

(j) The relevant security-based swap is an “OTC derivative” or “OTC derivative contract,” as defined in EMIR article 2(7), that has not been cleared by a central counterparty and otherwise is subject to the provisions of EMIR article 11, EMIR RTS articles 11–15, and EMIR Margin RTS article 2; or

(ii) The relevant security-based swap has been cleared by a central counterparty that is authorized or recognized to clear derivatives contracts by a relevant authority in the EU.

It is hereby further determined and ordered pursuant to rule 3a71–6 under the Exchange Act, that the paragraph (f)(1)(i)(M)(2) of the French Substituted Compliance Order is amended and replaced with the following:

(2) With respect to the portion of Exchange Act rule 18a–5(a)(17) and (b)(13) that relates to one or more provisions of Exchange Act rule 15Fh–3 for which substituted compliance is available under this Order, the Covered Entity applies substituted compliance for such business conduct standard(s) of Exchange Act rule 15Fh–3 pursuant to this Order, as applicable, with respect to the relevant security-based swap or activity; and

It is hereby further determined and ordered pursuant to rule 3a71–6 under the Exchange Act, that the paragraph (f)(2)(i)(K)(2) of the French Substituted Compliance Order is amended and replaced with the following:

(2) With respect to the portion of Exchange Act rule 18a–6(b)(1)(xii) or (b)(2)(vii) that relates to one or more provisions of Exchange Act rule 15Fh–3 for which substituted compliance is available under this Order, the Covered Entity applies substituted compliance for such business conduct standard(s) of Exchange Act rule 15Fh–3 pursuant to this Order, as applicable, with respect to the relevant security-based swap or activity; and

It is hereby further determined and ordered pursuant to rule 3a71–6 under the Exchange Act, that the paragraph (a)(13) of the UK Substituted Compliance Order is amended and replaced with the following:

(13) Covered Entity’s counterparties as UK EMIR “counterparties.” For each condition in paragraphs (b) through (f) of this Order that requires the application of, and the Covered Entity’s compliance with, provisions of UK EMIR, UK EMIR RTS, UK EMIR Margin RTS, and/or other UK requirements adopted pursuant to those provisions, if the relevant provision applies only to the Covered Entity’s activities with specified types of counterparties, and if the counterparty to the Covered Entity is not any of the specified types of

counterparty, the Covered Entity complies with the applicable condition of this Order:

(i) As if the counterparty were the specified type of counterparty; in this regard, if the Covered Entity reasonably determines that the counterparty would be a financial counterparty if it were established in the UK and authorized by an appropriate UK authority, it must treat the counterparty as if the counterparty were a financial counterparty;

(ii) Without regard to the application of UK EMIR article 13; and

(iii) Only to the extent that an Exchange Act section or rule cited in paragraphs (b) through (f) of this Order applies to the security-based swap activities with that counterparty.

It is hereby further determined and ordered pursuant to rule 3a71–6 under the Exchange Act, that a security-based swap dealer applying substituted compliance with respect to the capital requirements of Exchange Act section 15F(e) and Exchange Act rules 18a–1, and 18a–1a through d has until January 1, 2022 to meet (as applicable):

a. The additional capital condition in paragraph (c)(1)(iii) of the *Amended and Restated Order Granting Conditional Substituted Compliance in Connection with Certain Requirements Applicable to Non-U.S. Security-Based Swap Dealers and Major Security-Based Swap Participants Subject to Regulation in the Federal Republic of Germany* (Exchange Act Release No. 35–93411) (“German Amended Order”);

b. The additional capital condition in paragraph (c)(1)(iii) of the French Substituted Compliance Order; or

c. The additional capital condition in paragraph (c)(1)(iii) of the UK Substituted Compliance Order.

It is hereby further determined and ordered pursuant to rule 3a71–6 under the Exchange Act, that a security-based swap dealer applying substituted compliance with respect to the margin requirements of Exchange Act section 15F(e) and Exchange Act rule 18a–3 has until January 1, 2022 to meet (as applicable):

a. The additional margin conditions in paragraphs (c)(1)(ii) and (iii) of the German Amended Order;

b. The additional margin conditions in paragraphs (c)(1)(ii) and (iii) of the French Substituted Compliance Order; or

c. The additional margin conditions in paragraphs (c)(1)(ii) and (iii) of the UK Substituted Compliance Order.

It is further determined and ordered that the compliance date for Exchange Act section 15F(e) and Exchange Act rules 18a–1, and 18a–1a through d is

January 1, 2022 for a security-based swap dealer with a principal place of business in Germany that is operating pursuant to a waiver under CRR, Article 7 (Derogation from the application of prudential requirements on an individual basis).

By the Commission.

Eduardo A. Aleman,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93403; File No. SR–CBOE–2021–061]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Length of Its Current Global Trading Hours Session

October 22, 2021.

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 October 21, 2021, 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 Act³ 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 extend the length of its current global trading hours session (“Global Trading Hours” or “GTH”). 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.

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).

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the hours of its GTH session. The proposed rule change to extend the current GTH session aims to meet growing customer demand globally for expanded access to trade SPX and VIX options, which are designed to help enable investors to hedge or gain exposure to the broad U.S. market and global equity volatility.

By way of background, the Exchange currently offers two trading sessions.⁵ Regular Trading Hours ("RTH") and GTH. Rule 5.1 currently sets forth the trading hours for the Exchange's RTH and GTH trading sessions. Particularly, RTH for transactions in equity options (including options on individual stocks, ETFs, ETNs, and other securities) are the normal business days and hours set forth in the rules of the primary market currently trading the securities underlying the options, except for options on ETFs, ETNs, Index Portfolio Shares, Index Portfolio Receipts, and Trust Issued Receipts the Exchange designates to remain open for trading beyond 4:00 p.m.⁶ but in no case later than 4:15 p.m.⁷ RTH for transactions in index options are from 9:30 a.m. to 4:15 p.m., subject to certain exceptions.⁸ The GTH session currently begins at 3:00 a.m. and goes until 9:15 a.m. on Monday through Friday.⁹ The Exchange's rules provide that the Exchange may

⁵ The term "trading session" means the hours during which the Exchange is open for trading for Regular Trading Hours or Global Trading Hours (each of which may referred to as a trading session). Unless otherwise specified in the Rules or the context otherwise indicates, all Rules apply in the same manner during each trading session. See Rule 1.1 (Definitions).

⁶ All times referenced herein are Eastern Standard Time.

⁷ See Rule 5.1(b)(1).

⁸ See Rule 5.1(b)(2).

