

in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

## II. Docketed Proceeding(s)

1. *Docket No(s)*: MC2020–123 and CP2020–131; *Filing Title*: USPS Request to Add Priority Mail Contract 611 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: April 29, 2020; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 *et seq.*, and 39 CFR 3035.105; *Public Representative*: Christopher C. Mohr; *Comments Due*: May 7, 2020.

2. *Docket No(s)*: MC2020–124 and CP2020–132; *Filing Title*: USPS Request to Add Priority Mail Contract 612 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: April 29, 2020; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 *et seq.*, and 39 CFR 3035.105; *Public Representative*: Christopher C. Mohr; *Comments Due*: May 7, 2020.

This Notice will be published in the **Federal Register**.

**Erica A. Barker,**  
*Secretary.*

[FR Doc. 2020–09557 Filed 5–4–20; 8:45 am]

**BILLING CODE P**

## POSTAL SERVICE

### Board of Governors; Sunshine Act Meeting

**TIME AND DATE:** May 1, 2020, at 1:15 p.m.

**PLACE:** Washington, DC.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

1. Administrative Issues.
2. Strategic Issues.

On May 1, 2020, a majority of the members of the Board of Governors of the United States Postal Service voted unanimously to hold and to close to public observation a special meeting in Washington, DC, via teleconference. The Board determined that no earlier public notice was practicable.

*General Counsel Certification:* The General Counsel of the United States Postal Service has certified that the

meeting may be closed under the Government in the Sunshine Act.

**CONTACT PERSON FOR MORE INFORMATION:** Michael J. Elston, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

**Michael J. Elston,**  
*Secretary.*

[FR Doc. 2020–09714 Filed 5–1–20; 4:15 pm]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88768; File No. SR–CBOE–2020–015]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Increase Position Limits for Options on Certain Exchange-Traded Funds and Indexes

April 29, 2020.

#### I. Introduction

On February 26, 2020, Cboe Exchange, Inc. (“Exchange” or “Cboe”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to amend Interpretation and Policy .07 of Exchange Rule 8.30, Position Limits, and Rule 8.31, Position Limits for Broad-Based Index Options, to increase the position limits for options on the following exchange-traded funds (“ETFs”) and indexes: The Standard and Poor’s Depository Receipts Trust (“SPY”), iShares China Large-Cap ETF (“FXI”), iShares MSCI EAFE ETF (“EFA”), iShares iBoxx High Yield Corporate Bond Fund (“HYG”), Financial Select Sector SPDR Fund (“XLF”), Market Vectors Oil Services ETF (“OIH”),<sup>3</sup> MSCI Emerging Markets Index (“MXEF”), and MSCI EAFE Index (“MXEA”). The proposed rule change was published for comment in the **Federal Register** on March 16, 2020.<sup>4</sup> On April 16, 2020, the Exchange

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> As noted below, the Exchange subsequently amended its proposal to remove the proposed increase in position limits for options on OIH. See *infra* note 5.

<sup>4</sup> See Securities Exchange Act Release No. 88350 (March 10, 2020), 85 FR 15003 (“Notice”). Comments on the proposed rule change can be found at: <https://www.sec.gov/comments/sr-cboe-2020-015/srcboe2020015.htm>.

submitted Amendment No. 1 to the proposed rule change.<sup>5</sup> The Commission is publishing this notice to solicit comment on Amendment No. 1, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

#### II. Description of the Proposal, as Modified by Amendment No. 1

Currently, position limits for options on ETFs such as those subject to the proposal, as amended,<sup>6</sup> are determined pursuant to Rule 8.30, and, with certain exceptions, vary by tier according to the number of outstanding shares and past six-month trading volume of the underlying security.<sup>7</sup> Options in the highest tier—*i.e.*, options that overlie securities with the largest numbers of outstanding shares and trading volume—have a standard option position limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market.<sup>8</sup> In addition, Interpretation and Policy .07 of Rule 8.30 currently sets forth separate position limits for options on certain ETFs, including 1,800,000 contracts for options on SPY, and 500,000 contracts for options on FXI and EFA. Similarly, position limits for options on broad-based indexes such as those subject to the proposal, as amended,<sup>9</sup> are determined pursuant to Rule 8.31, which provides a position limit of 25,000 contracts for options, restricted to no more than 15,000 near-term, on all broad-based indexes except those specifically listed under Rule 8.31 for

<sup>5</sup> In Amendment No. 1, the Exchange: (1) Provided additional justification and analysis in support of the proposal, which is summarized below; (2) revised its proposal to eliminate the proposed increase to position limits for options on OIH; and (3) made technical, corrective, and clarifying changes. The full text of Amendment No. 1 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-cboe-2020-015/srcboe2020015-7081714-215592.pdf>.

