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**SUPPLEMENTARY INFORMATION:** Section 701 of the Bipartisan Budget Act of 2015, Public Law 114-74 (Nov. 2, 2015), entitled the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act), amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) (Inflation Adjustment Act) to require agencies to publish regulations adjusting the amount of civil monetary penalties provided by law within the jurisdiction of the agency not later than January 15th of every year.

For the 2021 annual adjustment for inflation of the maximum civil penalty under the Program Fraud Civil Remedies Act of 1986, the Board applies the formula provided by the 2015 Act and the Board's regulations at Title 20, Code of Federal Regulations, Part 356. In accordance with the 2015 Act, the amount of the adjustment is based on the percent increase between the Consumer Price Index (CPI-U) for the month of October preceding the date of the adjustment and the CPI-U for the October one year prior to the October immediately preceding the date of the adjustment. If there is no increase, there is no adjustment of civil penalties. The percent increase between the CPI-U for October 2020 and October 2019, as provided by Office of Management and Budget Memorandum M-21-10 (December 23, 2020) is 1.01182 percent. Therefore, the new maximum penalty under the Program Fraud Civil Remedies Act is \$11,803 (the 2020 maximum penalty of \$11,665 multiplied by 1.01182, rounded to the nearest dollar). The new minimum penalty under the False Claims Act is \$11,803 (the 2020 minimum penalty of \$11,665 multiplied by 1.01182, rounded to the

nearest dollar), and the new maximum penalty is \$23,607 (the 2020 maximum penalty of \$23,331 multiplied by 1.01182, rounded to the nearest dollar). The adjustments in penalties will be effective January 11, 2021.

Dated: January 6, 2021.

By Authority of the Board.

**Stephanie Hillyard,**

*Secretary to the Board.*

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**BILLING CODE P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90853; File No. SR-CBOE-2020-117]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Certain Rules To Accommodate the Listing and Trading of Index Options With an Index Multiplier of One

January 5, 2021.

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 23, 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, 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

The purpose of this proposed rule change is to amend certain rules to accommodate the listing and trading of

index options with an index multiplier of one ("micro-options").<sup>3</sup>

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 purpose of this proposed rule change is to amend certain rules to accommodate the listing and trading of index options with an index multiplier of one ("micro-options").<sup>4</sup> The Exchange may list options on indexes that satisfy the initial and maintenance criteria in Rule 4.10, and currently lists options on 19 indexes. The following table lists the current indexes on which the Exchange currently lists options, as well as the current value of the index as of the close of trading on November 25, 2020, which indexes satisfy the initial and maintenance criteria for broad-based, narrow-based indexes, or the specific indexes in Rule 4.10:

Index (option symbol)	Current value
S&P 500 Index (SPX) .....	3629.65
Mini-S&P 500 Index (XSP) .....	362.97
Russell 2000 Index (RUT) .....	1845.02
Cboe Volatility Index (VIX) .....	21.25
Dow Jones Industrial Average (DJX) .....	<sup>5</sup> 29872.47
S&P 100 Index (OEX and XEO) .....	1662.28
S&P 500 ESG Index (SPESG) .....	309.24
S&P Materials Select Sector Index (SIXB) .....	754.63

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

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

<sup>3</sup> The Exchange intends to file a Form 19b-4(e) with the Commission for any index option it lists for trading with an index multiplier of one pursuant to Rule 19b-4(e) of the Act. As further discussed below, the proposed rule change would also permit the Exchange to list flexible index options ("FLEX

Index Options") with an index multiplier of one ("FLEX Micro Options"). Unless the context otherwise requires, the term "micro-options" as used in this rule filing includes FLEX Micro Options.

<sup>4</sup> The Exchange intends to file a Form 19b-4(e) with the Commission for any index option it lists for trading with an index multiplier of one pursuant

to Rule 19b-4(e) of the Act. As further discussed below, the proposed rule change would also permit the Exchange to list flexible index options ("FLEX Index Options") with an index multiplier of one ("FLEX Micro Options"). Unless the context otherwise requires, the term "micro-options" as used in this rule filing includes FLEX Micro Options.

Index (option symbol)	Current value
S&P Industrials Select Sector Index (SIXI) .....	894.23
S&P Financial Select Sector Index (SIXM) .....	350.98
S&P Real Estate Select Sector Index (SIXRE) .....	178.53
S&P Utilities Select Sector Index (SIXU) .....	649.19
S&P Health Care Select Sector Index (SIXV) .....	1,093.10
MSCI EAFE Index (MXEA) .....	2,065.60
MSCI Emerging Markets Index (MXEF) .....	1,218.29
Russell 1000 Growth Index (RLG) .....	2,300.88
Russell 1000 Value Index (RLV) .....	1,315.93
Russell 1000 Index (RUI) .....	2,040.23
FTSE 100 Mini-Index (UKXM) .....	637.97

<sup>5</sup> Options are based on  $\frac{1}{100}$ th of the index value.

Pursuant to the definition of index multiplier<sup>6</sup> in Rule 4.11, the Exchange may determine the index multiplier of an option, which it generally does in the specifications for an index option.<sup>7</sup> Similarly, Article I, Section 1, I(3) of the Options Clearing Corporation (“OCC”) By-Laws defines “index multiplier” as the dollar amount (as specified by the Exchange on which such contract is traded) by which the current index value is to be multiplied to obtain the aggregate current index value. Unlike the definition of a unit of trading for stock options in the OCC By-Laws, which states the unit of trading is designated by OCC but is 100 shares if not otherwise specified, the definition of index multiplier includes no such default.<sup>8</sup> Therefore, the Exchange believes the current index multiplier definition in the OCC By-Laws (which would have previously been filed with the Commission) permits any index multiplier specified by the listing Exchange given the lack of a default index multiplier for index options (and the inclusion of a default unit of trading for equity options). This is consistent with the lack of default number in Exchange’s definition of index multiplier and the ability for the Exchange to specify the index multiplier, as noted above. However, certain other Rules reflect an index multiplier of 100, and the proposed rule change updates those Rules to reflect the potential for an index multiplier of one.