⁹ See Rule 5.1(c).

designate as eligible for trading during GTH any exclusively listed index option designated for trading under Chapter 4, Section B.¹⁰ Currently, SPX, VIX and XSP are approved for trading during GTH.¹¹

The Exchange notes that it originally adopted the GTH trading session due to global demand from investors to trade SPX and VIX options, as alternatives for hedging and other investment purposes, particularly as a complementary investment tool to VIX futures.¹² Given that SPX and VIX options only traded during regular trading hours prior to the adoption of the GTH session, it was historically difficult for U.S. investors that traded in non-U.S. markets to use these products as part of their global investment strategies. Accordingly, the Exchange adopted the GTH session to meet that demand and allow market participants to engage in trading these options (SPX and VIX) in conjunction with trading VIX futures on Cboe Futures Exchange, LLC ("CFE") during extended hours.¹³ Currently, VIX futures are open for trading on CFE nearly 23 hours a day, 5 days a week.¹⁴

The proposed rule change to extend the GTH trading session aims to provide global market participants with expanded access to trade the products offered during GTH. Indeed, the proposal to lengthen the current GTH session is designed to help meet growing investor demand for the ability to manage risk more efficiently, react to global macroeconomic events as they are happening and adjust SPX and VIX options positions nearly around the clock. Additionally, the Exchange notes the proposed expanded hours overlap with the Asia Pacific markets, thereby offering a new segment of global market participants the opportunity to trade GTH products in their local time. Specifically, the Exchange proposes to expand the session by starting the GTH session at 8:15 p.m. on the immediately preceding calendar day, rather than at

¹⁰ The Exchange notes that Rule 5.1(c)(1) inadvertently refers to the wrong section of Chapter 4. Particularly, Rule 5.1(c)(1) references Chapter 4, Section D, which section governs Corporate Debt Security Options, instead of the intended reference of Chapter 4, Section B, which section governs Index Options. The Exchange proposes to correct that inadvertent cross-reference error now.

¹¹ If the Exchange designates a class of index options as eligible for trading during GTH, FLEX Options with the same underlying index are also deemed eligible for trading during GTH. The Exchange also notes that although eligible, XSP is not currently listed for trading during GTH.

¹² See Securities Exchange Act Release No. 34-73017 (September 8, 2014), 79 FR 54758 (September 12, 2014) (SR-CBOE-2014-062).

¹³ *Id.*

¹⁴ See CFE Rule 1202(b).

the current start time of 3:00 a.m.¹⁵ The GTH session would continue to end at 9:15 a.m. Transactions effected during the GTH session will have the same trade date as the RTH session that immediately follows it.¹⁶ The proposed rule change otherwise makes no changes to the trading rules applicable to GTH. The GTH trading session will continue to be a separate trading session from RTH and the rules that currently apply (or don't apply) to the current GTH session will continue to apply (or not apply) to the lengthened GTH session.¹⁷ The Exchange will continue to use the same servers and hardware during the lengthened GTH session as it uses for RTH and GTH today. Further, Trading Permit Holders ("TPHs") may continue to use the same ports and connections to the Exchange for both trading sessions. The Book used during the lengthened GTH session will also be the same Book used currently during RTH and GTH. The Exchange proposes to amend and conform various rules relating to the proposed expanded GTH, as described more fully below.

Trading Days and Hours

As noted above, Rule 5.1 (Trading Days and Hours) currently sets forth the trading hours for RTH and GTH. The Exchange proposes to amend Rule 5.1 in connection with its proposal to lengthen the GTH session. Particularly, the Exchange proposes to amend Rule 5.1(c), which sets forth the trading hours for the GTH session, to provide that except under unusual conditions as may be determined by the Exchange, GTH hours are from 8:15 p.m. (previous day) to 9:15 a.m. on Monday through Friday (instead of 3:00 a.m. to 9:15 a.m. Monday through Friday). The Exchange also proposes to add language providing that the hours for the GTH session that

¹⁵ For example, the GTH trading session for Mondays currently begins on Mondays at 3:00 a.m. Pursuant to the proposed rule change, a Monday GTH trading session will commence on the immediately preceding Sunday at 8:15 p.m.

¹⁶ Transactions effected between 8:15 p.m. to 11:59 p.m. would be considered to have the trade date of the following business day. For example, any transactions effected during the GTH session that begins at 8:15 p.m. on Tuesday, November 23 will be considered to have the trade date of Wednesday, November 24 regardless of whether the trades were effected between 8:15 p.m. and 11:59 p.m. on Tuesday, November 23 or between 12:00 a.m. and 9:15 a.m. on Wednesday November 24.

¹⁷ For example, business conduct rules in Chapter 8 and rules related to doing business with the public in Chapter 9 will continue to apply during the GTH session. Additionally, a broker-dealer's due diligence and best execution obligations apply during the GTH trading session. As there will still be no open outcry trading on the floor during the GTH trading, Chapter 5, Section G will continue not to apply as such rules pertain to manual order handling and open-outcry trading.

follows any holiday listed under Rule 5.1(d)¹⁸ will be from 12:00 a.m. (the calendar day immediately following the day the holiday is observed) until 9:15 a.m., unless the holiday is observed on a Friday, in which case, GTH hours for the subsequent GTH session will start at 8:15 p.m. on the Sunday following the holiday (observed) until 9:15 a.m.¹⁹ The Exchange proposes to start the GTH session that follows a holiday (other than holidays observed on Fridays) at 12:00 a.m. on the trading day immediately following the holiday (observed) because current Rule 5.1(d) provides the Exchange is not open for business on those holidays. The proposed rule change therefore ensures the proposed extended GTH session remains consistent with the current language of Rule 5.1(d) (*i.e.*, the Exchange remains closed for business on holidays).

Index Values

The Exchange next proposes to amend Rule 5.1(c)(3) which currently provides that while it may not be calculated and disseminated at all times during GTH, current values of the VIX Index (*i.e.*, intraday/spot values of the VIX Index) will be widely disseminated at least once every 15 seconds by OPRA or one or more major market vendors during that trading session. Rule 5.1(c)(3) also provides no current index value underlying any other index option trading during GTH is disseminated during or at the close of that trading session.

Pursuant to Rules 4.10(f) and (g), to list options on a broad-based index (currently, the only options that trade during GTH overlying broad-based indexes), current indexes values must be widely disseminated at least once every 15 seconds. The initial purpose of having a rule provision regarding the potential lack of dissemination of index values during GTH was to supersede those requirements with respect to GTH, as index reporting authorities may not disseminate updated values outside of regular trading hours. Moreover, the Exchange notes authority to decide when and how frequently to calculate

¹⁸ Rule 5.1(d) provides that the Exchange is not open for business on the following holidays: New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

¹⁹ For example, the GTH session that follows Thanksgiving (observed this year on November 25, 2021), will begin at 12:00 a.m. on Friday, November 26, 2021 and end at 9:15 a.m. Because Christmas in 2021 will be observed on a Friday, the GTH session that follows the observed holiday on Friday, December 24, 2021, will start at 8:15 p.m. on Sunday, December 26, 2021 and end at 9:15 a.m.

and disseminate index values lies solely with a reporting authority. Currently, S&P Dow Jones Indices LLC ("S&P") does not disseminate current values of the S&P 500 Index during GTH, whereas Cboe Global Indices, LLC ("CGI")²⁰ currently does disseminate current values of the VIX Index for most (but not all)²¹ of the GTH session. While CGI plans to continue its current dissemination of VIX Index values during the current GTH hours (*i.e.*, between 3:00 a.m. to 9:15 a.m.), it does not intend to calculate or disseminate current values of the VIX Index during the proposed additional GTH hours (*i.e.*, from 8:15 p.m. to 3:00 a.m.). The proposed rule change therefore amends Rule 5.1(c)(3) to reflect this change and clarify that current values of VIX will be widely disseminated at least once every fifteen (15) seconds by the Options Price Reporting Authority or one or more major market vendors during that trading session only between 3:00 a.m. to 9:15 a.m. and further provide that between 8:15 p.m. to 3:00 a.m. the Exchange will not report a value of an index underlying an index option trading during GTH, because the value of the underlying indexes of index options trading during GTH (*i.e.*, SPX and VIX) will not be recalculated during this time.

