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Dated: August 18, 2021.

Jill M. Peterson,

Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92702; File No. SR-CBOE-2021-045]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Amend Rule 13.15, Which Governs the Exchange's Minor Rule Violation Plan

August 18, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 3, 2021, Cboe Exchange, Inc. filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and approving the proposal on an accelerated basis.

#### 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 Rule 13.15, which governs the Exchange's Minor Rule Violation Plan ("MRVP"), in connection with certain minor rule violations, applicable fines, as well as other clarifying, nonsubstantive changes. 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://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 III 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 its MRVP in Rule 13.15 in connection with certain minor rule violations, applicable fines, as well as other clarifying, nonsubstantive changes. Rule 13.15 provides for disposition of specific violations through assessment of fines in lieu of conducting a formal disciplinary proceeding. Rule 13.15(g) sets forth the list of specific Exchange Rules under which a Trading Permit Holder ("TPH") or person associated with or employed by a TPH may be subject to a fine for violations of such Rules and the applicable fines that may be imposed by the Exchange. Specifically, the proposed rule change amends Rule 13.15(g) by: (1) Eliminating certain rule violations that the Exchange no longer believes to be minor in nature; (2) updating the fine schedule applicable to minor rule violations related to a Market-Maker's failure to meet Exchange quoting obligations; and (3) making other nonsubstantive changes.

First, the proposed rule change removes the following rule violations and applicable fines from Rule 13.15(g):<sup>3</sup>

- Rule 13.15(g)(4), which currently imposes certain fines for failure to submit trade information on time and failure to submit trade information to the Price Reporter pursuant to Rule 6.1 (Report Transactions to the Exchange);<sup>4</sup>

<sup>3</sup> As a result of the proposed elimination of certain rule violations listed under Rule 13.15(g), the proposed rule change subsequently renumbers current Rules 13.15(g)(6), (8), (9), (11), (13), (14), (15), (16), (17), (18), (19) and (20), to Rules 13.15(g)(4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), respectively.

<sup>4</sup> See Rule 6.1(a), which provides that a participant in each transaction to be designated by the Exchange must report or ensure the transaction is reported to the Exchange within 90 seconds of

- Rule 13.15(g)(5), which currently imposes certain fines for failure to honor the firm quote requirements of Rules 5.52 (Market-Maker Quotes)<sup>5</sup> and 5.59 (Firm Disseminated Market Quotes), to honor the priority of marketable priority customer orders pursuant to Rules 5.32 and 5.85 (which among other things, govern customer priority on the Exchange's trading floor),<sup>6</sup> and to use due diligence in the execution of orders for which the floor Trading Permit Holder maintains an agency obligation pursuant to Rule 5.91 (Floor Broker Responsibilities);<sup>7</sup>

- Rule 13.15(g)(7), which currently imposes certain fines for any individual Trading Permit Holder who fails for more than 5% of the Trading Permit Holder's transactions in any month to submit on the date that a transaction is

the execution in a form and manner prescribed by the Exchange so that the trade information may be reported to time and sales reports; and Rule 6.1(c), which provides the Exchange-established procedure for reporting transactions pursuant to Rule 6.1(a).

<sup>5</sup> See Rule 5.52(a), which provides, in relevant part, that Market-Maker bids and offers are firm for all orders under this Rule and Rule 602 of Regulation NMS under the Exchange Act ("Rule 602") for the number of contracts specified in the bid or offer, except if: (1) A system malfunction or other circumstance impairs the Exchange's ability to disseminate or update market bids and offers in a timely and accurate manner; (2) the level of trading activities or the existence of unusual market conditions is such that the Exchange is incapable of collecting, processing, and making available to quotation vendors the data for the option in a manner that accurately reflects the current state of the market on the Exchange; (3) prior to the conclusion of the Opening Auction Process; or (4) any of the circumstances provided in Rule 602(c)(4) exist.

<sup>6</sup> Rule 5.85(a)(2)(A), which provides that Priority Customer orders in the Book have first priority. If there are two or more Priority Customer orders in the Book at the same price, the System prioritizes them in the order in which the System received them (*i.e.*, in time priority). The Exchange notes that customer priority for electronic executions is systematically enforced. See Rule 5.32(a)(2)(A).

