**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34–90195; File No. SR–CBOE–2020–090]**

## Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend the Definition of "Current Market Value" With Respect to Certain Index Options for Purposes of Calculating Margin Requirements

October 15, 2020.

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 September 30, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend the definition of ''current market value'' with respect to certain index options for purposes of calculating margin requirements. The text of the proposed rule change is provided below.

(additions are italicized; deletions are [bracketed])

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Rules of Cboe Exchange, Inc.

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**Rule 10.3. Margin Requirements**

(a) *Definitions.* For purposes of this Rule, the following terms shall have the meanings specified below.

(1) No change.

(2) The term ''current market value'' is as defined in Section 220.3 of Regulation T of the Board of Governors of the Federal Reserve System. At any other time, in the case of options, stock index warrants, currency index warrants and currency warrants, it shall mean the closing price of that series of options or warrants on the Exchange on any day with respect to which a determination of current market value is made*, except in the case of certain index options determined by the Exchange, it shall be based on quotes for that series of options on the Exchange 15 minutes prior to the close of trading on any day with respect to which a determination of current market value is made.* In the case of other securities, it shall mean the preceding business day's closing price as shown by any regularly published reporting or quotation service. If there is no closing price *or quotes, as applicable,* on the option or on another security, a TPH organization may use a reasonable estimate of the current market value of the security as of the close of business *or as of 15 minutes prior to the closing of trading, respectively,* on the preceding business day.

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The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend the definition of ''current market value'' with respect to certain index options for purposes of calculating margin requirements. Rule 10.3(a)(2) currently defines the term ''current market value'' as follows:

> The term ''current market value'' is as defined in Section 220.3 of Regulation T of the Board of Governors of the Federal Reserve System. At any other time, in the case of options, stock index warrants, currency index warrants and currency warrants, it shall mean the closing price of that series of options or warrants on the Exchange on any day with respect to which a determination of current market value is made. In the case of other securities, it shall mean the preceding business day's closing price as shown by any regularly published reporting or quotation service. If there is no closing price on the option or on another security, a TPH organization may use a reasonable estimate of the current market value of the security as of the close of business on the preceding business day.[5]

Rule 10.3 and other Rules in Chapter 10 of the Exchange's Rulebook describe how margin requirements are calculated for market participants' positions in options (and certain other securities), including strategy-based margin and customer portfolio margin requirements, which requirements are generally based on the current market value of the option series. For example, the minimum margin required in customer margin accounts for broad-based index options is 100% of the current market value of the option plus 10% of the current underlying index value (for calls) or the aggregate exercise price (for puts).[6] These requirements are determined on a daily basis for market participants' securities accounts that hold options positions.[7] Most index options that are listed for trading on the Exchange close for trading at 4:15 p.m. Eastern time.[8] Therefore, daily margin requirements for those index options are currently based on the closing trade prices of those options series at that time.[9]

Index options and futures are complementary investment tools available to market participants. The Exchange understands that market participants often incorporate prices of related futures products when pricing options. Additionally, market participants' investment and hedging strategies often involve index options

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).

[5] Section 220.3 [*sic*] of Regulation T of the Board of Governors of the Federal Reserve System defines ''current market value'' of a security as (1) throughout the day of the purchase or sale of a security, the security's total cost of purchase or the net proceeds of its sale including any commissions charged; or (2) at any other time, the closing sale price of the security on the preceding business day, as shown by any regularly published reporting or quotation service. If there is no closing sale price, the creditor may use any reasonable estimate of the market value of the security as of the close of business on the preceding business day.'' *See* 12 CFR 220.2. The term ''marking'' value is often used to refer to the current market value for capital and margin purposes.

[6] *See* Rule 10.3(c)(5).

[7] The Exchange notes the Options Clearing Corporation (''OCC'') calculates the daily margin requirements for Clearing Members' options positions at OCC. The Exchange understands OCC intends to incorporate a corresponding change regarding the time at which the value of a series is determined into its procedures for calculating margin requirements.

[8] *See* Rule 5.1(b)(2).

[9] The Exchange notes the daily margin requirements for index options that close at 4:00 p.m. Eastern time are based on the closing trade at that time.

and related futures products. For example, market participants often engage in hedging strategies that involve options on the S&P 500 Index (''SPX options''), which trade exclusively on the Exchange, and e-mini S&P 500 Index futures (''S&P futures''), which trade on the Chicago Mercantile Exchange (''CME'').[10] Additionally, market participants regularly price SPX options based on then-current prices of the S&P futures. Several futures products—S&P futures, Russell futures, and Dow futures—related to certain index options that are listed for trading on the Exchange (SPX options, XSP options, OEX options, XEO options, RUT options, DJX options, and VIX options) are listed on CME.

