

the Exchange cannot effectively review for such conduct without looking at and evaluating activity regardless of where it transpires. In addition to its own surveillance programs, the Exchange also works with other SROs and exchanges on intermarket surveillance related issues. Through its participation in the Intermarket Surveillance Group (“ISG”)<sup>17</sup> the Exchange shares information and coordinates inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. Accordingly, there is a strong nexus between the ORF and the Exchange’s regulatory activities with respect to customer trading activity of its Members.

#### *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 not necessary or appropriate in furtherance of the purposes of the Act. This proposal does not create an unnecessary or inappropriate intra-market burden on competition because the ORF applies to all customer activity, thereby raising regulatory revenue to offset regulatory expenses. It also supplements the regulatory revenue derived from non-customer activity. The Exchange notes, however, the proposed change is not designed to address any competitive issues. Indeed, this proposal does not create an unnecessary or inappropriate inter-market burden on competition because it is a regulatory fee that supports regulation in furtherance of the purposes of the Act. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs.

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

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section

<sup>17</sup> ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by cooperatively sharing regulatory information pursuant to a written agreement between the parties. The goal of the ISG’s information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

19(b)(3)(A)(ii) of the Act,<sup>18</sup> and Rule 19b-4(f)(2)<sup>19</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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](mailto:rule-comments@sec.gov). Please include File No. SR-MIAX-2021-38 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 No. SR-MIAX-2021-38. 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

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>19</sup> 17 CFR 240.19b-4(f)(2).

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 No. SR-MIAX-2021-38, and should be submitted on or before September 17, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-92729; File No. SR-CBOE-2021-047]

### **Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Rule 5.33**

August 23, 2021.

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> notice is hereby given that on August 10, 2021, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend Rule 5.33. The text of the proposed rule change is provided in Exhibit 5.

<sup>20</sup> 17 CFR 200.30-3(a)(12).

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

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

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

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

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

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

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

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

#### 1. Purpose

The Exchange proposes to amend Rule 5.33 regarding complex orders. Specifically, the proposed rule change makes certain clarifying changes to add detail to the Rule and nonsubstantive changes, including to make certain provisions plain English and to conform certain language in the rule to that in corresponding rules of its affiliated options exchanges, Cboe EDGX Exchange, Inc. ("EDGX") Rule 21.20 and Cboe C2 Exchange, Inc. ("C2") Rule 5.33.

First, the Exchange proposes to make the following clarifying or codifying changes:

- The definition of "complex strategy" in Rule 5.33(a) currently provides that the Exchange may limit the number of new complex strategies that may be in the System at a particular time. The proposed rule change codifies that the Exchange may also limit the number of new complex strategies that may be entered for any EFID (which EFID limit would be the same for all users) at a particular time. This proposed change is identical to the definition of "complex strategy" in C2 Rule 5.33(a).<sup>5</sup> Similar to the authority for the Exchange to limit the number of

new complex strategies that may be in the System, the proposed rule change codifies another manner in which the Exchange may limit complex strategies in the System at a particular time. The Exchange believes limiting complex strategies per EFID will allow the Exchange to manage System capacity in a fair and reasonable manner by limiting each EFID to the same number of complex strategies they may have in the System at one time.

- The proposed rule change specifies in the definition of each of "synthetic best bid or offer" ("SBBO") and "synthetic national best bid or offer" ("SNBBO") that each is comprised of the best "net" bid and "net" offer (on the Exchange or nationally, respectively). The SBBO and SNBBO each use the BBO or NBBO, respectively, of each component to determine the best synthetic bid or offer, which is done by calculating the best net bid or offer. The proposed rule change merely clarifies that "netting" the BBOs or NBBOs, as applicable, is how the SBBO or SNBBO, respectively, is calculated. This proposed change is identical to the definition of "SNBBO" in C2 Rule 5.33(a).<sup>6</sup>