<sup>6</sup> Rule 4.11 defines the term “index multiplier” as the amount specified in the contract by which the current index value is to be multiplied to arrive at the value required to be delivered to the holder of a call or by the holder of a put upon valid exercise of the contract. The Exchange included the proposed index multiplier in rule filings for certain products.

<sup>7</sup> Option specifications are available on the Exchange’s public website, available at [cboe.com/tradable\\_products/](http://cboe.com/tradable_products/). Currently, the Exchange has designated an index multiplier of 100 for indexes it currently lists for trading.

<sup>8</sup> See OCC Bylaws Article I, Section 1, U(5).

Additionally, the Exchange believes micro-options are covered by the disclosures in the Options Disclosure Document (“ODD”). The ODD reflects the possibility of differing values of index multipliers when describing features of index options.<sup>9</sup> Specifically, the ODD states the total exercise price for an index option is the exercise price multiplied by the multiplier, and the aggregate premium is the premium multiplied by the multiplier.<sup>10</sup> As a result, the risk disclosures regarding index options in the ODD currently cover any risks associated with option index options with multipliers of one (and other amounts).

The Exchange believes micro-options will expand investors’ choices and flexibility by listing and trading option contracts on index options, which provide investors with the ability to gain exposure to the market or specific industries, with a notional value of  $\frac{1}{100}$ th of the value of current index options. The Exchange believes lower-valued micro-options may appeal to retail investors who currently may not participate in the trading of index options, because index options are generally higher-priced securities due to the high levels of the indexes. The Exchange believes that investors, most notably the average retail investor, will benefit from micro-options, which will make options overlying indexes more readily available as investing and hedging tools at more affordable and realistic prices, which would ultimately reduce investment risk. For example, with SPX at a value of 3629.65 on November 25, 2020, the notional value

<sup>9</sup> The ODD is available at <https://www.theocc.com/about/publications/characteristics.jsp>. The ODD states that the exercise price of a stock option is multiplied by the number of shares underlying the option to determine the aggregate exercise price and aggregate premium of that option. See ODD at 18. Similarly, the ODD states that the total exercise price for an index option is the exercise price multiplied by the multiplier, and the aggregate premium is the premium multiplied by the multiplier. See ODD at 8, 9, and 125.

<sup>10</sup> See ODD at 8, 9, and 125.

of an SPX option with an index multiplier of 100 was \$362,965. On that date, the Dec 4 SPX 3630 call was traded at \$32.05, making the cost of that option \$3,205 given the index multiplier of 100. Proportionately equivalent SPX micro-options would have provided investors with the ability to trade at the much lower price of \$32.05 per contract.

Additionally, the Exchange believes the additional granularity provided by micro-options with respect to the prices at which investors may execute and exercise index options on the Exchange will appeal to all investors by providing them with an additional exchange-traded tool to manage the positions and associated risk in their portfolios more precisely based on notional value, which currently may equal a fraction of a standard contract. For example, suppose an investor holds a security portfolio of \$10,000,000 and desires to hedge its portfolio with SPX options. In order to hedge the entire portfolio with SPX options, the investor would need to trade 27.55 contracts (\$10,000,000/\$362,965). The nearest whole number of contracts would be 28 contracts, which would have a total notional value of \$10,163,020. As a result, the investor could only hedge within \$163,020 of its portfolio value with SPX options with an index multiplier of 100. However, with SPX micro-options, the investor would need to trade 2,755.09 contracts (\$10,000,000/\$3629.65) or equivalently, 27 SPX and 55.09 SPX micro-options. The nearest whole number of contracts would be 2,755 SPX micro-options or 27 SPX and 55 SPX micro-options, which would have a total notional value of \$9,999,686.75. This will allow the investor to hedge within \$315 of its portfolio value. Therefore, the proposed rule change would permit this investor to hedge its portfolio more effectively with far greater precision.

The Exchange notes investors may currently execute and exercise options with this smaller contract multiplier in the unregulated over-the-counter

("OTC") options market. The Exchange understands that investors may prefer to trade such options in a listed environment to receive the benefits of trading listing options, including (1) enhanced efficiency in initiating and closing out position; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of all listed options. The Exchange

believes the proposed rule change may shift liquidity from the OTC market onto the Exchange, which the Exchange believes would increase market transparency as well as enhance the process of price discovery conducted on the Exchange through increased order flow.

#### Micro-Options

Currently, the Exchange has designated an index multiplier of 100

for all index options it lists for trading. The proposed rule change amends various rules regarding index options to permit the Exchange to designate an index multiplier of one for indexes on which it may list options. Micro-options will trade in the same manner as index options.<sup>11</sup> The table below demonstrates the differences between a micro-option and a standard index option on the SPX Index:

Term	Standard (index multiplier of 100)	Micro (index multiplier of 1)
Strike Price .....	3630	3630
Bid or offer .....	32.05	32.05
Total Value of Deliverable .....	\$363,000	\$3,630
Total Value of Contract .....	\$3,205	\$32.05

To the extent the Exchange lists a micro-option on an index on which it also lists a standard index option, it will be listed with a different trading symbol than the standard index option with the same underlying index to reduce any potential confusion.<sup>12</sup> The Exchange believes that the clarity of this approach is appropriate and transparent. The Exchange recognizes the need to differentiate micro-option contracts from standard option contracts and believes the proposed rule change will provide the necessary differentiation.