<sup>6</sup> See Notice, *supra* note 4, at 15005–06, for descriptions provided by the Exchange regarding the composition and design of the underlying ETFs of each of the ETF options subject to this proposal.

<sup>7</sup> Pursuant to Rule 8.42, Interpretation and Policy .02, which provides that the exercise limits for ETF options are equivalent to their position limits, the exercise limits for each of these options would be increased to the level of the new position limits.

<sup>8</sup> To be eligible for this tier, either the recent six-month trading volume of the underlying security must have totaled at least 100,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 75,000,000 shares and the underlying security must have at least 300,000,000 shares currently outstanding. See Rule 8.30, Interpretation and Policy .02(e). Options on XLF and HYG currently fall into this tier.

<sup>9</sup> See Notice, *supra* note 4, at 15006–07, for descriptions provided by the Exchange regarding the composition and design of the underlying indexes of each of the index options subject to this proposal.

which a separate position limit is provided.<sup>10</sup>

In the proposal, as amended, the Exchange proposes to revise Interpretation and Policy .07 to Rule 8.30 and Rule 8.31 to increase the position limits for options on certain ETFs and index options, as described more fully below.<sup>11</sup> The Exchange states its belief that increasing the position limits for these options will lead to a more liquid and competitive market environment for these options that will benefit customers interested in these products.<sup>12</sup>

First, the Exchange proposes to increase the position limits for options on XLF and HYG, each of which fall into the highest standard tier set forth in Rule 8.30. The Exchange proposes to increase the current position limit of 250,000 contracts for options on these securities to 500,000 contracts.<sup>13</sup> In support of this change, the Exchange compares certain trading characteristics of XLF and HYG (the average daily trading volume of the security and of the overlying option), as well as the number of outstanding shares and market capitalization of each of these securities, to the same figures for the iShares 20+ Year Treasury Bond Fund ETF (“TLT”) and the iShares MSCI Japan ETF (“EWJ”) (and, for XLF only, the iShares MSCI Brazil Capped ETF (“EWZ”)), all of which currently have a position limit of 500,000 contracts.<sup>14</sup>

<sup>10</sup> Pursuant to Rule 8.42(b), which provides that the exercise limits for index options are equivalent to their position limits, the exercise limits for each of these options would be increased to the level of the new position limits.

<sup>11</sup> The Exchange also proposes to update the PowerShares QQQ Trust (“QQQ”) symbol in Interpretation and Policy .07 of Rule 8.30 from QQQQ to QQQ to accurately reflect the current ticker symbol. See Notice, *supra* note 4, at 15005 n.19.

<sup>12</sup> See *id.* at 15007.

<sup>13</sup> In connection with this change, the exercise limits for these options would rise to 500,000 contracts. See *supra* note 7.

<sup>14</sup> See Notice, *supra* note 4, at 15005–06; Amendment No. 1, *supra* note 5, at 3–4. With respect to trading characteristics, specifically, the Exchange states that the average daily trading volumes of XLF and HYG for the periods analyzed were 48.8 million shares and 20.0 million shares, respectively. The figures for EWZ, TLT, and EWJ were 26.7 million shares, 9.6 million shares, and 7.2 million shares, respectively. With regard to the overlying options, trading volumes for XLF options and HYG options were 102,100 contracts and 193,700 contracts, respectively, while trading volumes for EWZ options, TLT options, and EWJ options were 186,500 contracts, 95,200 contracts, and 5,700 contracts, respectively. The Exchange further states that the total shares outstanding was 793.6 million for XLF and 216.6 million for HYG compared to 233 million for EWZ, 128.1 million for TLT, and 236.6 million for EWJ. Finally, the Exchange states that the fund market cap for XLF was \$24.6 billion and HYG was \$19.1 billion compared to \$11.3 billion for EWZ, \$17.5 billion for TLT, and \$14.2 billion for EWJ.