- In Rule 5.33(b)(2), the proposed rule change deletes the parenthetical after the term "Capacities," which parenthetical states that Capacities means, in other words, non-broker-dealer customers, broker-dealers that are not maker-makers on an options exchange, or market-makers on an options exchange. The Rule does permit the Exchange to determine which Capacities are eligible for the complex order auction ("COA") or for entry into the COB, but this parenthetical is not consistent with the definition of Capacities. Rule 1.1 defines "Capacity" as the capacity in which a user submits an order, which the user specifies by applying the corresponding code to the order. The Capacity codes available are: B (for the account of a broker or dealer), C (for the account of a public customer), F (for an OCC clearing member firm proprietary account), J (for a joint back office account), L (for the account of a non-Trading Permit Holder ("TPH") affiliate), M (for the account of a Market-Maker), N (for the account of a market-maker on another options exchange), and U (for the account of a professional). However, there is no Capacity code for the three categories listed in the parenthetical in Rule 5.33(b)(2), so the proposed rule change

deletes the inaccurate parenthetical to maintain consistency throughout the Rules. As noted above, the Exchange does determine which Capacities are eligible for COA or entry into the COB (which the Exchange previously announced to TPHs in accordance with Rule 1.5<sup>7</sup>), so the proposed rule change has no impact on trading.

- The proposed rule change changes the term "Queuing Period" to "order entry period" in Rule 5.33(c)(1). "Queuing Period" is a defined term used for the Opening Process for simple orders set forth in Rule 5.31. The Queuing Period, as defined, is the time period prior to the initiation of an opening rotation during which the System accepts simple orders and quotes in the book for participation in the opening rotation for the applicable trading session—in other words, the order entry period. However, the COB Opening Process described in Rule 5.33(c) differs from the Opening Process for simple orders described in Rule 5.31—for example, there is no rotation (*i.e.*, auction)—and does not use the same terminology. The proposed rule change merely updates Rule 5.33(c)(1) to use the appropriate terminology (as used in the heading for that subparagraph) for the COB Opening Process.

- The proposed rule change amends Rule 5.33(d)(3)(B) and (C) (which describe certain circumstances that will cause the Response Time Interval of a COA to terminate early) to clarify that subparagraph (B) applies to the receipt of a non-Priority Customer Order in a leg of the complex order that would improve the SBBO on the same side as the COA-eligible order that initiated the COA. Subparagraph (C) explicitly applies to the receipt of a Priority Customer Order that would improve (or join) the SBBO on the same side as the COA-eligible order that initiated the COA. Currently, subparagraph (B) only references receipt of an order, but receipt of a Priority Customer Order is covered by subparagraph (C) and thus the intent of subparagraph (B) was to apply only to non-Priority Customer Orders. Additionally, because a COA will terminate early when the System receives a non-Priority Customer Order in a leg that would improve the SBBO on the same side as the COA-eligible order that initiated the COA, it would only do so if the price was better than

<sup>5</sup> See C2 Rule 5.33(a) (definition of complex strategy, which permits the Exchange to limit the number of new complex strategies that may be in the System or entered for any EFID (which EFID limit would be the same for all Users) at a particular time).

<sup>6</sup> See C2 Rule 5.33(a) (definition of SNBBO, which states that the NBBO for each component of a complex strategy establishes the best net bid and offer for a complex strategy).

<sup>7</sup> Rule 1.5 states the Exchange announces to TPHs all determinations it makes pursuant to the Rules 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 manners of announcement.

the COA price, not equal to or better than the COA price, so the proposed rule change deletes “equal to or” prior to better in subparagraph (B). This is consistent with the definition of “COA-eligible” order in Rule 5.33(b)(5), which provides that a COA-eligible order may initiate a COA if it has a price equal to or better than the SBBO. In other words, a COA-eligible order may execute at a price equal to the SBBO (as long as there is no Priority Customer Order on a leg of the SBBO) and thus a COA should not terminate if non-Priority Customer Order is received at a price equal to the COA-eligible order. However, if an order is received during a COA that is better than the COA price, it is appropriate to terminate the COA because that COA would not have been able to begin at the COA price had that new order been on the book at the time the COA-eligible order was received by the System. This is consistent with how the System functions today and merely adds clarity to the Rules. The proposed rule change also adds to subparagraph (d)(3)(C) that it applies when the System receives a Priority Customer Order “in a leg of the complex order,” which is consistent with the language in subparagraph (B) and implied by the fact it would join or improve the SBBO (and thus it must relate to a simple order in the book, as simple orders in the book in the legs of the complex order are used to calculate the SBBO). The proposed rule change also changes the phrase “COA in progress” to “COA-eligible order that initiated the COA” to conform to the language in subparagraph (B).