#### FLEX Micro Options<sup>13</sup>

Currently, Rule 4.21(b)(1) states the index multiplier for FLEX Index Options is 100 (which as noted above is currently the index multiplier designated by the Exchange for all non-FLEX Index Options). The proposed rule change deletes the parenthetical with that provision from current Rule 4.21(b)(1), and instead proposes to

describe the index multiplier for FLEX Index Options in proposed Rule 4.20(b). Options with the same underlying but different units of trading or index multipliers, as applicable, are different classes.<sup>14</sup> An index multiplier applies to all series in the class.<sup>15</sup> The Exchange, therefore, believes including the provision regarding the index multiplier of FLEX Index Options in Rule 4.20, which describes which classes the Exchange may authorize for trading, is more appropriate.<sup>16</sup>

The provision in proposed Rule 4.20(b) that states the index multiplier for FLEX Index Options may be 100 merely restates the provision in the parenthetical from current Rule 4.21(b)(1) in a more appropriate part of the Rules, and thus is a nonsubstantive change. Proposed Rule 4.20(b) also provides that the index multiplier for FLEX Index options may also be one (a "FLEX Micro Option") (in addition to the current index multiplier of 100).<sup>17</sup>

Like non-FLEX Options (as discussed above), 100 contracts for a FLEX Micro Option are economically equivalent to one contract for a FLEX Index Option with a multiplier of 100. FLEX Micro Options will be listed with different trading symbols than FLEX Index Options with a multiplier of 100 with the same underlying to reduce any potential confusion.<sup>18</sup>

Additionally, proposed Rule 4.20(a) states that the unit of trading for FLEX Equity Options is the same as the unit of trading for non-FLEX Equity Options overlying the same equity security. The unit of trading for equity options (both FLEX and non-FLEX) that may be listed on the Exchange is 100,<sup>19</sup> except for mini-options, which have a unit of trading of 10.<sup>20</sup> This is not a substantive change, but rather is merely a clarification in the Rules regarding the current unit of trading for FLEX Equity Options. Therefore, the proposed rule change has no impact on which FLEX

<sup>11</sup> The proposed rule change defines "micro-options" in Rule 4.11 as an index option with an index multiplier of one. The proposed rule change adds that references to "index option" in the Rules include "micro-option" unless the context otherwise requires.

<sup>12</sup> For example, a standard index option for index ABC with an index multiplier of 100 may have symbol ABC, while a micro-option for index ABC with a multiplier of one may have symbol ABC9.

<sup>13</sup> The Exchange notes that SR-CBOE-2020-034 is currently pending with the Securities and Exchange Commission (the "Commission") and proposes nearly identical changes to FLEX (except that rule filing applies to full-value indexes only). To the extent the Commission approves that filing prior to this filing, the Exchange will amend this filing to incorporate the approved changes. If the Commission approves this filing prior to that filing, the Exchange would withdraw SR-CBOE-2020-034.

<sup>14</sup> For example, the Exchange may list for trading on five securities mini-options, which are options

with a unit of trading of ten shares, which is ten times lower than the standard-sized option of 100 shares. See Rule 4.5, Interpretation and Policy .18. While a mini-option has the same underlying as a standard-sized option, they are separate products. See Securities Exchange Act Release No. 68656 (January 15, 2013), 78 FR 4526 (January 22, 2013) (SR-CBOE-2013-001). As proposed, the Exchange may list for trading micro-options and standard options on the same indexes, which will be separate products (and thus separate classes).

<sup>15</sup> In other words, SPX micro-options would be a different class than standard SPX options, just as SPX options are a different class than XSP options.

<sup>16</sup> Current Rule 4.20 provides that the Exchange may authorize for trading a FLEX Option class on any equity security or index if it may authorize for trading a non-FLEX Option class on that equity security or index pursuant to Rules 4.3 and 4.10, respectively, even if the Exchange does not list that non-FLEX Option class for trading. Therefore, if the proposed rule change to adopt micro-options is approved, the Exchange may authorize FLEX Micro

Options on an index to be listed for trading even if the Exchange is not listing a micro-option on that same index.

<sup>17</sup> Proposed Rule 4.20(b) also clarifies that references to "FLEX Index Option" in the Rules include "FLEX Micro Option" unless the context otherwise requires.

<sup>18</sup> For example, a FLEX ABC Index Option with a multiplier of 100 may have symbol 4ABC (the "4" is the designation generally used for FLEX Options to distinguish from the non-FLEX Option with the same underlying), while a FLEX ABC Micro Option may have symbol 4ABC9.

<sup>19</sup> See OCC By-Laws Article I, Section I(U)(5), which defines "unit of trading" in respect of any series of options as the number of units of the underlying interest designated by OCC as the minimum number to be the subject of a single option contract in such series, and stating that in the absence of any such designation for a series of options in which the underlying security is a common stock, the unit of trading is 100 shares.

<sup>20</sup> See Rule 4.5, Interpretation and Policy .18(a).