<sup>7</sup> See Rule 5.91(a), which provides that a Floor Broker handling an order must use due diligence to execute the order at the best price or prices available to him or her, in accordance with the Rules. Use of due diligence in handling and executing an order includes: (1) Announcing to the trading crowd a request for quotes; (2) taking the necessary measures to ensure the proper execution of an order in accordance with firm quote obligations in Rule 5.52, including the executable quantity of a quote from the trading crowd; (3) the immediate and continuous representation at the trading station where the applicable class trades of the following types of orders: (A) Market orders; (B) limit orders to sell where the specified price is at or below the current offer or; and (C) limit orders to buy where the specified price is at or above the current bid; (4) subject to the requirement to systematize orders prior to representation pursuant to Rule 5.7(f), electronically recording the time via a PAR workstation at which the Floor Broker initially represents the order to the trading crowd; and (5) prioritizing the Floor Broker's agency business over the Floor Broker's liquidation orders (which liquidation orders are described in Rule 5.91(d)).

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

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

executed the trade information required by Rule 6.1;<sup>8</sup>

- Rule 13.15(g)(10), which currently imposes certain fines for violations of Rule 8.14 (Communications to the Exchange or the Clearing Corporation);<sup>9</sup> and

- Rule 13.15(g)(12), which currently imposes certain fines for trade-through violations pursuant to Rule 5.66 (Order Protection).<sup>10</sup>

Additionally, as a result of the proposed deletion of Rule 13.15(g)(4) and (g)(5), the proposed rule change also deletes Interpretations and Policies .01 and .02 to Rule 13.15, as Interpretation and Policy .01 exclusively relates to Rule 13.15(g)(5), and Interpretation and Policy .02 exclusively relates to Rule 13.15(g)(4). The proposed rule change also moves the entirety of the rule text in Interpretation and Policy .03, which exclusively corresponds to current Rule 13.15(g)(6), into Rule 13.15(g)(6) itself. Additionally, the proposed rule change moves the language currently in footnote 1 into current Rule 13.15(g)(6). Footnote 1 provides that Minor Rule Violation Fines imposed under this provision may be issued by Exchange Floor Officials. The Exchange notes that, while footnote 1 is currently appended to Rule 13.15(g)(5), which is being deleted as proposed herein, it more appropriately applies to current Rule 13.15(g)(6) (Violations of Trading Conduct and Decorum Policies), as fines for violations of which are currently issued by Exchange Floor Officials pursuant to Rule 5.80(c). Rule 5.80(c)(1)(A) specifically provides that Exchange Floor Officials may fine TPHs and persons employed by or associated

with TPHs pursuant to Rule 13.15 for trading conduct and decorum violations which are subject to fine under such fine schedules. As such, the proposed relocation of the language in footnote 1 merely provides additional clarity in the MRVP fine schedule regarding the issuance of Minor Rule Violation fines for trading conduct and decorum violations.

The Exchange no longer believes violations of the above-listed rules to be minor in nature and therefore proposes to remove them from the list of rules in Rule 13.15(g) eligible for a minor rule fine disposition. Particularly, the Exchange believes that violations of each of the rules listed above may directly impact trading on the Exchange, maintenance of a fair and orderly market, and/or customer protections. For example, the Exchange believes that the requirement to submit trade information on time, to the Price Reporter and consistently on an order's transaction date, as well as the requirement to truthfully and accurately represent information in communications to the Exchange and the Clearing Corporation allows the Exchange (and the Clearing Corporation) to maintain an accurate audit trail and trade information. Likewise, honoring firm quotations is vital in promoting efficient functioning of intermarket price priority and trading in general. Timely and accurate representation of both trade information and quotations protects investors by providing them with accurate information essential to their trading activities and participation in the markets. Upholding due diligence to honor the priority of customer orders and obligations as a principal, as well as the prohibition against the execution of trades at prices inferior to protected quotations (trade-throughs), all provide important customer protections. Pursuant to Rule 13.15(f), the Exchange is not required to impose a fine pursuant to its MRVP with respect to the violation of any rule listed under Rule 13.15. If the Exchange determines that any violation is intentional, egregious, or otherwise not minor in nature, it may proceed under its formal disciplinary rules. As such, the Exchange has increasingly chosen to handle such violations in recent years under the Exchange's formal disciplinary rules, rather than imposing a fine pursuant to its MRVP.