- The proposed rule change adds “during the Response Time Interval” to the end of the penultimate sentence of the introductory paragraph of Rule 5.33(d)(4). This is consistent with the definition of Response Time Interval, which Rule 5.33(d)(3) defines as the period of time during which users may submit COA responses. This change merely adds detail to the rule that is consistent with the current rule and conforms the language to corresponding provisions in the C2 and EDGX Rules.<sup>8</sup>

- The proposed rule change clarifies in Rule 5.33(d)(4)(B) that COA Responses may be larger than the COA-eligible order. This is identical to C2 Rule 5.33(d)(4)(B) and is implied by the current provision, which states that the System caps the size of aggregated COA Responses at the EFID-level (which cap would apply if an EFID submitted a single COA Response larger than the COA-eligible order). This merely codifies current functionality in the

Rules, which functionality is consistent with the remainder of the rule provision. Current Rule 5.33(d)(5)(B) states that the System routes to PAR for manual handling any COA-eligible order (or unexecuted portion) that does not execute at the end of the COA if not eligible for entry in the COB or in accordance with the User’s instructions. The proposed rule change amends this provision to provide that the System (i) routes to PAR for manual handling or (ii) cancels or rejects any COA-eligible order (or unexecuted portion) that does not execute at the end of the COA if not eligible for entry into the COB, subject to the user’s instructions. Similarly, current Rule 5.33(e) states that the System routes to PAR for manual handling any complex order (or unexecuted portion) that does not execute upon entry and is not eligible for entry into the COB, subject to the User’s instructions. The proposed rule change amends this provision to provide that the System (i) routes to PAR for manual handling or (ii) cancels or rejects any complex order (or unexecuted portion) that does not execute upon entry and is not eligible for entry into the COB, subject to the user’s instructions. The addition of the language to each of these provisions that the System may cancel or reject such COA-eligible order or do-not-COA order, respectively (or unexecuted portion), is consistent with the end of each provision that states how the System handles an order is subject to a user’s instructions and the definitions of such instructions. While orders on the Exchange are primarily “Default” orders, which are orders designated for electronic processing and are routed to PAR for manual handling if not eligible for electronic processing, users may also designate orders as “Electronic Only,” which are orders designated for electronic processing but do not route to PAR for manual handling if not eligible for electronic processing (and thus would be cancelled if not executed electronically).<sup>9</sup> Therefore, if a COA-eligible or do-not-COA order, as applicable, was designated as Electronic Only, the System would cancel that order (or unexecuted portion) if it did not execute at the end of the COA or upon entry, respectively, and was not eligible for COB entry, as instructed by the user. The proposed rule change merely adds this clarifying detail to the Rule, which is consistent with the Rules and current System functionality.

- The proposed rule change clarifies in Rule 5.33(f)(2)(A)(v) that the System does not execute a complex order at a

net price that would cause any component of the complex strategy to be executed at a price ahead of a priority customer order resting in the Simple Book without improving the BBO of at least one component of the complex strategy “by at least one minimum increment.” This is merely a clarification, as trades may only occur in the permissible minimum increment, so improvement of one component of the complex strategy would have to be by at least one minimum increment. This is consistent with language in C2 Rule 5.33(f)(2)(A)(v).<sup>10</sup>

- The proposed rule change clarifies in Rule 5.33(i) that the System evaluates incoming complex orders upon receipt “after the open of trading” to determine whether it is a COA-eligible order or a do-not-COA order (and thus how to process it). This is merely a clarification and consistent with the System, as prior to the opening, there is no need to conduct such evaluation since orders entered during the complex order entry period prior to the open rest in the COB until the COB opening process, during which all complex orders received during the order entry period are eligible to be matched.<sup>11</sup> This is merely clarifying language that is consistent with current System functionality and C2 Rule 5.33(i).

