2020–009 and should be submitted on or before May 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88575; File No. SR–CBOE–2020–025]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Interpretation and Policy .01 to Rule 5.24 in Connection with Business Continuity and Disaster Recovery Testing

April 7, 2020.

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 March 26, 2020, Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the 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

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend Interpretation and Policy .01 to Rule 5.24 in connection with business continuity and disaster recovery testing. 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.

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 proposes to harmonize Interpretation and Policy .01 to Rule 5.24, in connection with business continuity and disaster recovery testing, with the corresponding rules of its affiliated options exchanges, Cboe BZX Exchange, Inc. (''BZX Options''), Cboe EDGX Exchange, Inc. (''EDGX Options''), and Cboe C2 Exchange, Inc. (''C2'').[3]

As background, Regulation Systems Compliance and Integrity (''Regulation SCI'') [4] applies to certain self-regulatory organizations (including the Exchange), alternative trading systems (''ATSs''), plan processors, and exempt clearing agencies (collectively, ''SCI entities''). Specifically, Rule 1004 of Regulation SCI (''Reg SCI'') states that each SCI entity shall establish standards for the designation of members or participants that are necessary for the maintenance of fair and orderly markets in the event of the activation of the business continuity and disaster recovery plans, designate such members or participants in scheduled functional and performance testing of the operation of such plans no less than once every 12 months, and coordinate the testing of such plans on an industry- or sector-wide basis with other SCI entities.

In order to comply with the coordination requirement among SCI entities, the Exchange has conducted the required operational testing in parallel with the industry-led testing program coordinated by the Securities Industry and Financial Markets Association (''SIFMA''), which occurs on an annual basis. In particular, Rule 5.24(b) requires certain Trading Permit Holders (''TPHs'') to connect to the Exchange's backup systems and participate in functional and performance testing announced by the Exchange, which occurs every 12 months pursuant to Reg SCI. Subparagraphs (b)(1) and (b)(2) respectively require TPHs that the Exchange determine which TPHs contribute a meaningful percentage of the Exchange's overall volume and the Exchange's executed customer volume in SPX and VIX combined, which TPHs are required to connect to the Exchange's backup systems and participate in the functional and performance testing. Interpretation and Policy .01 to Rule 5.24 currently provides that for purposes of determining which TPHs contribute a meaningful percentage of the Exchange's overall volume and customer volume in SPX and VIX pursuant to subparagraphs (b)(1) and (2), respectively, the Exchange measures volume executed on the Exchange during a specified calendar quarter (the ''measurement quarter''). Pursuant to Interpretation and Policy .01(a), the Exchange provides TPHs with reasonable advance notice of the applicable meaningful percentage and measurement quarter, which meaningful percentage may not apply retroactively to any measurement quarter completed or in progress, and, pursuant to Interpretation and Policy .01(b), the Exchange individually notifies all TPHs that are subject to paragraph (b) of Rule 5.24 based on the applicable meaningful percentage following the completion of the applicable measurement quarter. The Exchange provides these TPHs with reasonable advance notice that they must participate in the next annual functional and performance testing, which generally occurs in October. For example, TPHs could potentially receive notice they will be required to participate in the annual functional and performance testing based on their activity in the third or fourth quarter of the preceding year.

In order to harmonize its business continuity and disaster recovery testing provisions with that of its affiliated options exchanges, the Exchange proposes to amend the application of the meaningful percentage to a specified quarter's volume, as well as the timing for which the Exchange notifies a TPH required to participate in annual testing. Specifically, the proposed rule change removes the provision in current Interpretation and Policy .01(a) [5] which provides that a meaningful percentage

[23] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] The Exchange notes that C2 is simultaneously filing a rule change to harmonize certain provisions of its business continuity and disaster recovery testing rules with that of BZX Options and EDGX Options.

[4] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014) (''SCI Adopting Release'').

[5] The Exchange also removes (a) and (b) as separate paragraphs under Interpretation and Policy .01 and consolidates the rule text into a single Interpretation and Policy .01 provision. This is consistent with Interpretation and Policy .01 to Rule 2.4 of BZX Options and EDGX Options.

may not apply retroactively to any measurement quarter completed or in progress. The proposed rule change is consistent with BZX Options and EDGX Options Interpretation and Policy .01 to Rule 2.4, as well as C2 Rule 6.34(b). The proposed rule change is intended to provide the Exchange with greater flexibility in selecting the most relevant quarter's trade data for which the Exchange may identify TPHs that will be designated to participate in annual testing. As such, the Exchange may identify TPHs designated for testing based on potentially the most representative measure of trading activity. For example, if a current quarter is generally experiencing high volume and trading activity, such a quarter would provide a better, more accurate sample of overall activity and trading patterns on the Exchange than a future, potentially less active quarter, thus providing a more accurate, holistic representation of the TPHs who meet the requirements set forth in Rules 5.24(b)(1) and (b)(2). The Exchange also reflects this proposed rule change by removing language in connection with the application of a meaningful percentage following the completion of the measurement quarter, currently in Interpretation and Policy .01(b).

