to trade against Agency Orders at improved prices.

By keeping the priority and allocation rules for a SAM Auction similar to the standard allocation used on the Exchange and consistent across possible outcomes of a SAM Auction, the proposed rule change reduces the ability of market participants to misuse the SAM Auction to circumvent standard priority rules in a manner that is designed to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade on the Exchange. The proposed execution and priority rules will allow orders to interact with interest in the EDGX Options Book, and will allow interest on the EDGX Options Book to interact with option orders in the price improvement mechanisms in an efficient and orderly manner. The Exchange believes this interaction of orders will benefit investors by increasing the opportunity

51 As proposed, a Priority Customer order with a price at or better than the stop price entered during the SAM Auction period would terminate the Auction.

for option orders to receive executions, while also enhancing the execution quality for orders resting on the Book.

The proposed SAM Auction eligibility requirements are reasonable and promote a fair and orderly market and national market system, because they are substantially similar to the eligibility requirements for other exchanges' solicited order mechanisms,[52] and benefit investors by providing clarity regarding how they may initiate a SAM Auction. Additionally, other than the minimum size requirement and AON requirement (which are standard for solicited order mechanisms), the eligibility requirements are virtually the same as those for AIM, the Exchange's other price improvement mechanism.[53] This will further benefit investors by providing consistency across the Exchange's price improvement mechanisms.

The proposed rule that an Initiating Member may not designate an Agency Order or Initiating Order as Post Only protects investors, because it provides transparency regarding functionality that will not be available for SAM. The Exchange believes this is appropriate, as the purpose of a Post Only order is to not execute upon entry and instead rest in the EDGX Options Book, while the purpose of submitting orders to a SAM Auction is to receive an execution following the auction and not enter the EDGX Options Book. Pursuant to current and proposed Rule 21.21, an Agency Order will fully execute against contra-side interest (possibly against the Solicited Order, which must be for the same size as the Agency Order), or will be

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52 See Cboe Options Rule 6.74B(a) and (b)(1) and Interpretation and Policy .03; and MIAX Rule 515A(b)(1) and (2) and Interpretation and Policy .04 (which permit applicability to any class, prohibit appointed market-makers from being solicited, impose the same minimum size and all-or-none requirement, has the same minimum increment, and requires Agency Orders to be marked for SAM processing). The proposed rule change that states a SAM Auction may not commence until after the market open is reasonable, as execution following a SAM Auction would not be possible until after the market open and when there is a BBO and NBBO.

53 See Rule 21.19(a).

cancelled in the event there is no execution following a SAM Auction, and thus there cannot be remaining contracts in an Agency Order or Solicited Order to enter the EDGX Options Book.

The proposed rule change to state that the minimum size requirement of 500 or more standard option contracts applies to the equivalent number of mini-option contracts (*i.e.*, 5,000 mini-option contracts) promotes just and equitable principles of trade. Rule 19.6, Interpretation and Policy .07 permits the listing of mini-options, which is an option with a 10 share deliverable of the underlying security rather than 100 share deliverable of the underlying security (which is the standard deliverable for a standard option contract). The proposed change to state that 500 standard option contracts is consistent with 5,000 mini-option contracts is consistent with this definition of mini-options. This provides transparency to investors that SAM functionality and the potential for price improvement is available to Agency Orders for large orders of mini-options as well as standard options.

The proposed rule change to prohibit an Agency Order and Solicited Order from both being for the accounts of Priority Customers is reasonable, because the Exchange believes it would be in the interests of such pairs of orders to be submitted to a Customer-to-Customer AIM Immediate Cross pursuant to Rule 21.19(f) pursuant to which they can be executed immediately. The Exchange believes there will be minimal demand to submit pairs of Priority Customer orders into SAM Auctions given its offering of immediate cross functionality via AIM.

The Exchange believes the proposed rule change to permit the Solicited Order to be comprised of multiple orders that total the size of the Agency Order may increase liquidity and opportunity for Agency Orders to participate in SAM Auctions, and therefore provide Agency Orders with additional opportunities for price improvement, which is consistent with the principles behind the SAM Auction. The Exchange believes that this will be beneficial to participants because allowing multiple contra-parties should foster competition for filling the contra-side order and thereby result in potentially better prices, as opposed to only allowing one contra-party and, thereby requiring that contra-party to do a larger size order which could result in a worse price for the trade. Another exchange permits the contra-side in a solicited auction mechanism to be comprised of multiple contra-parties.[54] The Exchange notes the contra-side of a Qualified Contingent Cross order may be comprised of multiple orders.[55]