In addition, the Exchange proposes to increase the position limits for options on EFA and FXI from 500,000 contracts to 1,000,000 contracts.<sup>15</sup> In support of the change for EFA options, the Exchange provides the trading characteristics of EFA, and compares the position limits for options on EFA to those of MXEA, the analogue index, which currently has a position limit of 25,000 contracts (proposed herein to be increased to 50,000 contracts), as adjusted using a notional value comparison by which approximately 29 EFA option contracts equal one MXEA option contract.<sup>16</sup> The Exchange states that, accordingly, a position limit for EFA options that would be economically equivalent to the current position limit for MXEA options would be 725,000 contracts, and 1,450,000 contracts at the proposed increased MXEA position limit level.<sup>17</sup> The Exchange therefore believes that the higher actual and economically equivalent trading volumes, notional value, and economically equivalent position limits for EFA options as compared to MXEA options supports the proposed increase in position limits.<sup>18</sup> In support of the change for FXI options, the Exchange provides the trading characteristics for FXI shares and options, as well as the market capitalization of FXI and the components of the underlying FTSE China 50 Index, which the Exchange believes are both large enough to absorb potential price movements caused by a large trade in FXI.<sup>19</sup>

The Exchange also proposes to increase the position limits for options on SPY from 1,800,000 contracts to 3,600,000 contracts.<sup>20</sup> In support of this change, the Exchange compares the trading and other characteristics of SPY to those of QQQ and states that SPY is

<sup>15</sup> In connection with this change, the exercise limits for these options would rise to 1,000,000 contracts. See *supra* note 7.

<sup>16</sup> See Notice, *supra* note 4, at 15005–06. Specifically, the Exchange states that the average daily trading volume for EFA was 25.1 million shares, the average daily volume for the overlying options was 156,000 contracts, the total shares outstanding for EFA was 928.2 million, and the fund market cap for EFA was \$64.9 billion.

<sup>17</sup> See *id.* at 15006.

<sup>18</sup> See Amendment No. 1, *supra* note 5, at 9.

<sup>19</sup> See Notice, *supra* note 4, at 15005–06. Specifically, the Exchange states that the average daily trading volume for FXI was 26.1 million shares, the average daily volume for the overlying options was 196,600 contracts, the total shares outstanding for FXI was 106.8 million, and the fund market cap for FXI was \$4.8 billion, while the market capitalization of the components of the reference index, the FTSE China 50 Index, was \$28 trillion.

<sup>20</sup> In connection with this change, the exercise limits for these options would rise to 3,600,000 contracts. See *supra* note 7.

significantly more liquid than QQQ, which is also currently subject to a position limit of 1,800,000 contracts.<sup>21</sup>

Finally, the Exchange proposes to increase the position limits for options on MXEA and MXEF from 25,000 contracts to 50,000 contracts and to eliminate the near-term position limit restriction on these options.<sup>22</sup> In support of this change, the Exchange provides the trading characteristics and market capitalizations of MXEA and MXEF, and compares the notionally adjusted position limits for MXEA and MXEF to the position limits for options on EFA and EEM (currently 1,000,000 contracts for EEM and proposed herein to be 1,000,000 contracts for EFA), the ETFs that track the MXEA and MXEF indexes, respectively.<sup>23</sup> In Amendment No. 1, the Exchange provides additional support for its proposal to eliminate near-term position limit restrictions for MXEA and MXEF options by stating that such near-term restrictions introduce additional complexity for market participants utilizing these options to hedge.<sup>24</sup> In addition, the Exchange provides near-term and total open interest statistics comparing MXEA and MXEF to options on the S&P 100 Index (“OEX” and “XEO”), which are not currently subject to any near-term position limits.<sup>25</sup> Based on the

<sup>21</sup> See Notice, *supra* note 4, at 15005–06; Amendment No. 1, *supra* note 5, at 3–4. Specifically, the Exchange states that the average daily trading volume for SPY was 70.3 million shares compared to 30.2 million shares for QQQ, while the average daily volume for options contracts overlying SPY was 2.8 million, as compared to 670,200 for QQQ. The Exchange further states that the total shares outstanding for SPY was 968.7 million compared to 410.3 million for QQQ. Finally, the Exchange states that the fund market cap for SPY was \$312.9 billion compared to \$88.7 billion for QQQ.

<sup>22</sup> In connection with this change, the exercise limits for these options would rise to 50,000 contracts. See *supra* note 10.