Currently, CME determines the daily settlement price for those futures at 4:15 p.m. Eastern time,[11] which is the same time at which the current market value for margin requirements purposes is determined for the above-referenced index options. The Exchange understands that CME intends to change this time to 4:00 p.m. Eastern time on October 26, 2020.[12] Therefore, to maintain alignment between the times at which the current market value of index options is determined and the daily settlement price of related futures is determined for purposes of calculating daily margin requirements, the Exchange proposes to amend the definition of current market value with respect to certain Exchange-designated index options [13] to be based on quotes of that series of options on the Exchange 15 minutes prior to the close of trading on any day with respect to which a determination of current market value is made (and to make conforming changes throughout the definition).[14] The Exchange intends to apply an indicator to the quotes disseminated to OPRA that will be the daily mark for a series on the applicable trading day. The Exchange anticipates initially applying this proposed definition to the following options: SPX, XSP, OEX, XEO, VIX, RUT, and DJX. The proposed flexibility will permit the Exchange to respond in a timely manner to any changes going forward to daily settlement times of futures by other trading venues related to options that trade on the Exchange and maintain alignment between those times as appropriate.

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.[15] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [16] 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) [17] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change furthers the objectives of Section 6(c)(3) of the Act,[18] which authorizes the Exchange to, among other things, prescribe standards of financial responsibility or operational capability and standards of training, experience and competence for its Trading Permit Holders and person associated with Trading Permit Holders.

In particular, the Exchange believes maintaining alignment between the times at which related options and futures prices are used to calculate daily margin requirements will protect investors. Among other things, the Exchange believes retaining this alignment will prevent increased risk to market participants that hold positions across related options and futures products due to potential disparities that could occur in relation to factors such as margin requirements, pay-collect obligations, the synchronization of existing hedges, and the level of end-of-day risk. If the daily valuation times for these products were different, offset relationships between options and futures positions may be lost, which may distort the true status of risk within a market participant's portfolio. Use of the same determination time for margin calculations reduces risk of a disconnect between the values used in a market participant's securities account and the market participant's futures account. For example, if the Exchange continued to use the closing prices of index options as the current market value of those options while the daily settlement of related futures used prices 15 minutes prior to the close, there could be a significant misalignment between these values, particularly if there were to be a large price move in the equity markets during that 15-minute time period.

The Exchange believes the proposed rule change will also promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market by permitting continued alignment of daily marks for related products that market participants often use in a complementary manner as part of their investment and hedging strategies. The Act authorizes the Exchange to prescribe standards of financial responsibility for Trading Permit Holders, and the proposed rule change regarding the daily value to be used for calculation of daily margin requirements for options positions is consistent with that authority.

[10] Similar pricing and strategy relationships exist between Mini-S&P 500 Index options (''XSP options'') and American- and European-style S&P 100 Index options (''OEX options'' and ''XEO options'', respectively) and S&P futures; Russell 2000 Index options (''RUT options'') and e-mini Russell 2000 Index futures (''Russell futures''); and Dow Jones Industrial Average Index options (''DJX options'') and e-mini Dow Index futures (''Dow futures''). In addition, given the relationship between options on the Cboe Volatility Index (''VIX options'') and the S&P 500 Index, investment and hedging strategies that involve both VIX options and VIX futures (which trade on the Cboe Futures Exchange, which is making a corresponding rule change). It is common for market participants to hedge VIX futures with SPX options and to hedge VIX options with VIX futures.

[11] Similar to the index options that trade on the Exchange, these future products close for trading at 4:15 p.m. Eastern time.

[12] *See* CME Notice SER–8591, issued September 22, 2020, *available at https://www.cmegroup.com/notices/ser/2020/09/SER-8591.html.*

[13] Pursuant to Rule 1.5, the Exchange announces to Trading Permit Holders all determinations it makes pursuant to the Rules (which would include the determination of indexes subject to the proposed rule change) via specifications, notices, or regulatory circulars with appropriate advanced notice, which are posted on the Exchange's website, or as otherwise provided in the Rules (among other methods).

[14] *See* Cboe Exchange Notice C2020092202, issued September 22, 2020, *available at https://cdn.cboe.com/resources/release_notes/2020/Adjustment-of-Daily-Settlement-Time-for-Proprietary-Index-Products-Notice.pdf.* Fifteen minutes prior to the close of trading will generally equate to 4:00 p.m. Eastern time. The Exchange notes the proposed rule change does not change the time at which trading in the applicable index options will close. In other words, on a regular trading day, while the current market value for these index options will be determined at 4:00 p.m. Eastern time, those index options will continue to trade until 4:15 p.m. Eastern time (any options trades that occur between 4:00 and 4:15 on that trading day would use the 4:00 current market value for margin calculation purposes).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *Id.*

[18] 15 U.S.C. 78f(c)(3).

*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 primary purpose of the proposed rule change is to maintain alignment of margin calculations for related products in the securities and futures industries. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change related to margin requirements for the designated options will apply in the same manner to all market participants that hold positions in those options. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it relates solely to margin requirements for options that trade exclusively on the Exchange. Additionally, as noted above, the proposed rule change is intended to maintain alignment of the daily valuation time of index options with the daily valuation time of related future products that trade on another exchange.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and Rule 19b–4(f)(6) [20] thereunder.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay will permit the Exchange to maintain continuous alignment of the times at which the current market value of index options in securities accounts and the daily settlement value of related futures in futures accounts are determined. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the Exchange to maintain the continuous alignment of the times at which the current market value of index options and related futures are determined, thereby avoiding confusion that could result from potential price distortions for investors holding positions in both index options and related futures. For this reason, the Commission designates the proposed rule change to be operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov. Please include File Number SR–CBOE–2020–090 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–2020–090. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–CBOE–2020–090 and should be submitted on or before November 12, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6). In addition, as required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).