- The proposed rule change amends Rule 5.33(k)(1) to clarify that when trading in a complex strategy is suspended, the System queues a user’s complex orders “during a halt for participation in the COB Opening process” as set forth in Rule 5.33(k)(3).<sup>12</sup> This language is consistent with the language in Rule 5.33(k)(3) and identical to C2 Rule 5.33(k)(1). The proposed rule change also clarifies in subparagraph (k)(1) that the COB remains available for users to enter and manage complex orders “that are not cancelled,” which is consistent with the prior sentence, pursuant to which users may cancel complex orders upon a trading halt. This language is also identical to C2 Rule 5.33(k)(1). These proposed rule changes are not substantive but rather make clarifications to subparagraph (k)(1) that are consistent with current

<sup>10</sup> C2 Rule 5.33(f)(2)(A)(v) provides that improvement of one component must be by at least \$0.01, which is the minimum increment for all complex orders on C2. The proposed rule change uses the term “minimum increment” as Rule 5.4(b) permits the Exchange to designate the minimum increment for complex orders by class, and thus the minimum increment may not be \$0.01 on the Exchange.

<sup>11</sup> See Rule 5.33(c).

<sup>12</sup> The proposed rule change also adds a period after “suspended” to prevent the amended sentence from being too long.

<sup>8</sup> See C2 Rule 5.34(d)(4) and EDGX Rule 21.20(d)(4).

<sup>9</sup> See Rule 5.6(c).

System functionality and the remainder of paragraph (k).

Second, the Exchange proposes to make the following other nonsubstantive changes:

- Currently, Rule 5.33(a) states the term “complex order” has the meaning set forth in Rule 1.1. The proposed rule change amends this definition to state that the term “complex order” is defined in Rule 1.1 to make the provision plain English and to conform the language to that in other definitions in the Exchange’s rulebook.
- Currently, Rule 5.33(a) defines the complex order book (“COB”) as the Exchange’s electronic book of complex orders maintained by the System, which single book is used during both the Regular Trading Hours (“RTH”) and Global Trading Hours (“GTH”) trading sessions. The proposed rule change defines COB as the Exchange’s electronic book of complex orders used for all trading sessions. The Exchange believes this proposed change streamlines the definition and eliminates unnecessary terminology.<sup>13</sup>
- The proposed rule change amends the definitions of “All Sessions,” “MTP Modifiers,” and “RTH Only” in Rule 5.33(b)(5) and applicable provisions in Rule 5.33(d)(2)(A), (3), (3)(B), and (3)(C), (5), (5)(A)(i) and (ii), and (5)(B), (e), (e)(1) and (2), (f)(2)(A)(v) and (2)(B), (g), (i) and (i)(3)(C), (j)(3), and (k)(2) to state that orders “rest in” or are otherwise “in” the simple book or COB rather than “on” the simple book or COB. The majority of the provisions in Rule 5.33 state that orders are “in” the book or COB, so the Exchange proposes to amend these provisions to maintain consistency throughout Rule 5.33.
- The proposed rule change amends the definitions of “Book Only” and “Post Only” in Rule 5.33(b)(5) to state that the order is “subject to a user’s instructions” rather than “in accordance with the user’s instructions.” The phrases mean the same thing in the context of these rule provisions, but the majority of Rule 5.33 uses the phrase “subject to a user’s instructions,” so the Exchange proposes to amend these provisions to maintain consistency throughout Rule 5.33.
- The proposed rule change proposes to delete the term “complex order” prior to “Capacities” in the definition of

“Complex Only” in Rule 5.33(a). Rule 5.33 relates solely to the trading of complex orders and generally does not specify that certain terms relate to complex orders (for example, just prior to Capacities, the term “Times-in-Force” is not qualified to be complex order “Times-in-Force”). Therefore, the proposed rule change deletes “complex order” prior to “Capacities,” as it is redundant and unnecessary.

- The proposed rule change amends Rule 5.33(d)(2)(A) to use the term “subparagraph” rather than “paragraph” for the cross-reference to subparagraph (d)(3) in that provision. This merely conforms to terminology used throughout the Rules.

- The proposed rule change amends Rule 5.33(d)(3)(A) through (C) and (j)(3) to replace “posts” with “enters” when describing an order entering into the COB or the Book. This merely changes the term used to describe an order entering a book to conform to the terminology used elsewhere in the Rules.

- The proposed rule change deletes an inadvertent grammatically incorrect comma after “EFID” in Rule 5.33(d)(4)(B), after “class in Rule 5.33(d)(5)(A)(ii), after the second parenthetical in Rule 5.33(d)(5)(B), and after the second parenthetical in the last paragraph of Rule 5.33(e).