The Exchange notes that since the inception of the Exchange's GTH trading session in 2014, the Exchange has disclosed the possibility that index values on options listed for trading during that session may not be disseminated. Particularly, VIX is intended to represent the market's expectation of S&P 500 volatility over the next 30 days. The accuracy of the calculation for VIX indicative (or spot) values depends on the quality of bid and offer quotes for constituent SPX options series. As the proposed additional GTH hours has yet to be implemented, CGI cannot currently know that the SPX option quotes

²⁰ CGI is an affiliate of the Exchange and is the reporting authority for the Cboe Volatility Index (the "VIX Index") (which underlies VIX options the Exchange currently lists for trading) and the Cboe Short-Term Volatility Index ("VIX9D") (which underlies VXST options the Exchange is authorized to, but does not, list for trading).

²¹ There may be times when a current value is not available, such as if CGI (as reporting authority) does not begin making current index values available until after a certain amount of time (approximately 15 minutes) has passed following the open of the current GTH session (for example, to ensure sufficient quotes in series used to calculate the index values) or if there are technical issues preventing CGI (as reporting authority) from calculating index values. During the times the current value of VIX is not available (and thus not disseminated) during current GTH, VIX options will continue to be listed for trading during that trading session.

displayed during those hours will be sufficient to calculate accurate and meaningful VIX indicative values in the same manner it does during RTH or the current GTH session. Indeed, the Exchange expects that initially there will be overall lower levels of trading during the proposed additional GTH hours (8:15 p.m. to 3:00 a.m.) as compared to both RTH and the current GTH session. Therefore, CGI has determined to not calculate VIX spot values during the proposed additional GTH hours. After the launch of extended GTH, to the extent CGI as index calculator determines that SPX quotes during such additional hours will support accurate VIX indicative values, CGI will reconsider whether to calculate and disseminate these values during the entirety of GTH (and the Exchange would submit rule filings to amend the rules, as necessary). The Exchange notes that it similarly did not report a value of an index underlying an index option trading during GTH when the GTH session was first adopted.²² Additionally, pursuant to Rule 9.20, any TPH that accepts orders for customers for execution during GTH must disclose to those customers various risks related to trading during that trading session, including the risk that an updated underlying index or portfolio value or intraday indicative value will not be calculated or publicly disseminated during GTH. Further, the closing value of the index from the previous trading day will still be available for TPHs that trade during GTH. The proposed change to Rule 5.1(c)(3) also has no impact on trading during GTH. The Exchange lastly notes that the proposed change is also consistent with the rules of its affiliated exchanges that have a GTH session.²³

Definitions

The Exchange proposes to amend the definition of "Business Day" and "Trading Day" under Rule 1.1 (Definitions) in connection with the proposed expansion of the GTH trading session. The terms "business day" and "trading day" currently mean a day on

²² See Securities Exchange Act Release No. 34-73704 (November 28, 2014), 79 FR 72044 (December 4, 2014) (SR-CBOE-2014-062) (order granting accelerated approval of proposed rule change, as modified by Amendments Nos 1 and 2, to adopt Extended Trading Hours for SPX and VIX). Particularly, the Exchange proposed to adopt Rule 6.1A(k), which provided "[t]he Exchange will not report a value of an index underlying an index option trading during Extended Trading Hours, because the value of the underlying index will not be recalculated during or at the close of Extended Trading Hours."

²³ See Cboe C2 Exchange, Inc. ("C2") Rule 5.1(c)(3) and Cboe EDGX Exchange, Inc. ("Cboe EDGX") Rule 21.2(c)(3).

which the Exchange is open for trading during RTH. The definition currently provides that a business day or trading day includes both trading sessions on that day. As the expanded GTH session will now begin on a calendar day different than the business day (or trading day), the Exchange proposes to eliminate this language and adopt clarifying language that instead provides that a business day or trading day includes the RTH session and the GTH session that immediately precedes it. Also, because the expanded GTH session will begin on the same calendar day as an RTH session, the Exchange proposes to eliminate the following language from this definition to avoid potential confusion: “[I]f the Exchange is not open for Regular Trading Hours on a day, then it will not be open for Global Trading Hours on that day.” In its place, the Exchange proposes to clarify that if the Exchange is not open for Regular Trading Hours on a day, then it will not be open for a Global Trading Hours session immediately preceding what would have otherwise been the Regular Trading Hours session on that day. The Exchange believes the proposed amendments to the definition to add clarity and alleviate potential confusion.

Entry of Orders, Quotes and Cancellations

The Exchange proposes to amend Rule 5.7 (Entry of Orders and Quotes), which currently provides that Users can enter orders and quotes into the System, or cancel previously entered orders and quotes, from 2:00 a.m. until RTH market close, subject to certain requirements and conditions. The Exchange first notes that Rule 5.7 inadvertently omits to differentiate the start time for the entry of orders, quotes and cancellations for All Sessions²⁴ classes and RTH classes.²⁵ The start time for RTH Classes is currently 7:30 a.m., which is reflected accurately in Rule 5.31(b). The Exchange therefore proposes to update Rule 5.7 to make clear that Users can enter orders and quotes, or cancel previously entered orders and quotes, from 7:30 a.m. until RTH market close for RTH Classes. In light of the proposal to start the GTH session at 8:15 p.m. (instead of 3:00 a.m.), the Exchange proposes to update the time that Users can begin entering orders and quotes

²⁴ The term “All Sessions class” means an options class the Exchange lists for trading during both GTH and RTH, which currently is only SPX and VIX. As noted above, although eligible, XSP is not currently listed for trading during GTH.

²⁵ The term “RTH class” means an options class the Exchange lists for trading during RTH only (currently all classes other than SPX and VIX).

into the System (or canceling previously entered orders and quotes) for All Sessions Classes from its current start time of 2:00 a.m. to 8:00 p.m. on the previous day. While Users will have less time to submit orders quotes and cancellations prior to the GTH opening, the Exchange believes having 15 minutes, as proposed, to submit orders, quotes and cancellations in All Sessions Classes prior to the GTH opening will be an adequate and sufficient amount of time, especially given that the Exchange lists only two classes for trading during GTH.