As discussed above, the Exchange has proposed to allow SAM Auctions to occur concurrently with other SAM Auctions. Although SAM Auctions for Agency Orders will be allowed to overlap, the Exchange does not believe this raises any issues that are not addressed through the proposed rule change described above. For example, although overlapping, each SAM Auction will be started in a sequence and with a time that will determine its processing. Thus, even if there are two SAM Auctions that commence and conclude, at nearly the same time, each SAM Auction will have a distinct conclusion at which time the SAM Auction will be allocated. In turn, when the first Auction concludes, unrelated orders that then exist will be considered for participation in the SAM Auction. If unrelated orders are fully executed in such SAM Auction, then there will be no unrelated orders for consideration when the subsequent SAM Auction is processed (unless new unrelated order interest has arrived). If instead there is remaining unrelated order interest after the first SAM Auction has been allocated, then such unrelated order interest will be considered for allocation when the subsequent SAM Auction is processed. As another example, each SAM response is required to specifically identify the Auction for which it is targeted and if not fully executed will be cancelled back at the conclusion

54 See ISE Rule 716(e) and ISE Regulatory Information Circular 2014-013.

55 Unlike orders submitted to a SAM Auction, Qualified Contingent Cross orders may immediately execute and are not exposed to the market for possible price improvement.

of the Auction. Thus, SAM responses will be specifically considered only in the specified SAM Auction.

The Exchange does not believe that allowing multiple auctions to overlap for Agency Orders presents any unique issues that differ from functionality already in place on the Exchange or other exchanges. Pursuant to Rule 21.19(c)(1), multiple AIM Auctions for Agency Orders for 50 or more contracts may overlap. Additionally, other options exchanges permit other auctions to overlap.[56]

The proposed auction process will promote a free and open market, because it ensures equal access to information regarding SAM Auctions and the exposed Agency Orders for all market participants, as all Options Members that subscribe to the Exchange's data feeds with the opportunity to interact with orders submitted into SAM Auctions.[57] The Exchange has proposed a range between no less than 100 milliseconds and no more than one second for the duration of a SAM Auction.[58] This will provide investors with more timely execution of their options orders than a mechanism that has a one second auction, while ensuring there is an adequate exposure of orders in EDGX SAM. This proposed auction response time should provide investors with the opportunity to receive price improvement for larger-sized orders through SAM while reducing market risk. The Exchange believes a briefer time period reduces the market risk for the Initiating Member, versus an auction with a longer period, as well as for any Options Member providing responses to a broadcast. As such, the Exchange believes the proposed rule change

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56 See, e.g., ISE Rule 716(d), which governs ISE's facilitation mechanism and does not restrict such auctions to one auction at a time; and Boston Options Exchange ("BOX") Rule 7270.

57 Any Options Member can subscribe to the options data disseminated through the Exchange's data feeds.

58 See also Cboe Options Rule 6.74B(b)(1)(C); ISE Rule 716, Supplementary Material .04; and MIAX Rule 515A(b)(2)(1)(C).

would help perfect the mechanism for a free and open national market system, and generally help protect investors and the public interest. All Options Members will have an equal opportunity to respond with their best prices during the SAM Auction. Since the Exchange considers all interest present in the System, and not solely SAM response, for execution against the Agency Order, those participants who are not explicit responders to a SAM Auction may receive executions via SAM as well.

The proposed SAM Auction response requirements are reasonable and promote a fair and orderly market and national market system, because they are substantially similar to the response requirements for other exchanges' solicited order mechanisms,[59] and benefit investors by providing clarity regarding how they may respond to a SAM Auction. Additionally, other than not restricting Times in Force or MTP Modifiers available for responses (which restrictions the Exchange does not currently believe are necessary for SAM responses), the eligibility requirements are virtually the same as those for AIM responses, the Exchange's other price improvement mechanism.[60] This will further benefit investors by providing consistency across the Exchange's price improvement mechanisms.

The proposed rule change will also perfect the mechanism of a free and open market and a national market system, as it is consistent with linkage rules. Proposed Rule 21.21 does not permit Agency Orders to be submitted when the NBBO is crossed and requires Agency Order

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[59] See Cboe Options Rule 6.74B(a) and (b)(1) and Interpretation and Policy .03; and MIAX Rule 515A(b)(1) and (2) and Interpretation and Policy .04 (which permit applicability to any class, prohibit appointed market-makers from being solicited, impose the same minimum size and all-or-none requirement, has the same minimum increment, and requires Agency Orders to be marked for SAM processing). The proposed rule change that states a SAM Auction may not commence until after the market open is reasonable, as execution following a SAM Auction would not be possible until after the market open and when there is a BBO and NBBO.

