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SECURITIES AND EXCHANGE COMMISSION  
[Release No. 34-87320; File No. SR-CBOE-2019-095]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Relocate Various Exchange Rules from the Currently Effective to the Shell Structure for the Exchange's Rulebook that will Become effective Upon the Migration of the Exchange's Trading Platform

October 16, 2019

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 October 4, 2019, 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 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 relocate various Exchange Rules from the currently effective Rulebook ("current Rulebook") to the shell structure for the Exchange's Rulebook that will become effective upon the migration of the Exchange's trading platform to the same system used by the Cboe Affiliated Exchanges (as defined below) ("shell Rulebook"). The proposed rule change also deletes certain Exchange Rules from the currently effective Rulebook that will no longer be applicable following the migration. The text of the proposed rule change is provided in Exhibit 5.

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

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

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

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) ("Cboe Global"), which is also the parent company of Cboe C2 Exchange, Inc. ("C2"), acquired Cboe EDGA Exchange, Inc. ("EDGA"), Cboe EDGX Exchange, Inc. ("EDGX" or "EDGX Options"), Cboe BZX Exchange, Inc. ("BZX" or "BZX Options"), and Cboe BYX Exchange, Inc. ("BYX" and, together with Cboe Options, C2, EDGX, EDGA, and BZX, the "Cboe Affiliated Exchanges"). The Cboe Affiliated Exchanges are working to align certain system functionality, retaining only intended differences, between the Cboe Affiliated Exchanges, in the context of a technology migration. Cboe Options intends to migrate its trading platform to the same system used by the Cboe Affiliated Exchanges, which the Exchange expects to complete on October 7, 2019. In connection with this technology migration, the Exchange has a shell Rulebook that

resides alongside its current Rulebook, which shell Rulebook will contain the Rules that will be in place upon completion of the Cboe Options technology migration.

The Exchange proposes to relocate certain rules currently in the currently effective Rulebook into the shell Rulebook. The Exchange notes that in addition to moving these various rules, the proposed rule change deletes the rules from the current Rulebook. It also proposes to delete certain current rules that, as a result of the rules already in the shell Rulebook, are either redundant or are no longer applicable to trading on the Exchange. The proposed rule change moves and, where applicable, removes the rules as follows:

<b>Shell Rule</b>	<b>Current Rule</b>
5.3 Bids and Offers (introductory paragraph)	6.43 Manner of Bidding and Offering
5.5(d) System Access and Connectivity ( <i>Mandatory Testing</i> )	6.23A(f) Trading Permit Holder Connectivity ( <i>Mandatory Systems Testing</i> ) <sup>3</sup>
5.6(a) Order Types, Order Instructions, and Times-in-Force ( <i>Availability</i> )	6.11 Origins Eligible for Book Entry
6.7 Off-Floor Transfers of Positions	6.49A Off-Floor Transfers of Positions
6.8 Off-Floor RWA Transfers	6.49B Off-Floor RWA Transfers
<i>To be deleted</i>	6.51A. Fines for Failure to Perform Certain Reporting Duties
<i>To be deleted</i>	6.53A Types order Formats
<i>To be deleted</i>	24.13 Trading Rotations

<sup>3</sup> The Exchange notes that this provision was removed from the currently effective Rulebook in filing SR-CBOE-2019-033. However, that filing inadvertently did not maintain this language in the shell Rulebook. See Securities Exchange Act Release No. 86374 (July 15, 2019), 84 FR 34963 (July 19, 2019) (SR-CBOE-2019-033) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to System Connectivity and Order Entry and Allocation Upon the Migration of the Exchange's Trading Platform to the Same System Used by the Cboe Affiliated Exchanges).

<i>To be deleted</i>	24A.11 FLEX Index Appointed Market-Maker Account Equity
<i>To be deleted</i>	24A.12 FLEX Appointed Market-Maker Financial Requirements

The proposed changes are of a non-substantive nature and will not amend the relocated rules other than to update their rule numbers, conform paragraph structure and number/lettering format to that of the shell Rulebook, and make cross-reference changes to shell rules.