Equity Options may be traded on the Exchange. The “unit of trading” in respect of any series of options means the number of units (*i.e.*, shares in the case of equity options) of the underlying interest subject to a single option contract in the series.<sup>21</sup>

When submitting a FLEX Order, the submitting FLEX Trader<sup>22</sup> must include all required terms of a FLEX Option series.<sup>23</sup> Pursuant to current Rule 4.21(b)(1), the submitting FLEX Trader must include the underlying equity security or index (*i.e.*, the FLEX Option class) on the FLEX Order. The proposed rule change amends Rule 4.21(b)(1) to state that if a FLEX Trader specifies an index on a FLEX Order, the FLEX Trader must also include whether the index option has an index multiplier of 100 or 1 when identifying the class of FLEX Order. The Exchange is specifying it may list FLEX Index Option classes with an index multiplier of either one or 100. Therefore, each FLEX Index Option series in a FLEX Micro Option class will include the same flexible terms as any other FLEX Option series, including strike price, settlement, expiration date, and exercise style as required by Rule 4.21(b).<sup>24</sup>

FLEX Micro Options will be traded in the same manner as all other FLEX Options pursuant to Chapter 5, Section F of the Rules. Like micro-options, as demonstrated above, there are two important distinctions between FLEX Index Options with a multiplier of 100 and FLEX Micro Options due to the difference in multipliers. The proposed rule change amends certain Rules describing the exercise prices and bids and offers of FLEX Options to reflect these distinctions, in a similar manner as it proposes to do for non-FLEX Options (as further described below).

The Rules permit trading in a put or call FLEX Option series only if it does not have the same exercise style, same expiration date, and same exercise price

as a non-FLEX Option series on the same underlying security or index that is already available for trading.<sup>25</sup> In other words, a FLEX Option series may not have identical terms as a non-FLEX Option series listed for trading. Rule 1.1 defines the term “series” as all option contracts of the same class that are the same type of option and have the same exercise price and expiration date. Therefore, a FLEX Option series in one class may have the same exercise style, same expiration date, settlement, and same exercise price as a non-FLEX Option series in a different class, even if they are on the same underlying security or index. For example, pursuant to the Exchange’s Rules, a FLEX Option overlying Apple stock that is a mini-option (*i.e.* a multiplier of 10) may be listed with the same exercise style, expiration date, settlement, and same exercise price as a non-FLEX Option overlying Apple stock that is not a mini-option (*i.e.* a multiplier of 100). The Exchange may also list a FLEX XSP Option with the same exercise style, expiration date, settlement, and same exercise price as a non-FLEX SPX Option. As these series are in different classes, they are permissible under Rule 4.21(a)(1). Similarly, pursuant to the proposed rule change, an SPX FLEX Micro Option may have the same exercise style, expiration date, settlement, and same exercise price as a standard SPX option with an index multiplier of 100 (which is non-FLEX), as they would be in different classes.

Pursuant to Rule 4.22(a), a FLEX Option position becomes fungible with a non-FLEX option that becomes listed with identical terms. As discussed above, options with different multipliers are different classes, and an option series in one class cannot be fungible with an option series in another classes, even if they are economically equivalent. Fungibility is only possible for series with identical terms. This is similar to how a FLEX XSP Index Option series is not fungible with an economically equivalent non-FLEX SPX Option series. Therefore, a FLEX Micro Option would become fungible with a non-FLEX micro-option with the same terms pursuant to Rule 4.22(a), but would not be fungible with a non-FLEX option overlying the same index with a multiplier of 100 with the same expiration date, settlement, and exercise price.

#### Trading Hours

Micro-options will be available for trading during the same hours as standard index options pursuant to Rule

5.1(b)(2).<sup>26</sup> Therefore, Regular Trading Hours for micro-options will generally be 9:30 a.m. to 4:15 p.m. Eastern time.<sup>27</sup> To the extent an index option is authorized for trading during Global Trading Hours, the Exchange may also list micro-options during that trading session as well, the hours for which trading session are 3:00 a.m. to 9:15 a.m. Eastern time.

#### Expiration, Settlement, and Exercise Style

The Exchange may list a micro-option on an index with the same expirations, settlements, and exercise styles as the standard index option overlying the same index.<sup>28</sup> Consistent with existing rules for index options, the Exchange will generally allow up to six standard monthly expirations for micro-options<sup>29</sup> as well as up to 10 expiration months for LEAPS.<sup>30</sup> For certain specified index options (including EAFE, EM, UKXM, the S&P Select Sector Indexes, and SPESG options) and any class that the Exchange (as the Reporting Authority) uses to calculate a volatility index (currently, only SPX options are used by the Exchange to calculate a volatility index), the Exchange may list up to 12 standard monthly expirations for micro-options on those indexes, up to six weekly expirations and up to 12 standard (monthly) expirations in VIX micro-options.<sup>31</sup> The Exchange may also list up to the same maximum number of expirations permitted in Rule 4.13(a)(2) for micro-options on broad-based index options with nonstandard expirations in accordance with the Nonstandard Expirations Pilot Program (as further discussed below).<sup>32</sup> Micro-options on broad-based and narrow-based indexes will be cash-settled contracts with European-style exercise in accordance with the listing criteria for those options.<sup>33</sup> Micro-options, like standard index options, with third-Friday expiration will also be A.M.-settled or P.M.-settled, as applicable, in

<sup>21</sup> See Rule 4.21(b)(1); and OCC Bylaws Article I, Section 1, U(5).

<sup>22</sup> A “FLEX Trader” is a Trading Permit Holder the Exchange has approved to trade FLEX Options on the Exchange.

<sup>23</sup> These terms include, in addition to the underlying equity security or index, the type of options (put or call), exercise style, expiration date, settlement type, and exercise price. See Rule 4.21(b). A “FLEX Order” is an order submitted in FLEX Options. The submission of a FLEX Order makes the FLEX Option series in that order eligible for trading. See Rule 5.72(b).