Opening Auction Process

The Exchange proposes to amend Rule 5.31 (Opening Auction Process), which rule governs opening auctions during RTH and GTH. First, the Exchange proposes to update Rule 5.31(b) which sets forth the time the Queuing Period begins. The Queuing Period refers to the time period prior to the initiation of an opening rotation during which the System accepts orders and quotes in the Queuing Book²⁶ for participation in the open rotation for the applicable session. Rule 5.31(b) currently provides that the Queuing Period begins at 2:00 a.m. for All Sessions Classes and at 7:30 a.m. for RTH Only Classes. The Exchange proposes to update the Rule 5.31(b) to provide that the Queuing Period for All Sessions Classes will begin at 8:00 p.m. (the previous day). The Exchange believes the proposed Queuing Period still provides a sufficient amount of time for TPHs to enter quotes and orders into the Queuing Book for participation in the GTH opening rotation, especially given that the Exchange lists only two classes for trading during GTH.

Next, the Exchange proposes to amend Rule 5.31(c), which currently states that beginning at 2:00 a.m. for the GTH trading session and at 8:30 a.m. for the RTH trading session, and until the conclusion of the opening rotation for a series, the Exchange disseminates opening auction updates for the series.²⁷

²⁶ The term “Queuing Book” means the book into which Users may submit orders and quotes (and onto which GTC and GTD orders remaining on the Book from the previous trading session or trading day, as applicable, are entered) during the Queuing Period for participation in the applicable opening rotation. Orders and quotes on the Queuing Book may not execute until the opening rotation. The Queuing Book for the GTH opening auction process may be referred to as the “GTH Queuing Book,” and the Queuing Book for the RTH opening auction process may be referred to as the “RTH Queuing Book.” See Rule 5.31(a).

²⁷ The Exchange disseminates updates every five seconds, unless there are no updates to the opening information since the previously disseminated update, in which case the Exchange disseminates updates every minute, to all subscribers to the

The Exchange proposes to update Rule 5.31(c) to provide that opening auction updates will be disseminated beginning at 8:00 p.m. (the previous day) for GTH.

The Exchange also proposes to amend Rule 5.31(d), which describes the events that will trigger the opening rotation for a class during RTH and GTH. Currently Rule 5.31(d) (2) provides that for the Global Trading Hours session, the System initiates the opening rotation at 3:00 a.m. The Exchange proposes to update Rule 5.31(d)(2), to reflect the new opening rotation time of 8:15 p.m. (the previous day).

The Exchange finally proposes to amend Rule 5.33 (Complex Orders). Particularly, the Exchange proposes to amend Rule 5.33(c), which describes the COB Opening Process, which occurs at the beginning of each trading session and after a trading halt. The System accepts complex orders for inclusion in the COB Opening Process at the times and in the manner set forth in Rules 5.7 and 5.31(b), except the Queuing Period for complex orders ends when the complex strategy opens. Complex orders entered during the Queuing Period are not eligible for execution until the initiation of the COB Opening Process. Rule 5.33(c)(1) currently states that the Exchange will disseminate indicative prices and order imbalance information based on complex orders queued in the System for the COB Opening Process beginning at (A) 2:00 a.m. for All Sessions classes for the GTH trading session and (B) 8:30 a.m. for RTH Only classes and 9:15 a.m. for All Sessions classes for the RTH trading session, and updated every five seconds thereafter until the initiation of the COB Opening Process. This functionality provides users with information regarding the expected COB opening, which the Exchange believes may contribute additional transparency and price discovery to the COB Opening Process. The Exchange proposes to amend Rule 5.33(c)(1) to reflect that in light of the proposed extended GTH session, indicative prices and order imbalance information will be disseminated beginning at 8:00 p.m. the previous day (instead of 2:00 a.m.) for All Sessions classes for the GTH trading session.

Market-Maker Rules

Current Rule 5.50(b) (Market-Maker Appointments) provides that a Market-Maker may enter an appointment request via an Exchange-approved electronic interface with the Exchange’s systems by 2:30 a.m. for All Sessions, which appointment becomes effective

Exchange’s data feeds that deliver these messages until a series opens. See Rule 5.31(c).

on the open of the GTH trading session, or by 9:00 a.m. for RTH Only classes, which appointment becomes effective on the open of the RTH session. In light of the proposed change to the start time of the GTH session, the Exchange proposes to update the time by which Market-Makers may enter an appointment request for All Sessions classes that would become effective at the open of the subsequent GTH trading session. Particularly, the Exchange proposes to update the cutoff time to submit a request for an All Sessions class appointment for the GTH session (currently only SPX and VIX) from 2:30 a.m. to 5:30 p.m. the previous day, which is the earliest time the Exchange may “restart” the System to prepare for GTH, and clarify that such appointment would be effective upon the open of the GTH session (*i.e.*, starting at 8:15 p.m.). The Exchange notes that it intends to additionally continue to maintain an additional cutoff time of 1:30 a.m. for All Sessions appointment classes. Particularly, any appointment request submitted after 5:30 p.m. and at or prior to 1:30 a.m. would be effective starting at 2:30 a.m. Providing for an additional appointment request cutoff time would provide Market-Makers, including Market-Makers who may only trade during the current GTH hours between 3:00 a.m. and 9:15 a.m., an additional opportunity to submit a request for a VIX or SPX appointment and be able to quote the remainder of the GTH session. The Exchange also notes that Market-Makers do not often update appointment selections with respect to SPX and VIX and therefore believes any changes to the appointment cutoff time(s) will have a de minimis impact. Lastly, the Exchange proposes to clarify that the current 9:00 a.m. cutoff for class appointments to be effective on the open of RTH currently applies, and will continue to apply, to all classes, not just RTH Only classes (*i.e.*, if a Market-Maker submits an SPX or VIX appointment after 1:30 a.m., while the Market-Maker will not be eligible to start quoting during that current GTH session, that appointment will be effective starting on the open of RTH so long as it was submitted prior to 9:00 a.m.).

The Exchange also notes that Rule 5.50(a) (Market-Maker Appointments) provides that a Market-Maker’s selected class appointment applies to classes during all trading sessions. In other words, if a Market-Maker selects an appointment in SPX options, for example, that appointment would apply during both GTH and RTH (and thus, the Market-Maker would have an