<sup>23</sup> See Notice, *supra* note 4, at 15005–07. Specifically, the Exchange states that the average daily volume for options contracts overlying MXEA and MXEF was 594 contracts and 1,055 contracts, respectively. The Exchange further states that the number of component securities for MXEA and MXEF were 917 and 1,404, respectively. Finally, the Exchange states that the index market cap was \$14.9 trillion for MXEA and \$6.2 trillion for MXEF.

<sup>24</sup> See Amendment No. 1, *supra* note 5, at 5.

<sup>25</sup> See *id.* at 5–6. Specifically, the Exchange states that the average near-term open interest for MXEA and MXEF was 3,022 contracts and 10,915 contracts, respectively, as compared to 4,926 contracts for OEX and 6,789 contracts for XEO. The Exchange further states that the average total open interest was 13,380 contracts and 32,910 contracts for MXEA and MXEF, respectively, as compared to 10,489 contracts for OEX and 9,970 contracts for XEO. Finally, the Exchange states that the average daily volume for OEX and XEO options was 1,454 contracts and 891 contracts, respectively, which the Exchange believes is comparable to the average daily volume for options contracts overlying MXEA

Continued

information it gathered, the Exchange believes that the proposed elimination of near-term position limits for MXEA and MXEF is consistent with the existing limits of comparable indexes and would not raise any potential issues with respect to manipulation or disruption in the near months.<sup>26</sup>

The Exchange states that the current position limits for the options subject to the proposal may have impeded the ability of market makers to make markets on the Exchange.<sup>27</sup> Specifically, the Exchange avers, the proposal is designed to encourage liquidity providers to provide additional liquidity to the Exchange and other market participants to shift liquidity from over-the-counter markets onto the Exchange, as well as other options exchanges on which they participate, which, it believes, will enhance the process of price discovery conducted on the Exchange through increased order flow.<sup>28</sup> The proposal will also benefit market participants, the Exchange maintains, by providing them with a more effective trading and hedging vehicle.<sup>29</sup>

With regard to the concerns that position limits generally are meant to address, the Exchange represents that the structure of the underlying ETFs and indexes of the options subject to this proposal; the considerable market capitalization of the funds, underlying component securities, and indexed component securities; and the liquidity of the market for options on those ETFs and indexes and the underlying component securities mitigates concerns regarding potential manipulation of the products and disruption of the underlying markets due to the increased position limits.<sup>30</sup> The Exchange elaborates further and describes in detail: (i) The creation and redemption process for ETFs; (ii) the arbitrage activity that ensues when such instruments are overpriced or are trading at a discount to the securities on which they are based, and which, the Exchange maintains, helps to keep the instrument's price in line with the value of its underlying portfolio; and (iii) how these processes, in the Exchange's view, serve to mitigate the potential price impact of the ETF shares that might otherwise result from increased position limits.<sup>31</sup>

and MXEF, which was 594 contracts and 1,055 contracts, respectively.

<sup>26</sup> See *id.* at 6.

<sup>27</sup> See Notice, *supra* note 4, at 15003.

<sup>28</sup> See *id.* at 15003, 15008.

<sup>29</sup> See *id.* at 15008.

<sup>30</sup> See *id.*

<sup>31</sup> See *id.* at 15007.

In addition, the Exchange states that (i) some of the subject ETFs are based on broad-based indexes that underlie cash-settled options that are economically equivalent to the relevant ETF and have no position limits; and (ii) others are based on broad-based indexes that underlie cash-settled options with position limits reflecting a notional value that is larger than the current position limit for their ETF analogue.<sup>32</sup> According to the Exchange, if certain position limits are appropriate for the options overlying comparable indexes or comparable baskets of securities to those that the ETFs subject to the proposal track, or are appropriate for the ETFs that track the indexes subject to the proposal, then those same economically equivalent position limits should be appropriate for the options overlying the relevant ETFs or indexes.<sup>33</sup> For the other ETFs in the proposal where this does not apply (because there are currently no options listed on an index tracked by the ETF), the Exchange argues that, based on the liquidity, breadth, and depth of the underlying market of the components of such indexes, the index referenced by the ETF would be considered a broad-based index under the Exchange's rules.<sup>34</sup> Moreover, regarding the indexes subject to the proposal, the Exchange argues that the deep, liquid markets for and market capitalization of the component securities underlying such indexes support the proposed position limit increases for the options on those indexes.<sup>35</sup> The Exchange also cites data in support of its argument that the market capitalization of the underlying index or reference asset of each of the ETFs and indexes is large enough to absorb any price movements that may be caused by an oversized trade, and thus justifies increasing position limits for the options on these products.<sup>36</sup>

As noted, in Amendment No. 1, the Exchange withdrew options on OIH from the subject of the proposal, stating that "the Exchange may propose an increase for position limits for options on OIH through a separate proposed rule change submitted at a later date."<sup>37</sup> Accordingly, this Order does not address position limits for options on OIH.

