the event of a material adverse change.[63] As noted above, under Rule 17Ad–22(a)(14), committed arrangements, such as repurchase agreements, are only qualifying liquid resources where such agreements do not include material adverse change provisions.[64] Moreover, the non-banks are voluntarily participating in the facility. These liquidity providers may consider the benefits and costs of participation, including the adverse change provision, before determining that their participation in the facility would be preferable to alternative investments and would benefit their shareholders and beneficiaries.

Commenters also raised concerns regarding the speed with which a counterparty would be required to provide funding.[65] As discussed above, a fundamental attribute of liquidity resources is that OCC can quickly access liquidity in the event of a Clearing Member default or market disruption. By necessity, funds must be made available to OCC within 60 minutes of OCC's delivering Eligible Securities, and the institutional investor is not permitted to rehypothecate purchased securities. Any requirement to allow liquidity providers to deny or delay funding would potentially delay OCC's access to liquidity resources, which could negatively affect the safety and soundness of the U.S. markets.

Accordingly, the Commission believes that the changes proposed in the Advance Notice are consistent with Rule 17Ad–22(e)(7) under the Exchange Act.[66]

IV. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission does not object to Advance Notice (SR–OCC–2022–803) and that OCC is authorized to implement the proposed change as of the date of this notice.

[63] Comments on the Advance Notice are available at *https://www.sec.gov/comments/sr-occ-2022-803/srocc2022803.htm.*

[64] 17 CFR 240.17Ad–22(a)(14)(ii)(A).

[65] Comments on the Advance Notice are available at *https://www.sec.gov/comments/sr-occ-2022-803/srocc2022803.htm.*

[66] 17 CFR 240.17Ad–22(e)(7).

By the Commission.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–19417 Filed 9–7–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95657; File No. SR–CBOE–2022–038]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Approving a Proposed Rule Change To Amend CBOE Rule 5.32 With Respect to the Handling of Cancel/Replace Messages

September 1, 2022.

I. Introduction

On July 7, 2022, Cboe Exchange, Inc. (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish that a cancel/replace message received for an order already resting on the Exchange's order book will cause such resting order to lose its original priority position, subject to certain exceptions. The proposed rule change was published for comment in the **Federal Register** on July 26, 2022.[3] The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change.

II. Summary of the Proposal

The Exchange proposes to amend CBOE Rule 5.32(e) to describe the impact on priority of a ''no-change'' order[4] (*i.e.,* an order submitted to cancel or replace a resting order that does not change any terms of an order) and of a cancel/replace message that does not change the price or size of a resting order but changes another term of an order. CBOE Rule 5.32(e) describes whether a resting order's priority position may change if it is modified with a cancel/replace message. Specifically, current CBOE Rule 5.32(e) states if the price of an order is changed, the order loses position and is placed in a priority position as if the Exchange's system (''System'') received the order at the time the order was changed. If the quantity of an order is decreased, it retains its priority position. If the quantity of an order is increased, it loses its priority position and is placed in a priority position as if the System received the order at the time the quantity of the order is increased.

The Exchange explains, however, that CBOE Rule 5.32(e) is currently silent regarding how the System handles a cancel/replace message comprised of a no-change order or an order that changes terms other than price and size.[5] The Exchange further represents that it recently determined that the System does not handle all no-change orders and messages uniformly with respect to how they affect resting orders. Specifically, the Exchange explains that currently, when the System receives a no-change order, the resting order would lose its priority position; however, if the System receives a no-change bid or offer in a bulk message, the resting bid or offer would not lose its priority position.[6]

The Exchange proposes to amend CBOE Rule 5.32(e) so that it states as follows: if a User submits a cancel/replace message for a resting order, regardless of whether the cancel/replace message modifies any terms of the resting order, the order loses its priority position and is placed in a priority position based on the time the System receives the cancel/replace message, unless the User only (1) decreases the quantity of an order (as is currently set forth in the Rules), (2) modifies the Max Floor (if a Reserve Order), or (3) modifies the stop price (if a Stop or Stop-Limit order), in which case the order retains its priority position.