appointment to make markets in SPX during GTH and RTH). As a result, the Market-Maker continuous quoting obligations set forth in Rule 5.52(d) applies to the class for an entire trading day (including both trading sessions). Pursuant to Rule 5.52(d), a Market-Maker must enter continuous bids and offers in 60% of the series of the Market-Maker’s appointed classes, excluding any adjusted series, any intra-day add-on series on the day during which such series are added for trading, any Quarterly Option series, and any series with an expiration of greater than 270 days.²⁸ The Exchange calculates this requirement by taking the total number of seconds the Market-Maker disseminates quotes in each appointed class (excluding the series noted above) and dividing that time by the eligible total number of seconds each appointed class is open for trading that day. The Exchange also notes however, that pursuant to Rule 5.52(d)(2)(E), the obligations apply only when the Market-Maker is quoting in a particular class during a given trading day and the obligations are not applicable to an appointed class if a Market-Maker is not quoting in that appointed class. Accordingly, if a Market-Maker does not wish to quote during the proposed new GTH hours (8:15 p.m. to 3:00 a.m.) but does quote the current GTH hours (3:00 a.m. to 9:15 a.m.), then so long as the Market-Maker doesn’t log in and quote before 3:00 a.m., the time between 8:15 p.m. and 3:00 a.m. won’t be considered when determining a Market-Maker’s compliance with the quoting obligations. Similarly, for example, if a Market-Maker quotes only from 8:15 p.m. to 3:00 a.m. and then logs out, the time between 3:00 a.m. and 9:15 a.m. will not be considered when determining compliance. Accordingly, the extension of GTH will have a de minimis, if any, impact on a Market-Maker’s continuous quoting obligations, as they may continue to choose when to actively quote and have their obligations to their appointed classes apply. Moreover, selecting an appointment in SPX or VIX options will be optional and within the discretion of a Market-Maker. Additionally, Market-Makers have the opportunity to quote during GTH (and receive the benefits of acting as a Market-Maker with respect to transactions it effects during that time) without obtaining an additional Trading Permit or creating additional connections to the Exchange. Given this ease of access to the GTH trading session, the Exchange believes Market-Makers may be encouraged to quote

during the trading session, even as amended. The Exchange believes Market-Makers will continue to have an incentive to quote during GTH given the significance of the SPX and VIX within the financial markets, the expected demand, and given that the related futures also trading during those hours (which may permit execution of certain hedging strategies). The Exchange believes continuing to extend a Market-Maker’s appointment to GTH notwithstanding the proposed extension of the trading session will enhance liquidity during that trading session, which benefits all investors during those hours. Therefore, the Exchange believes the proposed rule change provides customer trading interest with a net benefit and continues to maintain a balance of Market-Maker benefits and obligations.

With respect to Lead-Market-Makers (“LMMs”), the Exchange plans to utilize the same LMM structure it uses today during GTH. More specifically, Rule 3.55 (LMMS) currently provides that the Exchange may approve one or more Market-Makers to act as LMMs in each class during GTH. Further, subparagraph (b) of Rule 5.55 (LMMs) provides that if a LMM is approved to act as an LMM during GTH, then the LMM must comply with the continuous quoting obligation and other obligations of Market-Makers set forth in Rule 5.52(d)(2) but does not have to comply with the obligations under Rule 5.55(a). Additionally, subparagraph (a)(2)(B)(iv) of Rule 5.32 (Order and Quote Book Processing, Display, Priority and Execution) provides that the DPM/LMM/PMM participation entitlement does not apply during GTH. LMMs appointed in the GTH session will therefore continue to not be obligated to satisfy heightened continuous quoting and opening quoting standards during GTH, nor will they receive a benefit in exchange for satisfying an obligation (*i.e.*, LMMs do and will not receive a participation entitlement during GTH). The Exchange instead will adopt via a separate rule filing an incentive program that provides appointed LMMs a rebate if they meet certain heightened continuous quoting standards during the proposed additional hours, which the Exchange believes will encourage LMMs to provide significant liquidity during this time.

FLEX

Subparagraph (b) of Rule 5.71 (Opening of FLEX Trading) currently sets forth the times that FLEX traders may begin submitting FLEX Orders into an electronic FLEX Auction, a FLEX AIM, or a FLEX SAM or initiate an open

²⁸ See Rule 5.52(d)(2).

outcry FLEX Auction on the trading floor for the RTH and GTH sessions. The Exchange proposes to update the time FLEX traders may submit such orders during GTH from after 3:00 a.m. (which is the current start time of the GTH session) to after 8:15 p.m. the previous day (which is the proposed start time of the GTH session).

Discussion

As discussed above, rules that currently apply to the GTH trading session will continue to apply in the same manner to the expanded GTH session, albeit certain cutoff times and commencement times will be updated to reflect the proposed new start time of the GTH session. The Exchange also notes the following:

- All TPHs will continue to be allowed to, but will not be required to, participate during GTH.²⁹ As noted above, while a Market-Maker's appointment to an All Sessions class will apply to that class whether it quotes in series in that class or not during GTH, the Exchange believes the proposed lengthening of the GTH session will have a de minimis, if any, impact on a Market-Maker's continuous quoting obligations, as they may continue to choose when to actively quote and have their obligations to their appointed classes apply. Additionally, even if a Market-Maker elects to not quote during part of GTH, its ability to satisfy its continuous quoting obligation will not be substantially impacted given the few classes that will be listed for trading during GTH.

- The Exchange will continue to use the same connection lines, message formats, and feeds during RTH and GTH.³⁰ TPHs may use the same ports and EFIDs³¹ for each trading session.³² Accordingly, the Exchange expects TPHs that want to trade during the

lengthened GTH session to have minimal preparation.

- The same opening process will continue to be used to open GTH, albeit at an earlier start time.

- Order processing will operate in the same manner during GTH as it does during RTH and the current GTH session. There will be no changes to the ranking, display, or allocation algorithms rules.

- There will be no changes to the processes for clearing, settlement, exercise, and expiration.³³

- The Exchange will report Exchange quotation and last sale information to the Options Price Reporting Authority ("OPRA") pursuant to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (the "OPRA Plan") during the proposed additional GTH hours in the same manner it currently reports this information to OPRA during RTH and GTH today.³⁴ The Exchange will also continue to disseminate an opening quote and trade price through OPRA during the proposed additional GTH hours (as it does for RTH and GTH today). Therefore, all TPHs that elect to trade during the proposed extended GTH session will have access to quote and last sale information during that trading session. Exchange proprietary data feeds will also continue to be disseminated during GTH using the same formats and delivery mechanisms with which the Exchange disseminates them during RTH and GTH today. Use of these proprietary data feeds during

GTH will be optional (as they are today during RTH and GTH).³⁵

- The same TPHs that are required to maintain connectivity to a backup trading facility during RTH and GTH today will be required to do so during the extended GTH session.³⁶ Because the same connections and servers will be used for both trading sessions, a TPH will not be required to take any additional action to comply with this requirement, regardless of whether the TPH chooses to trade during GTH.

- The Exchange will process all clearly erroneous trade breaks during GTH in the same manner it does during RTH and GTH today and will have Exchange officials available to do so.

- The Exchange will perform all necessary surveillance coverage during GTH.

- The Exchange may halt trading during GTH in the interests of a fair and orderly market in the same manner it may during RTH and GTH today pursuant to Rule 5.20.