[60] See Rule 21.19(a).

execution prices at the end of SAM Auctions to be at or between the Initial NBBO and the EDGX BBO at the conclusion of the SAM Auction. The proposed stop price requirements and the events to terminate a SAM Auction early further ensure execution prices at or better than the NBBO and EDGX BBO. Additionally, the proposed SAM ISO order type (which is similar to current AIM ISO functionality) will provide Options Members with an efficient method to initiate a SAM Auction while preventing trade-throughs.

Unlike the rules of other exchanges, the Exchange will not conclude a SAM Auction early due to the receipt of an opposite side order. The Exchange believes this promotes just and equitable principles of trade, because these orders may have the opportunity to trade against the Agency Order following the conclusion of the SAM Auction, which execution must still be at or better than the NBBO and EDGX Options BBO. The Exchange believes this will protect investors, because it will provide more time for price improvement, and the unrelated order will have the opportunity to trade against the Agency Order in the same manner as all other contra-side interest.

With respect to trading halts, as described herein, in the case of a trading halt on the Exchange in the affected series, the Auction will be cancelled without execution. Cancelling Auctions without execution in this circumstance is consistent with Exchange handling of trading halts in the context of continuous trading on EDGX Options and promotes just and equitable principles of trade and, in general, protects investors and the public interest.[61]

[61] The Exchange notes that trading on the Exchange in any option contract will be halted whenever trading in the underlying security has been paused or halted by the primary listing market and other circumstances. See Rule 20.3.

The proposed rule change is also consistent with Section 11(a)(1) of the Act[62] and the rules promulgated thereunder. Generally, Section 11(a)(1) of the Act restricts any member of a national securities exchange from effecting any transaction on such exchange for (i) the member's own account, (ii) the account of a person associated with the member, or (iii) an account over which the member or a person associated with the member exercises discretion (collectively referred to as "covered accounts"), unless a specific exemption is available. Examples of common exemptions include the exemption for transactions by broker dealers acting in the capacity of a market maker under Section 11(a)(1)(A),[63] the "G" exemption for yielding priority to non-members under Section 11(a)(1)(G) of the Act and Rule 11a1-1(T) thereunder,[64] and "Effect vs. Execute" exemption under Rule 11a2-2(T) under the Act.[65] The "Effect vs. Execute" exemption permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2-2(T)'s conditions, a member: (i) must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution;[66] may not be affiliated with the executing member; and (iv) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For

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62 15 U.S.C. 78k(a). Section 11(a)(1) prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion unless an exception applies.

63 15 U.S.C. 78k(a)(1)(A).

64 15 U.S.C. 78k(a)(1)(G) and 17 CFR 240.11a1-1(T).

65 17 CFR 240.11a2-2(T).

66 The member may, however, participate in clearing and settling the transaction.

the reasons set forth below, the Exchange believes that Exchange Members entering orders into SAM would satisfy the requirements of Rule 11a2-2(T).

The Exchange does not operate a physical trading floor. In the context of automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[67] The Exchange represents that the System and the proposed SAM Auction receive all orders electronically through remote terminals or computer-to-computer interfaces. The Exchange represents that orders for covered accounts from Options Members will be transmitted from a remote location directly to the proposed SAM mechanism by electronic means.

The second condition of Rule 11a2-2(T) requires that neither a member nor an associated person participate in the execution of its order once the order is transmitted to the floor for execution. The Exchange represents that, upon submission to the SAM Auction, an order will be executed automatically pursuant to the rules set forth for SAM. In particular, execution of an order sent to the mechanism depends not on the Initiating Member entering the order, but rather on what other orders are present and the priority of those orders. Thus, at no time following the submission of an order is a Member able to acquire control or influence over the result or timing

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67 See, e.g., Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR-BATS-2009-031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SRBSE-2008-48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR-NASDAQ-2007-004 and SR-NASDAQ-2007-080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10-131) (approving The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR-PCX-00-25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR-NYSE-90-52 and SR-NYSE-90-53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) ("1979 Release").

of order execution.[68] Once the Agency Order has been transmitted, the Initiating Member that transmitted the order will not participate in the execution of the Agency Order. Initiating Members submitting Agency Orders will relinquish control to modify their Agency Orders upon transmission to the System. Further, no Member, including the Initiating Member, will see a SAM response submitted into SAM and therefore and will not be able to influence or guide the execution of their Agency Orders.