<sup>24</sup> As discussed below, these are the terms designated by the Commission as those that constitute standardized options, and therefore, the Exchange believes the proposed rule change is consistent with Section 9(b) of the Act. See Securities Exchange Act Release No. 31910 (February 23, 1993), 58 FR 12056 (March 2, 1993) (“1993 FLEX Approval Order”).

<sup>25</sup> See Rule 4.21(a)(1).

<sup>26</sup> Pursuant to Rule 5.1(b)(3)(A) and (c)(1), FLEX Micro Options may trade at the same time as index options with the same underlying index.

<sup>27</sup> Certain indexes close trading at 4:00 p.m. Eastern time. See Rule 5.1.

<sup>28</sup> See Rule 4.13. In accordance with Rule 4.21(b), FLEX Traders may designate the exercise style, expiration date, and settlement type of FLEX Micro Options.

<sup>29</sup> See Rule 4.13(a)(2).

<sup>30</sup> See Rule 4.13(b). Index LEAPS may expire 12 to 180 months from the date of issuance.

<sup>31</sup> See Rule 4.13(a).

<sup>32</sup> See Rule 4.13(e).

<sup>33</sup> See Rule 4.10(b) (narrow-based initial listing criteria), (f) (broad-based initial listing criteria), (h) (EAFE, EM, FTSE Emerging, and FTSE Developed), and (j) (FTSE 100); see also Rule 4.13(a)(3).

accordance with the applicable listing criteria.<sup>34</sup>

As it does for certain standard index options, the Exchange may list micro-options over the same indexes with P.M.-settlement in certain instances (in addition to A.M.-settlement in accordance with the generic listing terms). Specifically, pursuant to Rule 4.13(c), the Exchange may open for trading Quarterly Index Expirations (“QIXs”) on certain specified index options. QIXs are index option contracts that expire on the last business day of a calendar quarter, and the Exchange may list up to eight near-term quarterly expirations for trading.<sup>35</sup> Currently, the index multiplier for QIXs may be 100 or 500. The proposed rule change amends Rule 4.13(c) to permit the index multiplier to also be one to accommodate the listing of QIX micro-options on the specified indexes.

In addition, the Exchange’s Nonstandard Expirations Pilot Program currently allows it to list Weekly and End of Month (“EOM”) Expirations on any broad-based index.<sup>36</sup> Weekly and EOM options are P.M.-settled and may expire on any Monday, Wednesday, or Friday (other than the third Friday of the month or days that coincide with an EOM expiration) or on the last trading day of the month. Like standard index options with Weekly and EOM Expirations, micro-options on broad-based indexes with Weekly and EOM Expirations will be P.M.-settled and otherwise treated the same as options on the same underlying index that expire on the third Friday of the month. The maximum number of expirations that may be listed for each of Weeklys and EOMs in a micro-option is the same as the maximum number of expirations permitted in Rule 4.13(a)(2) (as described above) for micro-options on the same broad-based index.<sup>37</sup> The Exchange may currently list Weekly and EOM Expirations on broad-based indexes as a pilot, which pilot period currently expires on May 3, 2021. The Exchange currently submits regular reports and data to the Commission regarding the Nonstandard Expirations Pilot Program. To the extent the Exchange lists any micro-options with Weekly or EOM Expirations pursuant to this pilot program, the Exchange will include the same information with respect to micro-options that it does for standard options in the reports it

submits to the Commission in accordance with the pilot program.

Similarly, the Exchange also currently has in place a pilot program under Rule 4.13, Interpretation and Policy .13 that allows the Exchange to list options on specified indexes that expire on the third Friday of the month that are P.M.-settled. The Exchange, therefore, may list micro-options on those same indexes pursuant to this pilot program, which pilot period currently expires on May 3, 2021 as well. As it will for the Nonstandard Expirations Pilot Program, to the extent the Exchange lists micro-options on the specified indexes pursuant to this P.M.-settlement pilot program, the Exchange will include the same information with respect to micro-options that it does for standard options in the reports it submits to the Commission in accordance with the pilot program.

Each micro-option will be on an index that already satisfies initial and maintenance listing criteria in Rule 4.10, and thus the underlying index of each micro-option consists of the same components as the underlying index of each standard index option. A micro-option will merely have  $\frac{1}{100}$ th the value of a standard option overlying the same index. Because micro-options and standard index options may overlie the same indexes, market participants may use micro-options as a hedging vehicle to meet their investment needs in connection with index-related products and cash positions in a similar manner as they do with standard index options, but as a more manageably sized contract. The smaller-sized contract will also provide market participants with more precision to hedge their portfolios. Additionally, the smaller size makes a micro-option a lower cost option than a standard index option, making it a more affordable and lower risk investment choice for investors, particularly retail investors. Therefore, the Exchange believes it is appropriate to be able to list the same expirations and settlements for micro-options as it may for standard index options.

#### Exercise Prices

The Exchange proposes to adopt Rule 4.13, Interpretation and Policy .01(l) to provide that, notwithstanding any other provision regarding strike price intervals in Rule 4.13, Interpretation and Policy .01, the interval between strike prices of series of micro-options will be \$0.50 or greater. Because of the smaller contract size of micro-options, the Exchange believes it is appropriate to be able to list micro-options with smaller strike price intervals than

standard index options.<sup>38</sup> The Exchange believes finer strike intervals will more closely align micro-options with their purpose of being a lower-cost investment tool to investors.<sup>39</sup> The Exchange believes that smaller strike intervals for micro-options will provide market participants with more efficient hedging and trading opportunities. The proposed \$0.50 strike setting regime would permit strikes on a more refined scale, which the Exchange believes will allow investors, particularly retail investors, to more affordably and efficiently gain exposure to equity markets, hedge their positions in instrument and cash positions in their portfolios, and more precisely tailor their investment strategies.