The proposed rule change next amends the fine schedule applicable to Maker-Makers for failure to meet Exchange quoting obligations. Specifically, Rule 13.15(g)(14) ((g)(9), as

amended)<sup>11</sup> provides that a fine shall be imposed upon a Market-Maker, Designated Primary Market-Maker or Lead Market Maker (as applicable) in accordance with the fine schedule set forth below for the following conduct:<sup>12</sup>

- Failure to meet the continuous quoting obligation (Rule 5.52, 5.55, and 5.54);
- Failure to meet the initial quote volume requirements (Rule 5.52); and
- Failure of a Lead Market-Maker or Designated Primary Market-Maker to enter opening quotes within one minute following the initiation of an opening rotation (*e.g.*, 9:31 a.m.) in a series in its appointed or allocated class, respectively, that is not open due to the lack of a quote (see Rule 5.31(e)(2) or (j)(5)(B), as applicable) (Rules 5.55 and 5.54), respectively.

For the first offense during any rolling 24-month period, the fine schedule imposed by Rule 13.15(g)(14) currently permits the Exchange to apply a fine ranging between \$2,000 and \$4,000. For subsequent offenses during the same period, the fine schedule currently permits the Exchange to apply a fine ranging between \$4,000 and \$5,000. The proposed rule change updates the fine schedule to provide that, during any rolling 24-month period, the Exchange may give a Letter of Caution for a first offense, may apply a fine of \$1,500 for a second offense, may apply a fine of \$3,000 for a third offense,<sup>13</sup> and may proceed with formal disciplinary action for subsequent offenses. As described above, and as is the case for all rule violations covered under Rule 13.15(g), the Exchange may determine that a violation of Market-Maker quoting obligations is intentional, egregious, or otherwise not minor in nature and choose to proceed under the Exchange's formal disciplinary rules rather than its MRVP.<sup>14</sup> The Exchange may continue to aggregate individual violations of

<sup>11</sup> See *supra* note 3.

<sup>12</sup> The proposed rule change also makes nonsubstantive clarifying updates to Rule 13.15(g)(14), by removing the conduct listed in subparagraph (g)(14)(B) and updating the format in which time is reflected. These nonsubstantive amendments are described in further detail herein this proposal below.

<sup>13</sup> The Exchange notes that Rule 13.15(a) authorizes the Exchange to impose a fine, not to exceed \$5,000, for minor rule violations in lieu of commencing a disciplinary proceeding. Additionally, any fine imposed pursuant to Rule 13.15 that (1) does not exceed \$2,500 and (2) is not contested, shall be reported by the Exchange to the Commission on a periodic, rather than a current, basis, except as may otherwise be required by Exchange Act Rule 19d-1 and by any other regulatory authority.

<sup>14</sup> See Rule 13.15(f).

<sup>8</sup> See Rule 6.1(b), which requires parties to a trade to immediately record on a card or ticket, or enter in an electronic data storage medium acceptable to the Exchange, (1) the assigned broker initial code and clearing firm (if a Market-Maker); (2) the symbol of the underlying security or index; (3) the type, expiration month, and exercise price of the option contract; (4) the transaction price; (5) the number of contract units comprising the transaction; (6) the time of the transaction obtained from a source designated by the Exchange; (7) the name of the contra Clearing Trading Permit Holder; and (8) the assigned broker initial code of the contra Trading Permit Holder.

<sup>9</sup> See Rule 8.14, which provides that no Trading Permit Holder, person associated with a Trading Permit Holder or applicant to be a Trading Permit Holder shall make any misrepresentation or omission in any application, report or other communication to the Exchange, or to the Clearing Corporation with respect to the reporting or clearance of any Exchange transaction, or adjust any position at the Clearing Corporation in any class of options traded on the Exchange except for the purpose of correcting a bona fide error in recording or of transferring the position to another account.