The Exchange notes that the proposed change to incorporate the language under current Rule 6.11 into shell Rule 5.6(a) does not substantively change the current provision but updates it to streamline and simplify the language and the reflect shell rule text. Current Rule 6.11 states that after a class opens for trading, the System accepts for entry into the Book quotes of Market-Makers (including DPMs and LMMs) and orders of any origin in Hybrid classes. The proposed provision that relocates Rule 6.11 under shell Rule 5.6(a) states that after a class opens for trading pursuant to Rule 5.31 (the shell rule which will govern the opening auction process upon migration), the System accepts for entry into the Book orders and quotes with any Capacity. In other words, orders and quotes of any Capacity will be eligible to enter the Book. The Exchange notes that this is substantively the same provision as the current provision because all classes currently trade on the System, and, pursuant to shell Rule 1.1, upon migration, the term “Capacity” will be used to reference what is referred to as “origin” in the currently effective rules.<sup>4</sup> Therefore, the proposed language merely simplifies and streamlines the current provision and updates terms to reflect terms in the shell Rulebook.

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<sup>4</sup> See shell Rule 1.1, which defines “quote” or “quotations” as a firm bid or offer a Market-Maker (a) submits electronically in an order or bulk message (including to update any bid or offer submitted in a previous order or bulk message) or (b) represents in open outcry on the trading floor.

The proposed change also adds current Rule 6.23A(f), which governs mandatory systems testing for Trading Permit Holders, to shell Rule 5.5(d). The Exchange notes that SR-CBOE-2019-033<sup>5</sup> removed current Rule 6.23A, but did not incorporate it into the shell Rulebook in anticipation of migration. While that filing indicated that Rule 5.24 in the shell Rulebook covered the same provision as current Rule 6.23A(f), current Rule 6.23A(f) is broader than the required testing in shell Rule 5.24, which relates only to disaster recovery testing. Under current Rule 6.23A(f), the Exchange currently may require other types of testing, and therefore believes it is appropriate to maintain this provision in the shell Rulebook. The Exchange notes that proposed 5.5(d) will merely continue to govern mandatory system testing upon the October 7, 2019 migration in the same manner in which Rule 6.23A(f) currently governs mandatory systems testing, and therefore will not substantively alter nor have any impact on trading on the Exchange or on TPHs.

The proposed changes to remove certain rules are of a non-substantive nature because they delete rules that are redundant or not applicable as a result of other rules already in the shell Rulebook. The proposed rule change removes current Rule 6.53A, which covers order formats, as these formats relate solely to the Exchange's current system, and therefore will not be applicable on the new system following the technology migration and information regarding order formats is already available in technical specifications on the Exchange's website.<sup>6</sup> The proposed change removes current Rule 24.13, which describes trading rotations for index options because it is

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<sup>5</sup> See Securities and Exchange Act Release No. 86374 (July 15, 2019), 84 FR 34963 (July 19, 2019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to System Connectivity and Order Entry and Allocation Upon the Migration of the Exchange's Trading Platform to the Same System Used by the Cboe Affiliated Exchanges) (SR-CBOE-2019-033).

<sup>6</sup> See Cboe US Options FIX Specifications (October 3, 2019), available at [http://cdn.cboe.com/resources/membership/US\\_Options\\_FIX\\_Specification.pdf](http://cdn.cboe.com/resources/membership/US_Options_FIX_Specification.pdf); and [Cboe US Options BOE Specifications \(October 3, 2019\), available at http://cdn.cboe.com/resources/membership/US\\_Options\\_BOE\\_Specification.pdf](http://cdn.cboe.com/resources/membership/US_Options_BOE_Specification.pdf).

redundant of the opening process in shell Rule 5.31 (current Rule 6.2) which governs the opening auction process for both equity options and index options. Pursuant to current Rule 24.13, the Exchange may provide for the opening rotation to be conducted using the procedures described in current Rule 24.13 or current Rule 6.2 (shell Rule 5.31). The Exchange has provided for the opening rotation to be conducted using the procedures described in current Rule 6.2 (shell Rule 5.31). Additionally, the Exchange pursuant to current Rule 6.2 (proposed Rule 5.31) has authority to deviate from the opening rotation procedures, while Designated Primary Market-Makers (“DPMs”) and Lead Market-Makers (“LMMs”) do not. Therefore, deletion of current Rule 24.13 will have no impact on the opening of index options. Index options will continue to open for trading pursuant to the same process as other options as set forth in current Rule 6.2 (shell Rule 5.31).<sup>7</sup>