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

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 95328 (July 20, 2022), 87 FR 44438 (''Notice'').

[4] In this context, the term ''order'' includes bids and offers submitted in bulk messages. A bulk message means a single electronic message a user submits with an M (Market-Maker) capacity to the Exchange in which the User may enter, modify, or cancel up to an Exchange-specified number of bids and offers. *See* CBOE Rule 1.1 (definition of bulk message, which provides that the System handles a bulk message bid or offer in the same manner as it handles an order or quote, unless the Rules specify otherwise).

[5] *See* Notice, *supra* note 3, at 44439.

[6] *See id.*

The Exchange states that this change will harmonize the handling of all no-change orders and quotes so that any no-change order or bulk message bid or offer will lose priority.[7] Further, the Exchange states that this proposal will also codify current System functionality that causes a resting order to lose its priority position if any cancel/replace message is submitted if any term other than the Max Floor (if a Reserve Order)[8] or the stop price (if a Stop or Stop-Limit order[9]) is modified.[10]

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5)[12] and 6(b)(8)[13] of the Exchange Act. Section 6(b)(5) of the Exchange Act requires that the rules of a national securities exchange be designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 6(b)(8) of the Exchange Act requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The Commission believes that requiring the System to handle all cancel/replace orders in a uniform manner with respect to priority of affected resting orders is consistent with the Exchange Act in that such requirement is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system. Furthermore, the Commission believes that narrowly restricting when a resting order retains its priority after the System receives a subsequent cancel/replace message (*e.g.,* its only modifies the Max Floor of the resting order) is designed, to, among other things, promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest without imposing any unreasonable burdens on competition.

Accordingly, the Commission finds that the proposed rule change is consistent with the Exchange Act.

IV. Conclusion

It is therefore ordered that, pursuant to Section 19(b)(2) of the Exchange Act,[14] the proposed rule change (SR–CBOE–2022–038) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–19350 Filed 9–7–22; 8:45 am]

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[7] *See id.*

[8] A ''Reserve Order'' is a limit order with both a portion of the quantity displayed and a reserve portion of the quantity not displayed. *See* CBOE Rule 5.6.

[9] A ''Stop (Stop-Loss)'' order is an order to buy (sell) that becomes a market order when the consolidated last sale price (excluding prices from complex order trades if outside of the NBBO) or NBB (NBO) for a particular option contract is equal to or above (below) the stop price specified by the User. A ''Stop-Limit'' order is an order to buy (sell) that becomes a limit order when the consolidated last sale price (excluding prices from complex order trades if outside the NBBO) or NBB (NBO) for a particular option contract is equal to or above (below) the stop price specified by the User. *See* CBOE Rule 5.6.

[10] *See* Notice, *supra* note 3, at 44439.

[11] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78f(b)(8).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95650; File No. SR–NSCC–2022–009]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Adopt Intraday Volatility Charge and Eliminate Intraday Backtesting Charge

September 1, 2022.

On July 7, 2022, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2022–009 (the ''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on July 20, 2022,[3] and the Commission has received comments regarding the changes proposed in the Proposed Rule Change.[4]

Section 19(b)(2) of the Act[5] 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 the Proposed Rule Change is September 3, 2022.

The Commission is extending the 45-day period for Commission action on the Proposed Rule Change. The Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change so that it has sufficient time to consider and take action on the Proposed Rule Change.

Accordingly, pursuant to Section 19(b)(2) of the Act[6] and for the reasons stated above, the Commission designates October 18, 2022, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove proposed rule change SR–NSCC–2022–009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–19347 Filed 9–7–22; 8:45 am]

BILLING CODE 8011–01–P

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 95286 (July 7, 2022), 87 FR 43355 (July 20, 2022) (File No. SR–NSCC–2022–009) (''Notice of Filing'').

[4] Comments are available at *https://www.sec.gov/comments/sr-nscc-2022-009/srnscc2022009.htm.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).