As demonstrated above, there are two important distinctions between micro-options and standard options due to the difference in multipliers, one of which is how the total deliverable value is calculated (the other is the meaning of bids and offers, as further discussed below). Proposed Rule 4.13, Interpretation and Policy .01(l) describes the difference between the meaning of the exercise price of micro-option and a standard index option. Specifically, the proposed rule change states that strike prices for micro-options are set at the same level as index options with an index multiplier of 100. For example, a micro-option call series with a strike price of 3250 has a total deliverable value of \$3,250 ( $3250 \times \$1$ ), while a standard option call series with a strike price of 3250 has a total deliverable value of \$325,000 ( $3250 \times \$100$ ).<sup>40</sup>

The proposed rule change amends Rule 4.21(b)(6) to describe the difference between the meaning of the exercise price of a FLEX Index Option with a multiplier of 100 and a FLEX Micro Option. Specifically, the proposed rule

<sup>38</sup> Pursuant to Rule 4.13, Interpretation and Policy .01, the interval between strike prices of standard index options is generally \$5.00 except for lower-priced strikes, for which the smallest interval is \$2.50, subject to certain exceptions (including reduced-value index options, which may have strike intervals of no less than \$0.50 or \$1).

<sup>39</sup> This is consistent with lower permissible strike intervals for certain reduced-value index options, which have the same practical effect as index options with a smaller multiplier. *See id.*

<sup>40</sup> This corresponds to the calculation of exercise prices for other types of options with a reduced multiplier. For example, Rule 4.5, Interpretation and Policy .18(b) provides that strike prices for mini-options (which have multipliers of 10 rather than 100, as set forth in Rule 4.5, Interpretation and Policy .18(a)) are set at the same level as for standard options. For example, a call series strike price to deliver 10 shares of stock at \$125 per share has a total deliverable value of \$1,250 ( $10 \times 125$ ) if the strike is 125, while a call series strike price to deliver 100 shares of stock at \$125 per share has a total deliverable value of \$12,500 ( $100 \times 125$ ).

<sup>34</sup> *See id.*

<sup>35</sup> *See* Rule 4.13(c).

<sup>36</sup> *See* Rule 4.13(e).

<sup>37</sup> *See id.*

change states that the exercise price for a FLEX Micro Option series is set at the same level as the exercise price for a FLEX Index Option series in a class with a multiplier of 100. The proposed rule change also adds the following examples to Rule 4.21(b)(6) regarding how the deliverable for a FLEX Micro Option will be calculated (as well as for a FLEX Index Option with a multiplier of 100 and a FLEX Equity Option, for additional clarity and transparency): If the exercise price of a FLEX Option series is a fixed price of 50, it will deliver: (A) 100 shares of the underlying security at \$50 (with a total deliverable of \$5,000) if a FLEX Equity Option; (B) cash equal to 100 (*i.e.* the index multiplier) times 50 (with a total deliverable value of \$5,000) if a FLEX Index Option with a multiplier of 100; and (C) cash equal to one (*i.e.* the index multiplier) times 50 (with a total deliverable value of \$50) if a FLEX Micro Option. If the exercise price of a FLEX Option series is 50% of the closing value of the underlying security or index, as applicable, on the trade date, it will deliver: (A) 100 shares of the underlying security at a price equal to 50% of the closing value of the underlying security on the trade date (with a total deliverable of 100 times that percentage amount) if a FLEX Equity Option; (B) cash equal to 100 (*i.e.* the index multiplier) times a value equal to 50% of the closing value of the underlying index on the trade date (with a total deliverable of 100 times that percentage amount) if a FLEX Index Option with a multiplier of 100; and (C) cash equal to one (*i.e.* the index multiplier) times a value equal to 50% of the closing value of the underlying index on the trade date (with a total deliverable of one times that percentage amount) if a FLEX Micro Option. The descriptions of exercise prices for FLEX Equity Options and FLEX Index Options with a multiplier of 100 are true today, and merely add for purposes of clarity examples to the rule regarding the exercise price of a FLEX Equity Option or a FLEX Index Option with a multiplier of 100, the deliverables for which are equal to the exercise price times the 100 contract multiplier to determine the deliverable dollar value. Because a FLEX Micro Option has a multiplier of  $\frac{1}{100}$  of the multiplier of a FLEX Index Option with a multiplier of 100, the value of the deliverable of a FLEX Micro Option as a result is  $\frac{1}{100}$  of the value of the deliverable of a FLEX Index Option with a deliverable of 100.

#### Minimum Increments

The Exchange proposes to amend Rule 5.4 to provide that a micro-option

will have the same minimum increment for bids and offers as the minimum increment for a standard index option on the same index.<sup>41</sup> Similar to the proposed rule change above to describe the difference between the meaning of strike prices of micro-options and standard index options, the proposed rule change amends the Rules to describe the difference between the meaning of bids and offers for micro-options and standard index options. Specifically, proposed Rule 5.3(c)(2) provides that notwithstanding Rule 5.3(a),<sup>42</sup> bids and offers for a micro-option must be expressed in terms of dollars per  $\frac{1}{100}$ th part of the total value of the contract. For example, an offer of “0.50” represents an offer of \$0.50 for a micro-option.<sup>43</sup>

Similarly, the proposed rule change amends Rule 5.3(e)(3) to describe the difference between the meaning of bids and offers for FLEX Equity Options, FLEX Index Options with a multiplier of 100, and FLEX Micro Options. Currently, that rule states that bids and offers for FLEX Options must be expressed in (a) U.S. dollars and decimals if the exercise price for the FLEX Option series is a fixed price, or (b) a percentage, if the exercise price for the FLEX Option series is a percentage of the closing value of the underlying equity security or index on the trade date, per unit.<sup>44</sup> As noted above, a FLEX Option contract unit consists of 100 shares of the underlying security or 100 times the value of the underlying index, as they currently have a 100 contract multiplier.<sup>45</sup> The proposed rule change clarifies that bids and offers are expressed per unit, if a FLEX Equity Option or a FLEX Index Option with a

multiplier of 100, and adds an example (as set forth below). This is true today, and merely adds clarity to the Rules.

