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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82346; File No. SR-CBOE-2017-076]

### **Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 5.4, Withdrawal of Approval of Underlying Securities**

December 18, 2017.

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 December 4, 2017, 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**

The Exchange seeks to amend Rule 5.4 to allow the Exchange to restrict option series to closing transactions when an option class is open for trading solely on the Exchange and the underlying security continues to meet the requirements for approval.

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<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).

(additions are italicized; deletions are [bracketed])

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**Cboe Exchange, Inc.  
Rules**

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**Rule 5.4. Withdrawal of Approval of Underlying Securities.**

No change.

*... Interpretations and Policies:*

.01 – .12 No change.

.13 If an option class is open for trading on another national securities exchange, the Exchange may delist such option class immediately. If an option class is open for trading solely on the Exchange, the Exchange may determine to not open for trading any additional series in that option class[.]; may restrict series with open interest to closing transactions, provided that, opening transactions by Market-Makers executed to accommodate closing transactions of other market participants and opening transactions by TPH organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with Rule 6.74(b) or (d) may be permitted; and may delist the option class when all series within that class have expired. In all instances, delisting shall be preceded by a notice to TPH organizations concerning the delisting.

.14 – .16 No change.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in

Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange seeks to amend Rule 5.4 to allow the Exchange to restrict option series to closing transactions when an option class is open for trading solely on the Exchange and the underlying security continues to meet the requirements for approval. The Exchange believes the ability to restrict option series to closing transactions when an option class is open for trading solely on the Exchange and the underlying security continues to meet the requirements for approval will allow the Exchange to delist option series in a timely and efficient manner.

Currently, when an option class is trading on another exchange Cboe Options may delist such option class immediately, regardless of whether the option class continues to meet the requirements for approval.<sup>5</sup> When an option class that no longer meets the requirements for approval is trading solely on the Exchange the Exchange may not add any additional series,<sup>6</sup> may restrict series with open interest to closing transactions,<sup>7</sup> and may delist any series without open interest.<sup>8</sup> However, when an option class continues to meet the requirements for approval and is trading solely on the Exchange the Exchange may not restrict series with open interest to closing transactions; instead, the Exchange may only delist series with no open interest<sup>9</sup> and “determine to

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<sup>5</sup> See Rule 5.4.13.

<sup>6</sup> See Rule 5.4 and 5.4.13.

<sup>7</sup> See Rule 5.4.12.

<sup>8</sup> See Rule 5.4.12.

<sup>9</sup> See Rule 5.4.12.

not open for trading any additional series in that option class, and may delist the option class when all series within that class have expired.”<sup>10</sup>

The Exchange seeks to amend Interpretation and Policy .13 to Rule 5.4 to allow the Exchange to restrict option series to closing transactions when an option class is open for trading solely on the Exchange and the underlying security continues to meet the requirements for approval.

There are various business reasons why the Exchange may choose to no longer list an option class (e.g., lack of trading interest, lack of market-making interest, etc.). The Exchange believes restricting such classes to closing transactions will allow open interest to be closed in a timelier and more efficient manner. When seeking to delist an option class the Exchange believes that restricting series to closing transactions is a better way to transition the class to a delisted state than the current method of not adding additional series and allowing market participants to continue to add new positions in the existing series. Restricting trading to closing transactions encourages market participants to close transactions, which helps to limit any potential negative effects associated with delisting a class. For example, restricting trading to closing transactions helps prevent market participants from adding new positions that cannot be rolled into the following expiration (a common options strategy).

The Exchange notes that this proposal is consistent with the manner in which Rule 5.4 operates in relation to option classes with underlying securities that no longer meet the requirements for approval—additional series are not added, series with open interest are restricted to closing only, and series without open interest are delisted. As proposed, when the Exchange seeks to delist an option class with an underlying security that continues to meet the requirements for approval the Exchange will not open additional series in the option class and

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<sup>10</sup> See Rule 5.4.13.

will restrict trading to closing transactions. Also consistent with current Rule 5.4, opening transactions by Market-Makers executed to accommodate closing transactions of other market participants and opening transactions by TPH organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with Cboe Rule 6.74(b) or (d) may be permitted. Allowing Market-Makers and TPH organizations to facilitate closing transactions of public customers will help public customers close positions in classes that will be delisted by the Exchange, which helps to protect investors and the public interest. It is reasonable to restrict series to closing only pursuant to current Rule 5.4 when underlying securities no longer meet requirements for approval. The Exchange believes it is also reasonable to restrict series to closing when the options class no longer satisfies business justifications for listing the class.

## 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

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

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

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, when seeking to delist an option class – whether or not the underlying security continues to meet the requirements for approval – the Exchange believes that restricting series to closing transactions is a better way to transition the class to a delisted state than the current method of not adding additional series and allowing market participants to continue to add new positions in the existing series. Restricting trading to closing transactions encourages market participants to close transactions, which helps to limit any potential negative effects associated with delisting a class and helps to protect customers and the public interest.

The Exchange notes that this proposal is consistent with the manner in which Rule 5.4 operates in relation to option classes with underlying securities that no longer meet the requirements for approval—additional series are not added, series with open interest are restricted to closing only, and series without open interest are delisted. As proposed, when the Exchange seeks to delist an option class with an underlying security that continues to meet the requirements for approval the Exchange will not open additional series in the option class and will restrict trading to closing transactions. Also consistent with current Rule 5.4, opening transactions by Market-Makers executed to accommodate closing transactions of other market participants and opening transactions by TPH organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with Cboe Rule 6.74(b) or (d) may be permitted. Allowing Market-Makers and TPH organizations to facilitate closing transactions of public customers will help public customers close positions in classes that will be delisted by the Exchange, which helps to protect investors and the public interest. It is reasonable

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Id.

to restrict series to closing only pursuant to current Rule 5.4 when underlying securities no longer meet requirements for approval. The Exchange believes it is also reasonable to restrict series to closing when the option class no longer satisfies business justifications for listing the class.

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe 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. This proposed rule change is consistent with the manner in which Rule 5.4 operates in relation to option classes with underlying securities that no longer meet the requirements for approval—additional series are not added, series with open interest are restricted to closing only, and series without open interest are delisted. Also consistent with current Rule 5.4, opening transactions by Market-Makers executed to accommodate closing transactions of other market participants and opening transactions by TPH organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with Cboe Rule 6.74(b) or (d) may be permitted. Allowing Market-Makers and TPH organizations to facilitate closing transactions of public customers will help public customers close positions in classes that will be delisted by the Exchange, which helps to protect investors and the public interest and does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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)(iii) of the Act<sup>14</sup> and subparagraph (f)(6) Rule 19b-4 thereunder.<sup>15</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 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2017-076 on the subject line.

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<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 the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.



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-2017-076. This file number should be included on the subject line if e-mail 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, D.C. 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-2017-076 and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

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<sup>16</sup> 17 CFR 200.30-3(a)(12).

**Robert W. Errett,**

*Deputy Secretary.*

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