The proposed rule change amends language in current Interpretation and Policy .01(b) [6] regarding notification to TPHs that are designated for testing by adopting a specific notification timeframe in which the Exchange must notify such designated TPHs. Specifically, the proposed rule change provides that the Exchange individually notifies all TPHs (designated for testing) annually, and at least three months prior to the scheduled functional and performance testing, and removes language in connection with giving reasonable advanced notice. The proposed rule change is substantively identical to the language regarding testing notification provided in Interpretation and Policy .01 to Rule 2.4 of BZX Options and EDGX Options. The proposed rule change provides additional detail regarding the timeframe for which the Exchange will provide notice to TPHs that have been designated to test pursuant to subparagraph (b)(1) and (b)(2) of Rule 5.24. Additionally, the proposed rule change is consistent with the current language, which provides the Exchange will provide reasonable advanced notice, which the Exchange believes three months is reasonable advanced notice.

Finally, the proposed rule change makes nonsubstantive changes to certain language in Interpretation and Policy .01 in order to provide consistencies between the corresponding business continuity and disaster recovery testing provisions in the rules of BZX Options, EDGX Options and C2. The proposed rule change removes the provision under current Interpretation and Policy .01(a) which provides that the Exchange gives TPHs reasonable advance notice of the applicable meaningful percentage and measurement quarter. Instead, the proposed rule change streamlines this language and makes it consistent with current BZX Options and EDGX Options Interpretation and Policy .01 and C2 Rule 6.34(b)(1) by providing that the Exchange determines the percentage of volume it considers to be meaningful for purposes of Rule 5.24. The Exchange notes that, pursuant to Rule 1.5, the Exchange is automatically required to announce such a determination to TPHs in a specification, Notice or Circular with appropriate advanced notice. The proposed rule change also updates ''specified calendar quarter (''the measurement quarter'')'' to state ''single designated quarter for a given year'' and updates the relevant terms where applicable in the remainder of Interpretation and Policy .01, which is consistent with the terms used in the corresponding rules of the Exchange's affiliated options exchanges.

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.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [8] 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) [9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed change is intended to harmonize the rules in connection with business continuity and disaster recovery testing across the Exchange and its affiliated options exchanges, BZX Options and EDGX Options, as well as C2.[10] The proposed rule change does not proposed new or unique business continuity and disaster recovery procedures or requirements as the proposed changes are substantively similar to rules currently in place on the Exchange's affiliated options exchanges and previously filed with the Commission. Consistent requirements and procedures in connection with business continuity and disaster recovery testing will simplify the regulatory requirements and increase the understanding of the Exchange's operations for TPHs that are also participants on the Exchange's affiliated options exchanges. Greater harmonization across the affiliated options exchanges will result in greater uniformity, rules that are easier to follow and understand, and less burdensome, more efficient regulatory compliance, thereby contributing to the protection of investors and the public interest. Moreover, the proposed rule change will harmonize Exchange rules with those of other self-regulatory organizations in furtherance of the coordination of testing among SCI entities required by Rule 1004(c) of Regulation SCI. As set forth in Regulation SCI, ''SROs have the authority, and legal responsibility, under Section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to business continuity and disaster recovery testing) applicable to their members or participants that are designed to, among other things, 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.'' [11] The Exchange believes that the proposed rule change is consistent with such authority and legal responsibility and will serve to strengthen the Exchange's coordination

[6] *See supra* note 4.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *See supra* note 5.

[11] *See* supra note 6.

with other SCI entities to the benefit of investors and the public interest.

In addition to this, by allowing the Exchange to identify TPHs that are subject to testing based on activity during any single designated quarter and to issue an annual notification at least three months prior to testing the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, protect investors as it will allow the Exchange to rely on the trading activity within a quarter that may be more representative of overall trading activity and patterns on the Exchange in order to better determine which TPHs should participate in testing, provide the more specificity as to the timing for which the Exchange will give notice to TPHs designated to participate in testing, and, in general, will simplify the TPH designation and notice process.

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 notes that the proposed rule change is not a competitive proposal as it is intended to coordinate TPH notification and designated calendar quarters in connection with annual functional and performance testing participation with the rules of its affiliated options exchanges.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the trading activity of TPHs will continue to be measured during the same Exchange-determined quarter for all TPHs and annual notice will be given to each TPH designated for testing at the same time at least three months in advance.