Rule 11a2-2(T)'s third condition requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that the requirement is satisfied when automated exchange facilities, such as the BAM Auction are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[69] The Exchange represents that the SAM Auction is designed so that no Options Member has any special or unique trading advantage in the handling of its orders after transmitting its orders to the mechanism.

Rule 11a2-2(T)'s fourth condition requires that, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to

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68 The Exchange notes that an Options Member may not cancel or modify an order after it has been submitted into SAM.

69 In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2-2(T). See 1979 Release.

transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2-2(T) thereunder.[70] The Exchange recognizes that Options Members relying on Rule 11a2-2(T) for transactions effected through the SAM Auction must comply with this condition of the Rule and the Exchange will enforce this requirement pursuant to its obligations under Section 6(b)(1) of the Act to enforce compliance with federal securities laws.

The Exchange believes that the instant proposal is consistent with Rule 11a2-2(T), and that therefore the exception should apply in this case.

The Exchange also believes that the proposed rule changes would further the objectives of the Act to protect investors by promoting the intermarket price protection goals of the Options Intermarket Linkage Plan.[71] The Exchange believes its proposal would help ensure inter-market competition across all exchanges and facilitate compliance with best execution practices.

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 proposed SAM Auction is voluntary for Options Members to use and will be available to all

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70 See 17 CFR 240.11a2-2(T)(a)(2)(iv). In addition, Rule 11a2-2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement which amount must be exclusive of all amounts paid to others during that period for services rendered to effect such transactions. See also 1979 Release (stating "[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests").

71 See Rule 27.3 regarding Locked and Crossed Markets.

Options Members. As discussed above, the Exchange believes the proposed rule change should encourage Options Members to compete amongst each other by responding with their best price and size for a particular auction.

The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the proposed rule change will apply in the same manner to all orders submitted to a SAM Auction. With respect to the restriction on appointed market-makers being solicited, the Exchange believes market-makers will still have opportunities to provide liquidity to trade against Agency Orders by submitting quotes to rest on the EDGX Options Book or responses to an Auction. With respect to the restriction on permitting a pair of Priority Customer orders to a SAM Auction, the Exchange believes this is appropriate given the immediate cross functionality available to pairs of Priority Customer orders. Options Members will continue to be able to immediately cross these pairs of orders via AIM.[72]

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition, because the proposed changes, as described above and below, are based on rules for similar price improvement auction mechanisms at other options exchanges.[73] The general framework and primary features of the proposed SAM Auction process (such as the eligibility requirements, auction response period, same-side stop price requirements, response requirements, and auction notification process),[74] are substantively the same as the framework for the AIM price improvement auction the Exchange's current price improvement auction.

The Exchange believes that the proposed rule change will relieve any burden on, or otherwise promote, competition. The Exchange believes this proposed rule change is necessary

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72 See Rule 21.19(f).

73 See, e.g., Cboe Options Rule 6.74B; ISE Rule 716(e); and MIAX Rule 515A(b).

74 See Rule 21.19.

to permit fair competition among the options exchanges and to establish more uniform price improvement auction rules on the various options exchanges. The Exchange anticipates that this auction proposal will create new opportunities for the Exchange to attract new business and compete on equal footing with those options exchanges with auctions and for this reason the proposal does not create an undue burden on intermarket competition. Rather, the Exchange believes that the proposed rule would bolster intermarket competition by promoting fair competition among individual markets, while at the same time assuring that market participants receive the benefits of markets that are linked together, through facilities and rules, in a unified system, which promotes interaction among the orders of buyers and sellers. The Exchange believes its proposal would help ensure inter-market competition across all exchanges and facilitate compliance with best execution practices. In addition, the Exchange believes that the proposed rule change would help promote fair and orderly markets by helping ensure compliance with Options Order Protection and Locked and Crossed Market Rules. Thus, the Exchange does not believe the proposal creates a significant impact on competition.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be 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-CboeEDGX-2019-009 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-CboeEDGX-2019-009. 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, D.C. 20549 on official business days between the hours of 10:00 a.m.

and 3:00 p.m. Copies of such 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-CboeEDGX-2019-009, 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.[75]

Eduardo A. Aleman
Deputy Secretary

75 17 CFR 200.30-3(a)(12).