The proposed rule change also adds to Rule 5.3(e)(3) the meaning of bids and offers for FLEX Micro Options. Specifically, bids and offers for FLEX Micro Options must be expressed in (a) U.S. dollars and decimals if the exercise price for the FLEX Option series is a fixed price, or (b) a percentage, if the exercise price for the FLEX Option series is a percentage of the closing value of the underlying equity security or index on the trade date, per  $\frac{1}{100}$ th unit. Additionally, the proposed rule change adds examples of the meaning of bids and offers of FLEX Options: If the exercise price of a FLEX Option series is a fixed price, a bid of “0.50” represents a bid of (A) \$50 (0.50 times 100 shares) for a FLEX Equity Option; (B) \$50 (0.50 times an index multiplier of 100) for a FLEX Index Option with a multiplier of 100; and (C) \$0.50 (0.50 times an index multiplier of one) for a FLEX Micro Option.

If the exercise price of a FLEX Option series is a percentage of the closing value of the underlying equity security, a bid of “0.50” represents a bid of (A) 50% (0.50 times 100 shares) of the closing value of the underlying equity security on the trade date if a FLEX Equity Option; (B) 50% (0.50 times an index multiplier of 100) of the closing value of the underlying index on the trade date if a FLEX Index Option with a multiplier of 100; and (C) 0.50% (0.50 times an index multiplier of one) of the closing value of the underlying index on the trade date if a FLEX Micro Option. The Exchange believes this approach identifies a clear, transparent description of the differences between FLEX Index Options with a multiplier of 100 and FLEX Micro Options. The proposed rule change also provides additional clarity regarding the meaning of bids and offers of FLEX Equity Options and FLEX Index Options with a multiplier of 100.

The proposed rule change also clarifies that the System rounds bids and offers and offers of FLEX Options to the nearest minimum increment following application of the designated percentage to the closing value of the underlying security or index. This is consistent with current functionality and is merely a clarification in the Rules. For example, suppose a FLEX Trader enters a bid of 0.27 for a FLEX Equity Option, and the underlying security has a closing value of 24.52 on the trade date. Following the close on the trade date, the System calculates the bid to be 6.6204 ( $0.27 \times 24.52$ ). Because the minimum increment for bids and

<sup>41</sup> See Rule 5.4(a). This corresponds to the provision regarding the minimum increment for mini-options.

<sup>42</sup> Rule 5.3(a) states that except as otherwise provided in Rule 5.3, must be expressed in terms of dollar and decimals per unit of the underlying security or index. The Exchange believes that the proposed rule change is consistent with this provision, as a bid of 7 will represent a bid of 7 for an option contract having an index multiplier (*i.e.*, unit of trading) of one. However, the Exchange proposes to add a specific provision regarding the meaning of bids and offers for micro-options to provide complete clarity in the Rules, and to maintain consistency in the Rules, which currently contain a separate provision for mini-options, which as discussed above, have a reduced multiplier compared to standard options as micro-options do.

<sup>43</sup> An offer of “0.50” represents an offer of \$50 for a standard index option with an index multiplier of 100.

<sup>44</sup> The proposed rule change reorganizes the language in this provision to make clear that the phrase “if the exercise price for the FLEX Option series is a percentage of the closing value of the underlying equity security or index on the trade date” applies to the entire clause (B) of 5.4(e)(3).

<sup>45</sup> See current Rule 4.21(b)(1).

offers in a FLEX Option class is \$0.01, the System rounds 6.6204 to the nearest penny, which would be a bid of \$6.62.

#### Appointment Weights

The Exchange proposes to add micro-options each as a Tier AA class with a Market-Maker appointment weight of .001.<sup>46</sup> This is the same appointment weight as a majority of the other Tier AA options classes. The Exchange determines appointment weights of Tier AA classes based on several factors, including, but not limited to, competitive forces and trading volume. The Exchange believes the proposed initial appointment weight of .001 for each micro-option will foster competition by incentivizing Market-Makers to obtain an appointment in these newly listed options and provide increased liquidity in a newly listed class, to the benefit of all investors.

#### Contract Size Limits

The proposed rule change updates various other provisions in the following Rules to reflect that one-hundred micro-contracts overlying an index will be economically equivalent to one contract for a standard index option overlying the same index:

- *Rules 1.1 (definition of “complex order”) and 5.65(d) (definition of “complex trade”):* The definition of “complex order” in Rule 1.1 provides, among other things that for purposes of Rules 5.33 and 5.85(b)(1), the term “complex order” means a complex order with any ratio equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00), an Index Combo order, a stock-option order, or a security future-option order.<sup>47</sup>

<sup>46</sup> See Rule 5.50(g). While the appointment weights of Tier AA classes are not subject to quarterly rebalancing under Rule 5.50(g)(1), the Exchange regularly reviews the appointment weights of Tier AA classes to ensure that they continue to be appropriate. The Exchange determines appointment weights of Tier AA classes based on several factors, including, but not limited to, competitive forces and trading volume.