The proposed rule change removes Rule 6.51A because this Rule was deleted in 1992 and merely refers to current Rule 17.50 (shell Rule 13.15).<sup>8</sup> Finally, the proposed rule change deletes current Rule 24A.11, in connection with FLEX Index appointed Market-Maker account equity, and Rule 24A.12, in connection with FLEX Index appointed Market-Maker financial requirements, because the Exchange does not currently have any FLEX Appointed Market-Makers, and does not intend to have any following migration. In other rule filings, the Exchange previously deleted various current Rules related to FLEX Appointed Market-Makers, and inadvertently did not omit current Rules 24A.11 and 24A.22 in those rule filings.<sup>9</sup>

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<sup>7</sup> The Commission previously approved certain changes to the Exchange’s opening trading process for

<sup>8</sup> Rule 13.15(g) of the shell Rulebook describes fines that may be imposed for failure to perform certain reporting duties. See, e.g., Rule 13.15(g)(4) (failure to submit trade information on time and failure to submit trade information to the price reporter).

<sup>9</sup> See Securities Exchange Act Release No. 87024 (September 19, 2019), 84 FR 50545 (September 25, 2019) (SR-CBOE-2019-059) (Notice of Filing and Immediate

## 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>10</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>11</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>12</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As stated, the proposed rule change makes no substantive changes to the rules. The proposed rule change is merely intended to relocate the Exchange’s rules to the shell Rulebook and update their numbers, paragraph structure, including number and lettering format, cross-references, and terms found in the shell Rules, as well as removing rules that are either redundant or no longer applicable to the Exchange, in order to conform to the shell Rulebook as a whole in anticipation of the technology migration on October 7, 2019. As such, the proposed rule change

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Effectiveness of a Proposed Rule Change To Amend Certain Rules Relating To Market-Makers Upon Migration to the Trading System Used by Cboe Affiliated Exchanges); and SR-CBOE-2019-084 (filed October 2, 2019).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> Id.

is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by improving the way the Exchange's Rulebook is organized, making it easier to read, and, particularly, helping market participants better understand the rules of the Exchange, which will also result in less burdensome and more efficient regulatory compliance.

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 reiterates that the proposed rule change is being proposed in the context of a technology migration of the Exchange's system to the same technology platform as that used by the Cboe Affiliated Exchanges and a related reorganization of the Rulebook, and not as a competitive filing. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because it deletes rules that are redundant or no longer applicable in light of the rules already in the shell Rulebook, will allow the provision that currently governs mandatory systems testing to continue to govern mandatory systems testing upon migration, and makes non-substantive changes to the rules by relocating the rules and updating their paragraph structure and cross-references, to conform to the shell Rulebook that will be in place come October 7, 2019. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition because the proposed rules are substantially the same as the Exchange's current rules, all of which have all been previously filed with the Commission.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup> Because the proposed rule change does not:

(i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>17</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>18</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. The Exchange notes that the proposed rule change is merely relocating certain

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>16</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 Commission has waived that requirement in this case.

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

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).

rules to its shell rulebook – which includes corresponding updates to rule numbers, cross-references, and other references – in order to conform these rules to the shell rulebook upon the technology migration explained above. The Exchange believes that the proposed rule change will make its rules easier to read and understand for all investors. The Exchange also asserts that the relocation of the rules explained above will not impose any significant burden on competition as the substance of the rules remains unchanged. The Commission agrees that allowing this proposed rule change to become operative upon filing in order to facilitate the Exchange’s technology migration – without changing the substance of these Exchange Rules – is consistent with the protection of investors and the public interest. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>19</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 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:

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<sup>19</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2019-095 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-2019-095. 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, 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 offices 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-2019-095, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Jill M. Peterson  
Assistant Secretary

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<sup>20</sup> 17 CFR 200.30-3(a)(12), (59).

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