- The proposed rule change deletes inadvertent extra spaces prior to the hyphen in the term “contra-side” in Rule 5.33(d)(5)(A) and (e).

- The proposed rule change replaces “pursuant to” with “which the System allocates in accordance with” in Rule 5.33(d)(5)(A)(ii) and (e)(2). The provision has the same meaning, but the new language is consistent with language used in the remainder of Rule 5.33. The proposed rule change also adds “as” prior to “determined” at the end of Rule 5.33(d)(A)(ii) to similarly be consistent with language used in the remainder of Rule 5.33.

- The proposed rule change replaces “if eligible to rest” with “if eligible for entry” in Rule 5.33(d)(5)(B), the last paragraph of Rule 5.33(e), and (k)(1) and (2). This is consistent with the language in Rule 5.33(b)(2) regarding the Exchange’s authority to determine which Capacities are eligible for entry into the Book.

- The proposed rule change amends the heading of Rule 5.33(g) to be “Legging” rather than “Legging Restrictions,” as the Exchange believes it to be more appropriate given that paragraph (g) describes how a complex order may leg into the simple book, in addition to certain restrictions that apply to legging.

- The proposed rule change adds subheading names to subparagraphs (h)(1) through (3) to be consistent with the remainder of Rule 5.33, as subparagraphs in the rule generally have subheadings. The proposed rule change also moves current subparagraph (2) to proposed subparagraph (3)<sup>14</sup> and renumbers current subparagraph (3) as subparagraph (2).

- The proposed rule change amends the last to sentences of Rule 5.33(k)(1) to eliminate the passive voice in each sentence, thus making each sentence more plain English.

The proposed rule change adds a heading to Interpretation and Policy .03 to be consistent with the other Interpretations and Policies in Rule 5.33.

## 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>15</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>16</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>17</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will protect investors and the public interest by adding clarifications and detail to the Rules, as well as conforming and simplifying certain rule provisions. The proposed clarifying and nonsubstantive rule changes will have no impact on trading, as they codify or are otherwise consistent with current functionality

<sup>13</sup> The phrase “all trading sessions” would incorporate both RTH and GTH—currently the only two trading sessions on the Exchange—so it is unnecessary to list both of those in the definition. See Rule 1.1 (definition of “trading session”). Additionally, the definition implies that the COB is maintained by the Exchange’s trading system and is a single book because it is an “electronic book,” making the language proposed to be deleted unnecessary.

<sup>14</sup> The proposed rule change makes a nonsubstantive change to proposed subparagraph (3) (current subparagraph (2)) to move the word “resting” after the term “complex order” rather than before.

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

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> *Id.*

and rules. The Exchange also believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, as several proposed changes are based on corresponding complex order rules of Cboe Options' affiliated exchanges, C2 and EDGX (as described above). The Exchange believes greater harmonization of Rules of affiliated exchanges that describe the same functionality will simplify the rulebook for users of the Exchange that are also participants on Cboe affiliated exchanges, thus benefiting investors.

#### *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 will not burden intramarket competition because it will apply in the same manner to all TPHs that submit complex orders to the Exchange. The proposed rule change will not burden intermarket competition because it is not intended to be a competitive filing but is rather intended to add clarity and detail to the Rules, as well as harmonize the Exchange's rules regarding complex orders with those of its affiliated exchanges, C2 and EDGX. The proposed rule changes, as described above, are consistent with current rules and functionality and will have no impact on trading on the 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**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>18</sup> and Rule 19b-4(f)(6) thereunder.<sup>19</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the

proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>20</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>21</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>22</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>23</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. As discussed above, Cboe states that the proposal makes non-substantive changes that clarifying Cboe's rules or harmonize Cboe's rules with those of its affiliated exchanges. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed changes do not raise novel issues and are designed to clarify the Exchange's rules and enhance their internal consistency, correct inaccurate terminology, and conform the Exchange's rules to the rules of its affiliated exchanges. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>24</sup>

At any time within 60 days of the filing of this 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,

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>20</sup> 17 CFR 240.19b-4(f)(6).

<sup>21</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>22</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2021-047 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-2021-047. 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-2021-047, and should be submitted on or before September 17, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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<sup>25</sup> 17 CFR 200.30-3(a)(12).

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>19</sup> 17 CFR 240.19b-4(f)(6).