The Exchange also refers to other provisions in its rules, noting, for example, that the options reporting requirements of Exchange Rule 8.43

would continue to be applicable to the options subject to the proposal.<sup>38</sup> As set forth in Exchange Rule 8.43(a), each Trading Permit Holder ("TPH") must report to the Exchange certain information in relation to any customer who, acting alone, or in concert with others, on the previous business day maintained aggregate long or short positions on the same side of the market of 200 or more contracts in any single class of option contracts dealt in on the Exchange.<sup>39</sup> Further, Exchange Rule 8.43(b) requires each TPH (other than an Exchange market-maker or Designated Primary Market-Maker)<sup>40</sup> that maintains a position in excess of 10,000 non-FLEX equity option contracts on the same side of the market, on behalf of its own account or for the account of a customer, to report to the Exchange information as to whether such positions are hedged, and provide documentation as to how such contracts are hedged.<sup>41</sup>

The Exchange also represents that the existing surveillance procedures and reporting requirements at the Exchange and other self-regulatory organizations are capable of properly identifying disruptive and/or manipulative trading activity.<sup>42</sup> The Exchange states that its surveillance procedures utilize daily monitoring of market activity via automated surveillance techniques to identify unusual activity in both options and the underlying ETFs and indexes, as applicable.<sup>43</sup> In addition, the Exchange states that its surveillance procedures have been effective in the past for the surveillance of trading in the options subject to this proposal, and will continue to be employed.<sup>44</sup>

The Exchange also argues that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns that a TPH or its customer may try to maintain a potentially large, unhedged position in the options subject to this proposal.<sup>45</sup> Current margin and risk-based haircut methodologies, the Exchange states, serve to limit the size of positions maintained by any one account by

<sup>38</sup> See Notice, *supra* note 4, at 41460.

<sup>39</sup> The report must include, for each such class of options, the number of option contracts comprising each such position and, in the case of short positions, whether covered or uncovered. See Rule 8.43(a).

<sup>40</sup> According to the Exchange, market-makers (including Designated Primary Market-Makers) are exempt from the referenced reporting requirement because market-maker information can be accessed by the Exchange. See Notice, *supra* note 4, at 15007.

<sup>41</sup> See *id.*

<sup>42</sup> See *id.* at 15007–08.

<sup>43</sup> See *id.* at 15008.

<sup>44</sup> See *id.* at 15008 n.34.

<sup>45</sup> See *id.* at 15008.

<sup>32</sup> See *id.* at 15004.

<sup>33</sup> See *id.* at 15005.

<sup>34</sup> See *id.* at 15004–05.

<sup>35</sup> See *id.* at 15005.

<sup>36</sup> See *id.*

<sup>37</sup> See Amendment No. 1, *supra* note 5, at 6–7.

increasing the margin and/or capital that a TPH must maintain for a large position held by itself or by its customer.<sup>46</sup> In addition, the Exchange notes that the Commission's net capital rule, Rule 15c3-1 under the Act,<sup>47</sup> imposes a capital charge on TPHs to the extent of any margin deficiency resulting from the higher margin requirement.<sup>48</sup>

### III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>49</sup> In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,<sup>50</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Position and exercise limits serve as a regulatory tool designed to address manipulative schemes and adverse market impact surrounding the use of options. Since the inception of standardized options trading, the options exchanges have had rules limiting the aggregate number of options contracts that a member or customer may hold or exercise.<sup>51</sup> These position and exercise limits are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate the underlying market so as to benefit the options positions.<sup>52</sup> In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market.<sup>53</sup> In addition, such limits serve to reduce the

possibility of disruption of the options market itself, especially in illiquid classes.<sup>54</sup>