Under Rule 5.22 (Market-wide Trading Halts due to Extraordinary Market Volatility), the Exchange will halt trading in all classes whenever a market-wide trading halt (commonly known as a circuit breaker) is initiated in response to extraordinary market conditions. Rule 5.22(b)(1) states that the Exchange will halt trading for 15 minutes if a Level 1 or Level 2 Market Decline occurs after 9:30 a.m. and up to and including 3:25 p.m. (or 12:25 p.m. for an early scheduled close). Additionally, the Exchange will not halt trading if a Level 1 or Level 2 Market Decline occurs after 3:25 p.m. (or 12:25 p.m., if applicable). Rule 5.22(b)(2) states that the Exchange will halt trading until the next trading day if a Level 3 Market Decline occurs. The Exchange notes that Rule 5.22(b)(1) will continue not to apply during the extended GTH session, just as it does not apply during GTH today, as the beginning of GTH, even as amended, will still occur past the 15-minute halt window for a Level 1 or Level 2 Market Decline. Rule 5.22(b)(2) will also continue not to apply to the GTH session, as the GTH session is still considered a different (*i.e.*, the next) trading day than the preceding RTH session (even though the GTH session would begin on the same calendar day as such a halt). As such, if a Level 3

²⁹In order to participate in GTH, including the proposed additional hours, a TPH must have a letter of guarantee from a Clearing TPH that is properly authorized by the Options Clearing Corporation ("OCC") to operate during the GTH session. See Cboe Options Rule 3.61. A letter of guarantee from a Clearing TPH authorized to operate during the GTH session will allow a TPH to participate in the entire GTH session, (*i.e.*, from 8:15 p.m. to 9:15 a.m.).

³⁰The same telecommunications lines used by TPHs during RTH and/or GTH today may be used during GTH, even as extended, and these lines will be connected to the same application server at the Exchange during both trading sessions.

³¹The term "EFID" means an Executing Firm ID. The Exchange assigns an EFID to a TPH, which the System uses to identify the TPH and the clearing number for the execution of orders and quotes submitted to the System with that EFID.

³²A TPH may elect to have separate ports or EFIDs for each trading session, but the Exchange will not require that.

³³The Exchange has held discussions with the Options Clearing Corporation, which is responsible for clearance and settlement of all listed options transactions and has informed the Exchange that it will be able to clear and settle all transactions that occur on the Exchange during the extended GTH trading session subject to its existing requirements for transactions executed during extended and overnight trading sessions. See Exchange Act Release No. 74268 (February 12, 2015), 80 FR 8917 (February 19, 2015) (SR-OCC-2014-024) (approval of proposed rule change concerning extended and overnight trading sessions), which applies to both index options and index future products.

³⁴The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are trading on the participant exchanges. The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder. See Securities Exchange Act Release No. 17638 (March 18, 1981). The full text of the OPRA Plan is available at <http://www.opraplan.com>. All operating U.S. options exchanges participate in the OPRA Plan. The Exchange will report its best bid and offer and executed trades to OPRA during the proposed additional GTH hours in the same manner that they are reported during RTH and GTH today. The operator of OPRA has also informed the Exchange that it will continue to include a modifier to the disseminated information during GTH.

³⁵Any fees related to receipt of the OPRA data feed during GTH would be included on the OPRA fee schedule. Any fees related to receipt of the Exchange's proprietary data feeds during GTH will be included on the Exchange's fee schedule (and will be included in a separate rule filing) or the Exchange's market data website, as applicable.

³⁶See Rule 5.24.

Market Decline occurs at any time during RTH, the Exchange will halt trading in SPX and VIX only until the start of GTH. The Exchange believes that it is appropriate to continue to not apply Rule 5.22(b) because, even if stock trading was halted at the close of the previous trading day, the condition that led to the halt is likely to have been resolved by the time the GTH session starts given the length of time between the close of the previous trading day and the proposed start time of GTH (approximately 4 hours). Moreover, current Rule 5.20(a)(6) continues to allow the Exchange to consider unusual conditions or circumstances when determining whether to halt trading during GTH. To the extent a circuit breaker caused a stock market to be closed at the end of the prior trading day, the Exchange could consider, for example, whether it received notice from stock exchanges that trading was expected to resume (or not) the next trading day in determining whether to halt trading during GTH. Because the stock markets would not begin trading until after GTH opens, the Exchange believes it should be able to open GTH rather than waiting several hours to see whether stock markets open to allow investors to participate in GTH if the Exchange believe such trading can occur in a fair and orderly manner based on then-existing circumstances, not circumstances that existed many hours earlier.

The Exchange understands that systems and other issues may arise and is committed to resolving those issues as quickly as possible, including during the new GTH trading hours. Thus, the Exchange will have appropriate staff on-site and otherwise available as necessary during GTH to handle any technical and support issues that may arise during those hours. Additionally, the Exchange will have personnel available to address any trading issues that may arise during the additional GTH trading hours. The Exchange is also committed to fulfilling its obligations as a self-regulatory organization at all times, including during GTH, and will have appropriately trained, qualified regulatory staff in place during GTH to the extent it deems necessary to satisfy those obligations. The Exchange believes its surveillance procedures are adequate to properly monitor trading during the lengthened GTH session, but notes if additional changes are needed in the future, it will revise such procedures to the extent necessary.

Implementation Date

The Exchange will announce the implementation date of the proposed rule change in accordance with Rule 1.5. The Exchange also notes that it first announced its proposal to lengthen the current GTH session to market-participants via a Trade Desk notice back in January 2021.³⁷ Since then, the Exchange has issued numerous updated notices, FAQs and detailed technical specifications.

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.³⁸ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³⁹ 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)⁴⁰ 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 to expand the hours of the Global Trading Hours session will remove impediments to and perfect the mechanism of a free and open market and a national market system. Particularly, the expansion of GTH is a competitive initiative designed to improve the Exchange’s marketplace for the benefit of investors and allow the Exchange to provide a competitive marketplace for market participants to trade certain products for a longer period of time outside of RTH. Additionally, the expansion of the GTH trading session is designed to increase the overlap in time that SPX and VIX options are open alongside the related futures contracts and further aims to

³⁷ See Exchange Notice C2021012501 “Cboe Options Exchange to Extended Global Trading Hours in Q4 2021”.

³⁸ 15 U.S.C. 78f(b).

³⁹ 15 U.S.C. 78f(b)(5).

⁴⁰ *Id.*

provide global market participants with expanded access to trade the products offered during GTH. As discussed above, lengthening the GTH session is designed to better help meet growing investor demand for the ability to manage risk more efficiently, react to global macroeconomic events as they are happening and adjust SPX and VIX options positions nearly around the clock. The proposed rule change also provides a mechanism for the Exchange to more effectively compete with exchanges located outside of the United States. Global markets have become increasingly interdependent and linked, both psychologically and through improved communications technology. This has been accompanied by an increased desire among investors to have access to U.S.-listed exchange products outside of regular trading hours, and the Exchange believes this desire extends to its exclusively listed products. Indeed, market participants in the Asia Pacific region have expressed their interest in having the ability to participate in the GTH session during their market hours, which coincide with the proposed additional GTH hours. The Exchange therefore believes that the proposed rule change is reasonably designed to provide an appropriate mechanism for additional trading hours available outside of its current RTH and GTH sessions, while providing for appropriate Exchange oversight pursuant to the Act, trade reporting, and surveillance.

