

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95910; File No. SR–CBOE–2022–047]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 6.6 Concerning the Clearing Editor

September 26, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on September 15, 2022, 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, and II, below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<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 6.6. The text of the proposed rule change is provided below.

(additions are *italicized*; deletions are [bracketed])

\* \* \* \* \*

Rules of Cboe Exchange, Inc.

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#### Rule 6.6. Clearing Editor

(a) No change.

(b) Trading Permit Holders may change the following fields through the Clearing Editor: (1) Executing Firm and Contra Firm; (2) Executing Broker and Contra Broker; (3) CMTA; (4) Account and Sub Account; (5) Client Order ID; (6) Position Effect (open/close); (7) Capacity (if the change is from a customer Capacity code of (C) to any other Capacity code, it must be accompanied by a Reason Code and notice of such change will automatically be sent to the Exchange with the submission of the change through the Clearing Editor); (8) Strategy ID; (9) Frequent Trader ID; (10) Compression

Trade ID; [or] (11) ORS ID; or (12) the MPID for the stock component of a stock-option order the Exchange electronically communicated to a designated broker-dealer (as defined in Rule 5.33(l)), if such broker-dealer systematically supports the change.

\* \* \* \* \*

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 proposed rule change amends Rule 6.6(b). Specifically, the proposed rule change adds a field to the list of specific fields in Rule 6.6(b) that Trading Permit Holders (“TPHs”) may change through the Clearing Editor. The Clearing Editor allows a TPH to update certain information with respect to an executed trade on its trading date for clearing. The Clearing Editor may be used to update certain information entered pursuant to Rule 6.1<sup>5</sup> or to correct certain bona fide errors.<sup>6</sup> Rule 6.6(b) provides the list of fields that a TPH may edit through Clearing Editor. Specifically, Rule 6.6(b) provides that TPHs may change the fields in Clearing Editor in connection with orders executed electronically and in open outcry. Such fields may include: (1) Executing Firm and Contra Firm; (2) Executing Broker and Contra Broker; (3) CMTA; (4) Account and Sub Account; (5) Client Order ID; (6) Position Effect (open/close); (7) Capacity (if the change is from a customer Capacity code of (C)

to any other Capacity code, it must be accompanied by a Reason Code<sup>7</sup> and notice of such change will automatically be sent to the Exchange with the submission of the change through the Clearing Editor); (8) Strategy ID; (9) Frequent Trader ID; (10) Compression Trade ID; or (11) ORS ID.<sup>8</sup>

The proposed rule change amends this provision to add the market participant identifier (“MPID”) for the stock component of a stock-option order the Exchange electronically communicated to a designated broker-dealer (as defined in Rule 5.33(l)<sup>9</sup>), if such broker-dealer systematically supports the change<sup>10</sup> as a field that TPHs may change through the Clearing Editor without including a Reason Code. Like the other fields listed in Rule 6.6(b) that do not require a Reason Code or trigger notification to the Exchange, a TPH’s MPID for a stock leg does not affect the terms of execution for that stock leg or what is reported to the tape, and instead relates only to noncritical backoffice information. TPHs may currently update this information by reaching out to its designated broker-dealer, which then contacts the Exchange to manually update the information. The proposed rule change streamlines the process for TPHs so they may update it directly and more efficiently using Clearing Editor. The Exchange notes that such changes, like all other changes entered into Clearing

<sup>7</sup> Reason Codes include: Input Error, Unmatched Trade, Unknown, Manual Add, Other Text Required, Trade Nullification, Trade Adjustment, Error Account, and System Issue.

<sup>8</sup> Rule 6.6(d) provides that, in addition to the fields listed in paragraph (b), TPHs may change the following fields through the Clearing Editor: (1) Series; (2) Quantity; (3) Buy or Sell; or (4) Price. However, each of these changes must be accompanied by a Reason Code, and notification of these changes will automatically be sent to the Exchange with the submission of the changes through Clearing Editor.

<sup>9</sup> Rule 5.33(l) states that when a TPH submits to the System a stock-option order, it must designate a specific broker-dealer with which it has entered into a brokerage agreement (as described in Rule 5.33, Interpretation and Policy .03 [sic]) to which the Exchange will electronically communicate the stock component of the stock-option order on behalf of the TPH.

<sup>10</sup> Currently, one designated broker-dealer to which the Exchange electronically communicates stock legs of stock-option orders on behalf of TPHs has updated its system and worked with the Exchange to permit TPHs to update stock leg MPIDs in the Exchange’s Clearing Editor. To the extent any other designated broker-dealers desire to permit their customers to update the MPIDs for stock legs using Clearing Editor, those broker-dealers could similarly approach the Exchange and complete the appropriate system work to permit these modifications. As otherwise noted in this filing, TPHs may reach out to a designated broker-dealer and request that broker-dealer update the MPID for the stock leg.

<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).

<sup>5</sup> Rule 6.1 describes how TPHs must report transactions to the Exchange (including what information must be included in those reports).

<sup>6</sup> See Rule 6.6(a).

Editor, would be captured in the Exchange's audit trail.