Over the years, the Commission has taken a gradual, evolutionary approach toward expansion of position and exercise limits for option products overlying certain ETFs where there is considerable liquidity in both the underlying cash markets and the options markets, and, in the case of certain broad-based index options, toward elimination of such limits altogether.<sup>55</sup> The Commission has been careful to balance two competing concerns when considering proposals by self-regulatory organizations to change position and exercise limits. The Commission has recognized that the limits can be useful to prevent investors from disrupting the market in securities underlying the options.<sup>56</sup> To this point, commenters, writing in support of the proposal, noted that the characteristics of the products subject to the Exchange's proposal help to allay concerns about disruption in the underlying markets.<sup>57</sup> One commenter stated that the market capitalization of the underlying ETFs of the ETF options subject to the proposal, the ETF component securities, and the component securities of the underlying indexes subject to the proposal are all sufficiently large to mitigate any

concern about potential manipulation and/or disruption in the underlying markets upon increasing position limits for the overlying options.<sup>58</sup> Commenters also stated that the creation and redemption process for the underlying ETFs of the ETF options subject to the proposal will absorb price volatility caused by large trades in the underlying ETFs.<sup>59</sup>

At the same time, the Commission has determined that limits should not be established in a manner that will unnecessarily discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain a fair and orderly market.<sup>60</sup> Commenters stated that failing to increase the position limits for the options subject to the proposal would impede trading activity and investor strategies, such as the use of effective hedging vehicles or income-generating strategies.<sup>61</sup> One of those commenters further stated that failing to increase the position limits for the options subject to the proposal may also impede the ability of market makers to make liquid markets with tighter spreads in such options.<sup>62</sup>

After careful consideration of the proposal, as modified by Amendment No. 1, and the comments received, the Commission believes that it is reasonable for the Exchange to increase the position and exercise limits for options on XLF and HYG to 500,000 contracts, for options on EFA and FXI to 1,000,000 contracts, for options on SPY to 3,600,000 contracts, and for options on MXEA and MXEF to 50,000 contracts with no near-term position limit. As noted above, the markets for standardized options on these securities and for the underlying products themselves have substantial trading volume and liquidity. The Commission believes that this liquidity should reduce the possibility of manipulating these products and the disruption in the underlying markets that lower position limits may protect against.

The Commission also has considered the creation and redemption process for the ETFs subject to the proposal; the existence of an issuer arbitrage

<sup>46</sup> See *id.*

<sup>47</sup> 17 CFR 240.15c3-1.

<sup>48</sup> See Notice, *supra* note 4, at 15008.

<sup>49</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>50</sup> 15 U.S.C. 78f(b)(5).

<sup>51</sup> See, e.g., Securities Exchange Act Release No. 45236 (January 4, 2002), 67 FR 1378 (January 10, 2002) (SR-Amex-2001-42).

<sup>52</sup> See, e.g., Securities Exchange Act Release No. 47346 (February 11, 2003), 68 FR 8316 (February 20, 2003) (SR-CBOE-2002-26).

<sup>53</sup> See *id.*

<sup>54</sup> See *id.*

<sup>55</sup> The Commission's incremental approach to approving changes in position and exercise limits for option products overlying certain ETFs is well-established. See, e.g., Securities Exchange Act Release Nos. 82770 (February 23, 2018), 83 FR 8907 (March 1, 2018) (SR-CBOE-2017-057) (approving increase of position limits for options on certain ETFs); 67672 (August 15, 2012), 77 FR 50750, 50752 & n.42 (August 22, 2012) (SR-NYSEAmex-2012-29) (approving proposed rule change to eliminate position limits for SPY options on a pilot basis); 64695 (June 17, 2011), 76 FR 36942, 36943 & n.19 (June 23, 2011) (SR-Phlx-2011-58) (approving increase of SPY options position limit to 900,000 contracts). The Commission notes that the Exchange filed an immediately effective proposed rule change on June 4, 2018 to terminate its pilot program and impose the current 1,800,000 contract position limit for SPY options. See Securities Exchange Act Release No. 83415 (June 12, 2018), 83 FR 28274 (June 18, 2018) (SR-CBOE-2018-042).

<sup>56</sup> See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-97-11).