<sup>10</sup> See Rule 5.66(a), which provides that, except as provided in paragraph (b), Trading Permit Holders shall not effect Trade-Throughs. The Exchange notes that trade-through compliance for electronic executions are systematically enforced.

particular rules and treat such violations as a single offense.<sup>15</sup>

The Exchange believes it is appropriate to remove the range of fines imposed for first and subsequent offenses and, instead, apply a letter of caution for a first offense, a specified fine amount for a second and a third offense, and formal disciplinary proceedings for subsequent offenses. Particularly, the Exchange believes that applying a lesser penalty (Letter of Caution) for a first offense and then providing a higher, itemized fine per second and third offenses and, ultimately, formal disciplinary proceedings for any subsequent offenses during a rolling 24-month period, will allow the Exchange to levy progressively larger fines and greater penalties against repeat-offenders (as opposed to a fine range for any offenses that may come after a first offense). The Exchange believes this fine structure may serve to more effectively deter repeat-offenders while providing reasonable warning for a first offense during a rolling 24-month period. The Exchange notes that a lesser penalty in the form of a warning letter for a first offense paired with a greater penalty in the form of formal disciplinary proceedings after a finite number of following offenses is consistent with the minor rule violation fine schedules applicable to minor rule violations of substantially the same market maker quoting obligations on the Exchange's affiliated options exchanges, EDGX and BZX,<sup>16</sup> as well as substantially similar market maker quoting obligations on another options exchange.<sup>17</sup> The Exchange notes that the proposed change is intended to provide for consistency across the Exchange's MRVP and the MRVPs of its affiliated options exchanges. Additionally, EDGX and BZX also intend to file proposals to update their minor rule violation fines so that second, third, and subsequent offenses for violating market maker quoting obligations will receive the same sanctions,<sup>18</sup> as proposed herein.

The proposed rule change also makes nonsubstantive clarifying changes to certain provisions in Rule 13.15(g). The proposed rule change makes a clean-up revision by removing the conduct listed in subparagraph (g)(14)(B), "failure to meet the applicable quote width

requirements (Rule 5.52)," because, as of 2019, Market-Makers are no longer subject to a quote width requirement.<sup>19</sup> The proposed rule change amends the subsequent lettering in subparagraph (g)(14) as a result of this revision. The proposed rule change corrects a typo in the fine amounts that inadvertently contain an additional digit in subparagraph (g)(8). The proposed rule change also updates the time format in the example provided in subparagraph (g)(14)(D), which is currently reflected in Central Time, to instead reflect Eastern Time without time zone indication. This proposed change is consistent with Rule 1.6, which states that unless otherwise specified, all times in the Rules are Eastern Time, and conforms the time reflected in (g)(14)(D) to the time format reflected throughout the Rules. The proposed rule change corrects the cross-reference to Rule 5.24(e) in Rule 13.15(g)(19) to, instead, correctly reflect Rule 5.5(d). The Exchange previously restructured its Rulebook in connection with a 2019 technology migration and, prior to this restructuring, the provision in current Rule 13.15(g)(19) referred to what is now Rule 5.5(d) (former Rule 6.23A(f)),<sup>20</sup> instead of what is now Rule 5.24(e) (former Rule 6.18). Upon restructuring Chapter 13,<sup>21</sup> the Exchange inadvertently changed the cross-reference in Rule 13.15(g)(19) to reflect the incorrect rule and now proposes to update this cross-reference to reflect the correct and originally intended cross-reference to Rule 5.5(d). Likewise, the Exchange updates a cross-reference to prior Rule 5.25 to current Rule 5.5 in subparagraph (g)(19).

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>22</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>23</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>24</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change to remove certain rules listed as eligible for a minor rule fine disposition under its MRVP, which it no longer considers violations of which to be minor in nature, will assist the Exchange in preventing fraudulent and manipulative acts and practices and promoting just and equitable principles of trade, and will serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. Particularly, the Exchange believes that violations of each of the rules proposed to be removed from its MRVP may directly impact trading on the Exchange, maintenance of a fair and orderly market, and/or customer protection. As such, the Exchange does not believe violations of these rules to be minor in nature and, instead, should continue to be handled under its formal disciplinary rules, as the Exchange has chosen to handle the majority of all such violations in recent years, rather than imposing fines pursuant to its MRVP.