## 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>11</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>12</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>13</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 that the proposed rule change will foster cooperation and coordination with persons engaged in clearing and processing information with respect to securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system, as it will streamline the process TPHs may use to update an additional piece of noncritical backoffice information for purposes of post-trade allocation. As described above, TPHs may currently update the MPIDs associated with stock legs that the Exchange electronically communicates to designated broker-dealers for execution upon entry of a stock-option order using a more onerous, manual process involving multiple parties. The proposed rule change will permit TPHs to update this information directly in Clearing Editor if their designated broker-dealer has updated its system to permit the change, which will reduce their burden when making this post-trade allocation update.

The Exchange further believes the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, because it provides the opportunity for

any designated broker-dealer to work with the Exchange and update its system to permit that broker-dealer's TPH customers to update the stock leg MPID of stock components of stock-option orders the Exchange electronically communicated to that broker-dealer on behalf of those customers. The Exchange notes that TPHs whose designated broker-dealer does not systematically support changing the MPID for such stock components through Clearing Editor may still contact that broker-dealer and request the broker-dealer change that MPID.

### *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 the proposed rule change would impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the Act, because it would allow all TPHs on behalf of which the Exchange electronically communicates stock legs of stock-option orders to broker-dealers that systematically support the ability to amend MPIDs through Clearing Editor to amend such MPIDs in such a manner. The proposed rule change is intended to reduce the burden on TPHs to make such changes, as the current process is more onerous, indirect, and time-consuming process. The Exchange further believes the proposed rule change will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the Act, because it provides the opportunity for any designated broker-dealer to work with the Exchange and update its system to permit that broker-dealer's TPH customers to update the stock leg MPID of stock components of stock-option orders the Exchange electronically communicated to that broker-dealer on behalf of those customers. The Exchange notes that TPHs whose designated broker-dealer does not systematically support changing the MPID for such stock components through Clearing Editor may still contact that broker-dealer and request the broker-dealer change that MPID.

The Exchange does not believe that the proposed rule change would impose any burden on intermarket competition, as it does not address competitive issues or impact how stock-option orders trade. Instead, the proposed rule change relates solely to correction of one

additional piece of information post-trade.

### *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: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>16</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>17</sup> permits the Commission to 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. The Exchange explains that the proposal does not raise any novel issues because "TPHs may already update their MPIDs for stock legs that the Exchange electronically routes for execution—the proposed rule change merely permits them to do so using Clearing Editor as opposed to a more onerous, multi-party, manual process." In other words, the Exchange explains that the proposal merely makes electronic through the Clearing Editor something that TPHs currently can do through other less efficient means.

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 rule change does not raise any novel issues and only provides a simplified way for TPHs to use the clearing editor to change the MPID associated with the stock

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its 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>16</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> *Id.*

component of a stock-option order in certain cases. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.<sup>18</sup>

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 under Section 19(b)(2)(B)<sup>19</sup> of the Act 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2022-047 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-2022-047. 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

<sup>18</sup>For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>19</sup>15 U.S.C. 78s(b)(2)(B).

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-2022-047 and should be submitted on or before October 21, 2022.

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

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-601, OMB Control No. 3235-0673]

#### Submission for OMB Review; Comment Request; Extension: Rule 15c3-5

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*) ("PRA"), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 15c3-5 (17 CFR 240.15c3-5) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act").

Rule 15c3-5 under the Exchange Act requires brokers or dealers with access to trading directly on an exchange or alternative trading system ("ATS"), including those providing sponsored or direct market access to customers or other persons, to implement risk management controls and supervisory procedures reasonably designed to

manage the financial, regulatory, and other risks of this business activity.

The rule requires brokers or dealers to establish, document, and maintain certain risk management controls and supervisory procedures as well as regularly review such controls and procedures, and document the review, and remediate issues discovered to assure overall effectiveness of such controls and procedures. Each such broker or dealer is required to preserve a copy of its supervisory procedures and a written description of its risk management controls as part of its books and records in a manner consistent with Rule 17a-4(e)(7) under the Exchange Act. Such regular review is required to be conducted in accordance with written procedures and is required to be documented. The broker or dealer is required to preserve a copy of such written procedures, and documentation of each such review, as part of its books and records in a manner consistent with Rule 17a-4(e)(7) under the Exchange Act, and Rule 17a-4(b) under the Exchange Act, respectively.

In addition, the Chief Executive Officer (or equivalent officer) is required to certify annually that the broker or dealer's risk management controls and supervisory procedures comply with the rule, and that the broker-dealer conducted such review. Such certifications are required to be preserved by the broker or dealer as part of its books and records in a manner consistent with Rule 17a-4(b) under the Exchange Act. Compliance with Rule 15c3-5 is mandatory.

Respondents consist of broker-dealers with access to trading directly on an exchange or ATS. The Commission estimates that there are currently 520 respondents. To comply with Rule 15c3-5, these respondents will spend a total of approximately 83,200 hours per year (160 hours per broker-dealer × 520 broker-dealers = 83,200 hours). At an average internal cost per burden hour of approximately \$401.89, the resultant total related internal cost of compliance for these respondents is \$33,437,040 per year (83,200 burden hours multiplied by approximately \$401.89/hour). In addition, for hardware and software expenses, the Commission estimates that the average annual external cost would be approximately \$20,500 per broker-dealer, or \$10,660,000 in the aggregate (\$20,500 per broker-dealer × 520 brokers and dealers = \$10,660,000).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

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