<sup>57</sup> See letters to Vanessa Countryman, Secretary, Commission, dated April 6, 2020, from Ellen Greene, Managing Director, Equity and Options Market Structure, Securities Industry and Financial Markets Association ("SIFMA Letter"); Steve Crutchfield, Head of Market Structure, Chicago Trading Company ("CTC Letter"); and Venu Palaparthi, Managing Director, Dash Financial Technologies LLC ("Dash Letter"). One of these commenters agreed with the Exchange's statements in support of the proposal with respect to the highly liquid markets for the underlying securities, "even to the extent that trading in such securities is presenting somewhat differently during the current market volatility." SIFMA Letter at 2.

<sup>58</sup> See SIFMA Letter at 1-2. A second commenter also stated that the market capitalization and diverse composition of the ETFs subject to the proposal are of sufficient size to support the proposed increase in position limits for the associated options. See Dash Letter at 1.

<sup>59</sup> See SIFMA Letter at 2; CTC Letter at 1.

<sup>60</sup> See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-97-11).

<sup>61</sup> See SIFMA Letter at 2; CTC Letter at 1.

<sup>62</sup> See SIFMA Letter at 2.

mechanism that helps keep each ETF's price in line with the value of its underlying portfolio when overpriced or trading at a discount to the securities on which it is based; and how these processes can serve to mitigate the potential price impact of the ETF shares that might otherwise result from increased position limits.<sup>63</sup>

In addition, as discussed above, the Exchange believes that current margin and net capital requirements serve to limit the size of positions maintained by any one account.<sup>64</sup> The Commission agrees that these financial requirements should help to address concerns that a member or its customer may try to maintain an inordinately large unhedged position in the options subject to this proposal and will help to reduce risks if such a position is established.

The Commission further agrees with the Exchange that the reporting requirements imposed by Exchange Rule 8.43,<sup>65</sup> as well as the Exchange's surveillance procedures, together with those of other self-regulatory organizations,<sup>66</sup> should help protect against potential manipulation. The Commission expects that the Exchange will continue to monitor trading in the options subject to this proposal for the purpose of discovering and sanctioning manipulative acts and practices, and to reassess the position and exercise limits, if and when appropriate, in light of its findings.

In sum, given the measure of liquidity for the options subject to this proposal and the underlying products, the creation and redemption process and issuer arbitrage mechanisms that exist relating to the underlying instruments, the margin and capital requirements cited above, the Exchange's options reporting requirements, and the Exchange's surveillance procedures and agreements with other markets, the Commission believes that increasing the position and exercise limits for XLF and HYG options to 500,000 contracts, for EFA and FXI options to 1,000,000 contracts, for SPY options to 3,600,000 contracts, and for MXEA and MXEF options to 50,000 contracts with no near-term position limit is consistent with the Act.

#### IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and

arguments concerning whether Amendment No. 1 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2020-015 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-CBOE-2020-015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2020-015, and should be submitted on or before May 26, 2020.

#### V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal**

**Register.** As discussed above, in Amendment No. 1, the Exchange: (1) Provided additional justification and analysis in support of the proposal, which is summarized above; (2) revised its proposal to eliminate the proposed increase to position limits for options on OIH; and (3) made technical, corrective, and clarifying changes. The Commission notes that Amendment No. 1 does not otherwise modify the proposed rule change, which was subject to a full notice-and-comment period. Rather, Amendment No. 1 serves to narrow the scope of the original proposal by maintaining the existing position limit of 250,000 contracts for options on OIH. The Commission also notes that Amendment No. 1 provides additional accuracy, clarity, and justification to the proposal, thereby facilitating the Commission's ability to make the findings set forth above to approve the proposal. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>67</sup> to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

#### VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>68</sup> that the proposed rule change, as modified by Amendment No. 1 (SR-CBOE-2020-015), be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>69</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020-09520 Filed 5-4-20; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission Investor Advisory Committee will hold a public meeting on Thursday May 21, 2020, by remote means and/or at the Commission's headquarters, 100 F St. NE, Washington, DC 20549. The meeting will begin at 10:00 a.m. (ET) and will be open to the public.

**PLACE:** The meeting will be conducted by remote means and/or at the

<sup>67</sup> 15 U.S.C. 78s(b)(2).

<sup>68</sup> *Id.*

<sup>69</sup> 17 CFR 200.30-3(a)(12).

<sup>63</sup> See *supra* notes 30-31 and accompanying text.

<sup>64</sup> See *supra* notes 45-48 and accompanying text.

<sup>65</sup> See *supra* notes 38-41 and accompanying text.

<sup>66</sup> See *supra* notes 42-44 and accompanying text.