The Exchange also notes that it, along with some of its affiliated options exchanges, already allow for trading outside of the hours of RTH (*i.e.*, during the current GTH trading session).⁴¹ Furthermore, the Commission has authorized U.S. stock exchanges to be open for trading outside of regular trading hours.⁴² Thus, the proposed rule change to expand the hours of the GTH session is not novel or unique. Additionally, as noted above, futures exchanges also operate outside of those hours and during the hours proposed to be added to the GTH trading session, including the Exchange’s affiliate, CFE, which operates during the hours the

⁴¹ See Cboe Options Rule 5.1, C2 Rule 5.1 and Cboe EDGX Rule 21.2.

⁴² See *e.g.*, Cboe BZX Exchange, Inc. Rule 1.5, which provides for an After Hours Trading Session which is a trading session from 4:00 p.m.–8:00 p.m. and follows the Regular Trading Hours session which takes place between 9:30 a.m. and 4:00 p.m. See also Exchange Act Release No. 59963 (May 21, 2009), 74 FR 25787 (May 29, 2009) (SR-BATS–2009–012) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend BATS Rules to Offer an After Hours Trading Session).

Exchange proposes to operate the expanded GTH trading session.⁴³

As described in detail above, the Exchange's trading rules that apply to GTH today will continue to apply during the lengthened GTH session, which rules have all been previously filed with the Commission as being consistent with the goals of the Act. Rules that will continue to apply during GTH include rules that protect public customers, impose best execution requirements on TPHs, and prohibit acts and practices that are inconsistent with just and equitable principles of trade as well as fraudulent and manipulative practices. The Exchange's rules will also continue to provide opportunities for price improvement during GTH and applies the same allocation and priority rules that are available to the Exchange during RTH and GTH today. The Exchange believes, therefore, that the rules that will apply during GTH, even as expanded, will continue to promote just and equitable principles of trade and prevent fraudulent and manipulative acts.

The proposed rule change clearly identifies the ways in which trading during the expanded GTH will be different from trading during current GTH (such as the start time for queuing periods that will be updated in connection with the new session start time and the proposed absence of a disseminated updated index value during the new hours). This ensures that investors are aware of any differences relating to the proposed additional GTH trading hours. Additionally, the Exchange notes that it will continue to require that disclosures be made to customers describing these potential risks, which will continue to further protect investors from any additional risks related to trading during GTH.⁴⁴ The Exchange believes that, with these disclosures, GTH remains appropriate and beneficial. The All Sessions order⁴⁵ and RTH Only order⁴⁶ will continue to protect investors by permitting investors who wish only to trade during RTH from having orders or quotes execute outside of the RTH session, including during the expanded GTH trading session. Consistent with the goal of

investor protection, the Exchange will not allow market orders during GTH due to the expected increased volatility and decreased liquidity during these hours, just as it does not currently allow such orders during GTH today for the same reasons.

Additionally, the Exchange believes that the proposed rule change will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, as the Exchange will ensure that adequate staffing is available during the proposed additional GTH hours (as it does during current GTH hours) to provide appropriate trading support during those hours, as well as Exchange officials to make any necessary determinations under the rules during GTH (such as trading halts and trade nullification for obvious errors). The Exchange is also committed to continuing to fulfill its obligations as a self-regulatory organization at all times, including during GTH. The Exchange believes its surveillance procedures are adequate to properly monitor trading during GTH, including during the additional proposed trading hours. Clearing and settlement processes will be the same for transactions executed during the proposed expanded GTH trading session as they are for transactions executing during RTH or GTH trading session today.

The proposed rule change further removes impediments to a free and open market and does not unfairly discriminate among market participants, as all TPHs with access to the Exchange may trade during GTH using the same connection lines, message formats data feeds, and EFIDs they use during RTH and GTH today, minimizing any preparation efforts necessary to participate during the expanded GTH session. TPHs will continue not be required to trade during GTH.

Additionally, as discussed above, while the proposed rule change increases the total time during which a Market-Maker with an appointment has the ability to quote in a selected class, the Exchange believes this increase has a de minimis, if any, impact on Market-Makers given that a Market-Maker's compliance with its continuous quoting obligation is based on all classes in which it has an appointment in the aggregate and based only when a Market-Maker is quoting in its appointed classes. Indeed, as noted above, if a Market-Maker who quotes during the GTH session today does not wish to quote during the proposed additional GTH hours, then so long as such

Market-Maker does not log into the system and quote prior to 3:00 a.m. (or whatever other time it wishes to begin quoting), there will be no impact with respect to the Market-Maker's ability to satisfy its continuous quoting obligations. Selecting an appointment in SPX and/or VIX options will continue to be optional and within the discretion of a Market-Maker. Additionally, Market-Makers continue to have the opportunity to quote during GTH (and receive the benefits of acting as a Market-Maker with respect to transactions it effects during that time) without obtaining an additional Trading Permit or creating additional connections to the Exchange. The Exchange believes Market-Makers will have an incentive to quote in SPX and VIX during the expanded GTH session given the significance of these products within the financial markets, the expected demand, and given that the related futures are also trading during those hours (which may permit execution of certain hedging strategies). The Exchange believes continuing to extend a Market-Maker's appointment to the entirety of the GTH session will enhance liquidity during that trading session, which benefits all investors during those hours. The Exchange believes that any slight additional burden of extending the continuous quoting obligation to the additional hours being added to the GTH trading session in the eligible classes would be outweighed by the Exchange's efforts to add liquidity during the entire GTH trading session in All Sessions classes, the minimal preparation a Market-Maker may require to participate in the GTH trading session, and the benefits to investors that may result from that liquidity. Therefore, the Exchange believes the proposed rule change provides customer trading interest with a net benefit and continues to maintain a balance of Market-Maker benefits and obligations.

The proposed rule change is also consistent with Section 11A of the Act and Regulation NMS thereunder, because it continues to provide for the dissemination of transaction and quotation information during GTH through OPRA, pursuant to the OPRA Plan, which the Commission approved and indicated to be consistent with the Act. While Section 11A and Regulation NMS contemplate an integrated system for trading securities, they also envision competition between markets, and innovation that provides marketplace benefits to attract order flow to an exchange does not result in unfair competition if other markets are free to

⁴³ See, e.g., CFE Rule 1202, which outlines the trading schedule for futures on the Cboe Volatility Index and includes an Extended trading session that lasts from 5:30 p.m. (previous day to 8:30 a.m.) CT.

⁴⁴ See Cboe Options Rule 9.20.

⁴⁵ An All Sessions order is an order a User designates as eligible to trade during both GTH and RTH. See Cboe Options Rule 5.6(c).