The Exchange also believes that the proposed rule change to remove the range of fines imposed for first and subsequent Market-Maker quoting offenses and, instead, apply a letter of caution for a first offense, a specified fine amount for a second and a third offense, and formal disciplinary proceedings for subsequent offenses will assist the Exchange in preventing fraudulent and manipulative acts and practices and promoting just and equitable principles of trade, and will serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. Particularly, the Exchange believes that applying a lesser penalty (Letter of Caution) for a first offense and then providing an itemized fine per second

<sup>15</sup> See Rule 13.15(a).

<sup>16</sup> See BZX Rule 25.3(d); and EDGX Rule 25.3(d).

<sup>17</sup> See e.g., MIAX Options Rule 1014(d)(7).

<sup>18</sup> The Exchange again notes that pursuant to the BZX and EDGX MRVPs, first offenses regarding market maker quoting obligations already receive a Letter of Caution and the highest/last range of offenses (currently 5 or more) are already subject to formal disciplinary action. See *supra* note 16.

<sup>19</sup> See Securities Exchange Act Release No. 87024 (September 19, 2019), 84 FR 50545 (September 25, 2019) (SR-CBOE-2019-059).

<sup>20</sup> See Securities Exchange Act Release No. 87320 (October 16, 2019), 84 FR 56501 (October 22, 2019) (SR-CBOE-2019-095).

<sup>21</sup> See Securities Exchange Act Release No. 87210 (October 3, 2019), 84 FR 54190 (October 9, 2019) (SR-CBOE-2019-068).

<sup>22</sup> 15 U.S.C. 78f(b).

<sup>23</sup> 15 U.S.C. 78f(b)(5).

<sup>24</sup> *Id.*

and third offenses and, ultimately, formal disciplinary proceedings for any subsequent offenses during a rolling 24-month period, will allow the Exchange to levy greater penalties (*i.e.*, formal disciplinary proceedings) against repeat-offenders (as opposed to a fine range for any offenses that may come after a first offense) which may serve to more effectively deter repeat-offenders while providing reasonable warning for a first offense during a rolling 24-month period. The Exchange believes that more effectively deterring repeat-offenders and making first instance offenders aware of their quoting obligation violations and the subsequent consequences for continued failure, will, in turn, further motivate Market-Makers to continue to uphold their quoting obligations, providing liquid markets to the benefit of all investors. The Exchange again notes that a lesser penalty in the form of a warning letter for a first offense paired with greater penalties in the form of eventual formal disciplinary proceedings following a finite number of offenses is consistent with the minor rule violation fine schedules applicable to minor rule violations of substantially the same market maker quoting obligations on the Exchange's affiliated options exchanges, EDGX and BZX.<sup>25</sup> As such, the proposed rule change is also designed to benefit investors by providing from consistent penalties across the MRVPs of the Exchange and its affiliated options exchanges. As described above, EDGX and BZX intend to file proposals to update their minor rule violation fines so that second, third, and subsequent offenses for violating market maker quoting obligations will receive the same sanctions,<sup>26</sup> as proposed herein.

Additionally, the proposed clarifications and corrections, as applicable, in connection with footnote 1 of Rule 13.15, Interpretation and Policy .03 to Rule 13.15, and Rules 13.15(g)(8), (14) and (19) will benefit investors by adding clarity to the Rules.

The Exchange further believes that the proposed rule changes to Rule 13.15(g) are consistent with Section 6(b)(6) of the Act,<sup>27</sup> which provides that members and persons associated with members shall be appropriately disciplined for violation of the provisions of the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other

fitting sanction. As noted, the proposed rule change removes certain Rules listed as eligible for a minor rule fine disposition under the Exchange's MRVP that the Exchange no longer believes violations of which are minor in nature and are more appropriately disciplined through the Exchange's formal disciplinary procedures, and amends the fine schedule applicable to Market-Maker failures to meet their quoting obligations in a manner that appropriately sanctions such failures.

The Exchange also believes that the proposed change is designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.<sup>28</sup> Rule 13.15, currently and as amended, does not preclude a TPH or person associated with or employed by a TPH from contesting an alleged violation and receiving a hearing on the matter with the same procedural rights through a litigated disciplinary proceeding.