The Exchange does not believe that the proposed rule change 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 changes are substantively identical to the corresponding rules of BZX Options and EDGX Options, and generally consistent with the corresponding rules of C2, all of which have previously been 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

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[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

A proposed rule change filed under Rule 19b-4(f)(6)[14] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[15] 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 so that the proposed rule change may become effective and operative immediately upon filing. The Exchange states that waiver of the operative delay would eliminate potential confusion in connection with testing participation in the next annual functional and performance testing (October 2020) across the Exchange and its affiliated options exchanges and in coordination with other SCI entities. The Exchange also states that the proposed rule changes will harmonize Exchange rules with those of other self-regulatory organizations in furtherance of the coordination of testing among SCI entities, thereby contributing the protection of investors and the public interest. The Exchange further states that the proposed rule change will simplify and streamline the process of notification to TPHs designated to participate in the annual test and will ensure that the Exchange and its affiliated options exchanges will be able to base participation on the same designated quarter (*e.g.,* Q1 2020) for the upcoming annual test, thus resulting in more efficient regulatory compliance and operations for investors across the exchanges. Accordingly, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[16]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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 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–2020–025 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–2020–025. 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

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 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.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

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

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–2020–025 and should be submitted on or before May 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–07652 Filed 4–10–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88578; File No. SR–LCH SA–2020–001]

Self-Regulatory Organizations; LCH SA; Order Approving Proposed Rule Change Relating to Amendments to the Wind Down Plan

April 7, 2020.

I. Introduction

On February 24, 2020, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] a proposed rule change updating its wind down plan (''WDP''). The proposed rule change was published for comment in the **Federal Register** on March 4, 2020.[3] The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change[4]

The purpose of the WDP is to ensure an orderly wind down of LCH SA under extreme circumstances and to limit market impact as much as possible, should its recovery plan or the resolutions measures that could have been taken by the authorities fail to allow LCH SA to obtain the resources required to return to business as usual conditions. The WDP sets out the steps that LCH SA would follow to close its clearing services and shut down the company. In addition, the WDP reflects LCH SA's estimate of the costs that it would incur to conduct a wind-down, thereby allowing LCH SA to ensure that it maintains capital sufficient to cover such costs.[5]

In 2018, LCH SA conducted a review of its WDP and is proposing to update it to clarify the circumstances under which LCH SA could determine to wind down. More specifically, these revisions would make clear that LCH SA generally could not make such a determination on its own initiative. Instead, if LCH SA is no longer deemed viable after consultation with its regulatory authorities[6] (either while operating under its current governance or once it has been put under resolution), the ACPR could require LCH SA to wind down.[7] Further, the proposal would clarify that only in the case where all business lines have been closed and LCH SA no longer has any clearing activity, could LCH SA make the decision to wind down on its own initiative and without the direction of its regulator.

LCH SA is also proposing to update the WDP with new estimates of the costs that it would incur to wind-down. Such costs would still be lower than the amount that LCH SA holds as liquid resources corresponding to 6 months of expenses that are the minimum required by the European Market Infrastructure Regulation (''EMIR'').

Additionally, the proposed rule change would update the 'assessment of key member, exchange, and IT contract termination provisions' section of the WDP to add (i) contracts that LCH SA recently entered with particular platforms and (ii) the contract governing the LCH SA staff layoff processes.[8]

III. Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the organization.[9] For the reasons given below, the Commission finds that the proposed rule change is consistent with Rules 17Ad–22(e)(3)(ii), 17Ad–22(e)(15)(i) and (ii).[10]

A. Consistency With Rule 17Ad–22(e)(3)(ii)

Rule 17Ad–22(e)(3)(ii) requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures that are reasonably designed, as applicable, to ensure that it maintains plans for the orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.[11] As described above, the proposed rule change would revise the WDP to clarify that it is the ACPR and not LCH SA that can decide to wind-down. Additionally, LCH SA would also update the list of key contractual provisions reflected in the WDP to add contracts for services providers and an employment contract.

The Commission believes that these clarifications and updates allow LCH SA to maintain the WDP with current and relevant information. In particular, the Commission believes that more precise specification of the role of the ACPR should clarify which entity has the authority to trigger the WDP. The Commission also believes that by updating the list of contracts with wind-down provisions, LCH SA can maintain current and relevant information in its WDP. Therefore, for the above reasons

[17] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to Amendments to the Wind Down Plan; Exchange Act Release No. 88297 (February 27, 2020); 85 FR 12814 (March 4, 2020) (''Notice'').

[4] The description herein is substantially excerpted from the Notice, 85 FR 12814.

[5] For more information regarding LCH SA's WDP, please see Securities Exchange Act Release No. 34–83451 (June 15, 2018), 83 FR 28886 (June 21, 2018) (SR–LCH SA–2017–013).

[6] LCH SA is regulated as a credit institution and central counterparty by its National Competent Authorities: l'Autorité des marchés financiers, l'Autorité de Contrôle Prudentiel et de Résolution (ACPR), and Banque de France.

[7] ACPR can act as either the prudential authority or the resolution authority for LCH SA.

[8] However, the conditions of this employment contract would not apply in case of wind down, and only legal conditions, which are less demanding for LCH SA, would be applicable for staff layoffs.

[9] 15 U.S.C. 78s(b)(2)(C).

[10] 17 CFR 240.17Ad–22(e)(3)(ii), (e)(15)(i), and (e)(15)(ii).

[11] 17 CFR 240.17Ad–22(e)(3)(ii).