⁴⁶ An RTH Only order is an order a User designates as eligible to trade only during RTH or not designated as All Sessions. See Cboe Options Rule 5.6(c).

compete in the same manner.⁴⁷ As discussed, the Exchange, as well as other options exchanges, already offer trading sessions outside of regular trading hours.⁴⁸

Lastly, the Exchange believes the proposed rule change to provide the Exchange will not report a value of VIX during the proposed additional GTH hours will remove impediments to and perfect the mechanism of a free and open market and a national market system as it will reflect the fact that the relevant index reporting authority (*i.e.*, CGI) will not disseminate updated values during the proposed additional GTH hours. As discussed above, the authority to decide when and how frequently to calculate and disseminate index values lies solely with a reporting authority (in this case S&P for SPX and CGI for VIX). The proposed rule change therefore updates the Exchange's rule to reflect the fact that CGI has determined not to calculate and disseminate current values of VIX during GTH from 8:15 p.m. to 3:00 a.m.⁴⁹ Particularly, because the proposed additional GTH hours have not yet been implemented, CGI cannot currently know that the SPX option quotes displayed during the proposed additional hours will be sufficient to calculate accurate and meaningful VIX indicative values in the same manner it does during RTH and current GTH. Indeed, the Exchange expects that initially there will be overall lower levels of trading during the proposed additional GTH hours (8:15 p.m. to 3:00 a.m.) as compared to both RTH and the current GTH session. Therefore, CGI has determined to not calculate VIX spot values between 8:15 p.m. and 3:00 a.m. Also as noted above, after the launch of the additional GTH hours, to the extent CGI as index calculator determines that SPX quotes during such trading session will support accurate VIX indicative values, CGI will

⁴⁷ See Exchange Act Release Nos. 73704 (November 28, 2014), 79 FR 72044 (December 4, 2014) (SR-CBOE-2014-062) (approval of proposed rule change for Cboe Options to extend its trading hours outside of Regular Trading Hours); and 29237 (May 24, 1991), 46 FR 24853 (May 31, 1991) (SR-NYSE-1990-052 and SR-NYSE-1990-053) (approval of proposed rule change for NYSE to extend its trading hours outside of Regular Trading Hours). The Exchange also notes that no other U.S. options exchange provides for trading SPX or VIX options outside of RTH, so there is currently no need for intermarket linkage during GTH. If another Cboe Affiliated Exchange lists any options authorized to trade during GTH outside of RTH, trading of such options on the Exchange would comply with linkage rules.

⁴⁸ See, *e.g.*, Cboe Options Rule 5.1, C2 Rule 5.1 and Cboe EDGX. Rule 21.2.

⁴⁹ S&P will also continue to not calculate and disseminate current values of the S&P 500 Index during GTH (during both the proposed additional hours and the current GTH session).

reconsider whether to calculate and disseminate these values during the entirety of GTH (and the Exchange would submit rule filings to amend the rules, as necessary).

Further, as discussed above, since the inception of the Exchange's GTH trading session in 2014, the Exchange has disclosed the possibility that index values on options listed for trading during that session may not be disseminated. In fact, when the Exchange first adopted the GTH session, it adopted the same rule provision it is proposing today for the expanded hours since neither reporting authorities for these indexes calculated index values during GTH when it first launched, which rule was approved by the Commission.⁵⁰ Moreover, Rule 9.20, provides that any TPH that accepts orders for customers for execution during GTH must disclose to those customers various risks related to trading during that trading session, including the risk that an updated underlying index or portfolio value or intraday indicative value will not be calculated or publicly disseminated during GTH. Additionally, the closing value of the index from the previous trading day will still be available for TPHs that trade during GTH. The Exchange notes the proposed change to Rule 5.1(c)(3) also has no impact on trading during GTH. The Exchange lastly notes that its affiliated exchanges' GTH rules similarly provide that no current index value underlying an index option trading during the respective exchange's GTH session is disseminated during or at the close of that trading session.⁵¹

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 Exchange does not believe that the proposed rule change to lengthen the

⁵⁰ See Securities Exchange Act Release No. 34-73704 (November 28, 2014), 79 FR 72044 (December 4, 2014) (SR-CBOE-2014-062) (order granting accelerated approval of proposed rule change, as modified by Amendments Nos 1 and 2, to adopt Extended Trading Hours for SPX and VIX). Particularly, the Exchange proposed to adopt Rule 6.1A(k), which provided "[t]he Exchange will not report a value of an index underlying an index option trading during Extended Trading Hours, because the value of the underlying index will not be recalculated during or at the close of Extended Trading Hours." It wasn't until March 2016 that CGI determined to calculate and make available current values of VIX every 15 seconds during GTH.

⁵¹ See Cboe C2 Exchange, Inc. ("C2") Rule 5.1(c)(3) and Cboe EDGX Exchange, Inc. ("Cboe EDGX") Rule 21.2(c)(3).

current GTH trading session will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because all TPHs will be able, but not be required, to participate during GTH, and will be able to do so using the same connectivity as they use during RTH and GTH today. As discussed, participation in GTH will be voluntary and within the discretion of TPHs. While the proposed rule change increases the total time during which a Market-Maker with either a SPX and/or VIX appointment may be able quote, the Exchange believes the proposal will have a *de minimis*, if any, impact on a Market-Maker's continuous quoting obligations, as they may continue to choose when to actively quote and have their obligations to their appointed classes apply. Furthermore, selecting an appointment in these options classes will be optional and within the discretion of a Market-Maker. Additionally, Market-Makers continue to have the opportunity to quote during GTH (and receive the benefits of acting as a Market-Maker with respect to transactions it effects during that time) without obtaining an additional Trading Permit or creating additional connections to the Exchange. The Exchange believes that extending the continuous quoting obligation to the additional trading hours being added to the GTH trading session in two classes is also outweighed by the Exchange's efforts to add liquidity during the entire GTH trading session in All Sessions classes, the minimal preparation a Market-Maker may require to participate in the GTH trading session, and the benefits to investors that may result from that liquidity. Therefore, the Exchange believes the proposed rule change provides customer trading interest with a net benefit and continues to maintain a balance of Market-Maker benefits and obligations.

The Exchange does not believe that the proposed rule change to lengthen the GTH trading session will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because the proposed rule change is a competitive initiative that will benefit the marketplace and investors. Additionally, all options exchanges are free to compete in the same manner. The Exchange further believes that the same level of competition among options exchanges will continue during RTH. Because the Exchange will continue to make only exclusively listed products available for trading during GTH, and because any All Sessions

orders that do not trade during GTH will be eligible to trade during the RTH trading sessions in the same manner as all other orders submitted during RTH, the proposed rule change will have no effect on the national best prices or trading during RTH. The Exchange also believes the proposed rule change could further increase its competitive position outside of the United States by providing investors with an additional investment vehicle with respect to their global trading strategies during times that better correspond with parts of regular trading hours outside of the United States.

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 Act⁵² and Rule 19b-4(f)(6)⁵³ 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 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-2021-061 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-2021-061. 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-2021-061 and should be submitted on or before November 18, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁴

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93404; File No. SR-MIAX-2021-51]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Options Fee Schedule To Establish a Policy Relating to Billing Errors

October 22, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 14, 2021, Miami International Securities Exchange, LLC ("MIAX Options" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a 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.

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

The Exchange proposes to establish a policy relating to billing errors.

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings/> at MIAX Options' principal office, 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 purpose of the proposed rule change is to amend MIAX's Fee

⁵² 15 U.S.C. 78s(b)(3)(A).

⁵³ 17 CFR 240.19b-4(f)(6).

⁵⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.