#### *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 rule change is not intended to address competitive issues but rather is concerned solely with amending its MRVP in connection with rules eligible for a minor rule fine disposition and with the fine schedule for Market-Maker failures to meet quoting obligations. The Exchange believes the proposed rule changes, overall, will strengthen the Exchange's ability to carry out its oversight and enforcement functions and deter potential violative conduct.

#### *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. 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2021-045 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-2021-045. 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-2021-045 and should be submitted on or before September 14, 2021.

### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>29</sup> In particular, the

<sup>25</sup> See *supra* note 16.

<sup>26</sup> See *supra* note 18.

<sup>27</sup> 15 U.S.C. 78f(b)(6).

<sup>28</sup> 15 U.S.C. 78f(b)(7) and 78f(d).

<sup>29</sup> In approving this proposed rule change, the Commission has considered the proposed rule's

Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>30</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act<sup>31</sup> which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,<sup>32</sup> which governs minor rule violation plans.

As stated above, the Exchange proposes to amend Rule 13.15(g) by: (1) Eliminating certain rule violations that the Exchange no longer believes to be minor in nature; (2) updating the fine schedule applicable to minor rule violations related to a Market-Maker's failure to meet Exchange quoting obligations; and (3) making other non-substantive changes.

The Commission believes that Rule 13.15 is an effective way to discipline a member for a minor violation of a rule. The Commission finds that the Exchange's proposal to eliminate rules that the Exchange no longer believes to be minor in nature from the MRVP and amending the fee schedule related to a Market-Maker's failure to meet the Exchange's quoting obligations is consistent with the Act because it may help the Exchange's ability to better carry out its oversight and enforcement responsibilities. Lastly, the Commission also believes that the Exchange's proposal to make non-substantive changes are consistent with the Act because they add clarity to the Exchange's rules.

In approving the propose rule change, the Commission in no way minimizes the importance of compliance with the Exchange's rules and all other rules subject to fines under Rule 13.15. The Commission believes that a violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, Rule 13.15 provides a reasonable means of addressing rule

violations that may not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that the Exchange will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under Rule 13.15 or whether a violation requires formal disciplinary action.

For the same reasons discussed above, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>33</sup> for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The proposal will assist the Exchange in preventing fraudulent and manipulative practices by allowing the Exchange to adequately enforce compliance with, and provide appropriate discipline for, violations of Exchange rules. Accordingly, the Commission believes that a full notice-and-comment period is not necessary before approving the proposal.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>34</sup> and Rule 19d-1(c)(2) thereunder,<sup>35</sup> that the proposed rule change (SR-CBOE-2021-045) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>36</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-18123 Filed 8-23-21; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92696; File No. SR-NYSEArca-2021-47]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change for New Rules 6.1P-O, 6.37AP-O, 6.40P-O, 6.41P-O, 6.62P-O, 6.64P-O, 6.76P-O, and 6.76AP-O and Amendments to Rules 1.1, 6.1-O, 6.1A-O, 6.37-O, 6.65A-O and 6.96-O

August 18, 2021.

On June 21, 2021, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") 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 for new NYSE Arca Rules 6.1P-O, 6.37AP-O, 6.40P-O, 6.41P-O, 6.62P-O, 6.64P-O, 6.76P-O, and 6.76AP-O and amendments to NYSE Arca Rules 1.1, 6.1-O, 6.1A-O, 6.37-O, 6.65A-O and 6.96-O. The proposed rule change was published for comment in the **Federal Register** on July 9, 2021.<sup>3</sup> The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is August 23, 2021. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates October 7, 2021 as the date by which the Commission shall either approve or disapprove, or institute

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

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

<sup>3</sup> See Securities Exchange Act Release No. 92304 (June 30, 2021), 86 FR 36440 (July 9, 2021).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> *Id.*

impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>30</sup> 15 U.S.C. 78f(b)(5).

<sup>31</sup> 15 U.S.C. 78f(b)(1) and 78f(b)(6).

<sup>32</sup> 17 CFR 240.19d-1(c)(2).

<sup>33</sup> 15 U.S.C. 78s(b)(2).

<sup>34</sup> 15 U.S.C. 78s(b)(2).

<sup>35</sup> 17 CFR 240.19d-1(c)(2).

<sup>36</sup> 17 CFR 200.30-3(a)(12).