<sup>47</sup> The proposed rule change also conforms the definition of “complex order” in Rule 1.1 to the definition of “complex trade” in Rule 5.65 to say that it may be comprised of different series in the same “underlying security” rather than the same “class.” As discussed above, micro-options will be a different class than standard index options overlying the same index. This accommodates, for example, the fact that a complex order could be comprised of mini-options and standard options overlying the same stock (as contemplated by the current definition) despite being in different classes. The proposed rule change also expands the definitions of complex order in Rule 1.1 and complex trade in Rule 5.65 to provide that it may similarly be comprised of different series in the same “underlying index.” The Exchange notes that full-value indexes and reduced-value indexes are separate indexes under the Exchange Rules, so to the extent a multi-legged order whose legs overly

Similarly, in Rule 5.65(d), the definition of “complex trade” (for purposes of the options linkage plan) means the execution of an order in an option series in conjunction with the execution of one or more related order(s) in different option series in the same underlying security occurring at or near the same time in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.0) and for the purpose of executing a particular investment strategy (for the purpose of applying the aforementioned ratios to complex trades comprised of both mini-option contracts and standard option contracts, ten (10) mini-option contracts will represent one (1) standard option contract. The proposed rule change adds to the definition in each of Rules 1.1 and 5.65(d) that for the purposes of applying these ratios to complex orders comprised of legs for both micro-options and standard options, 100 micro-option contracts represent one standard option contract.<sup>48</sup>

- *Rules 5.37 and 5.38:* Rules 5.37 and 5.38 describe the Exchange’s Automated Improvement Mechanism for simple (“AIM”) and complex orders (“C-AIM”), respectively. There is no minimum size for an order submitted into an AIM or C-AIM Auction. However, in an AIM Auction for orders less than 50 standard option contracts (or 500 mini-option contracts), the stop price must be at least one minimum increment better than the then-current national best-bid or offer or the order’s limit price (if the order is a limit price), whichever is better. For orders of 50 standard option contracts (or 500 mini-option contracts) or more, the stop price must be at or better than the then-current national best-bid or offer or the order’s limit price (if the order is a limit price), whichever is better.<sup>49</sup> The proposed rule change adds to Rule 5.37(b) that 5,000 micro-option contracts is the corresponding size for these stop price restrictions. Additionally, Rule 5.37(c) and 5.38(c) provide that no concurrent AIM or C-AIM Auctions, respectively, are permitted for orders less than 50 standard option contracts (or 500 mini-option contracts) (for C-AIM Auctions, the size is determined by the smallest leg of the complex order), but are

different indexes (such as one leg with a full-value index and one leg with a reduced-value index) would not qualify for the definition of “complex trade.”

<sup>48</sup> This corresponds to the provision in those definitions regarding mini-options, which states that for the purpose of applying these ratios to complex orders comprised of legs for both mini-options and standard options, ten mini-option contracts represent one standard option contract.

<sup>49</sup> See Rules 5.37(b).

permitted for orders of 50 standard option contracts (or 500 mini-option contracts) or greater (for C-AIM Auctions, the size is determined by the smallest leg of the complex order). The proposed rule change adds that 5,000 micro-option contracts is the corresponding size for determining whether concurrent auctions are permissible.

- *Rules 5.39, 5.40, and 5.74:* Rules 5.39, 5.40, and 5.74 describe the Exchange’s Solicitation Auction Mechanism for simple (“SAM”), complex (“C-SAM”), and FLEX (“FLEX SAM”) orders, respectively. An order, or the smallest leg of a complex order, must be for at least the minimum size designated by the Exchange (which may not be less than 500 standard option contracts or 5,000 mini-option contracts). The proposed rule change adds that 50,000 micro-option contracts or FLEX Micro Options, as applicable, is the corresponding minimum size for orders submitted into SAM, C-SAM, or FLEX SAM Auctions.

- *Rule 5.87:* Rule 5.87(f) describes when a Floor Broker is entitled to cross a certain percentage of an order, subject to the requirements in that paragraph. Under that Rule, the Exchange may determine on a class-by-class basis the eligible size for an order that may be transacted pursuant to this paragraph; however, the eligible order size may not be less than 50 standard option contracts (or 500 mini-option contracts). The proposed rule change adds that 5,000 micro-option contracts is the corresponding minimum size for orders that may be crossed in accordance with this provision. Additionally, Rule 5.87, Interpretation and Policy .07(a) provides that Rule 5.86(e)<sup>50</sup> does not prohibit a Trading Permit Holder (“TPH”) from buying or selling a stock, security

<sup>50</sup> Rule 5.86(e) provides that it will be considered conduct inconsistent with just and equitable principles of trade for any TPH or person associated with a TPH, who has knowledge of all material terms and conditions of an original order and a solicited order, including a facilitation order, that matches the original order’s limit, the execution of which are imminent, to enter, based on such knowledge, an order to buy or sell an option of the same class as an option that is the subject of the original order, or an order to buy or sell the security underlying such class, or an order to buy or sell any related instrument until either (1) all the terms and conditions of the original order and any changes in the terms and conditions of the original order of which that Trading Permit Holder or associated person has knowledge are disclosed to the trading crowd or (2) the solicited trade can no longer reasonably be considered imminent in view of the passage of time since the solicitation. An order to buy or sell a “related instrument,” means, in reference to an index option, an order to buy or sell securities comprising ten percent or more of the component securities in the index or an order to buy or sell a futures contract on any economically equivalent index.



futures or futures position following receipt of an order, including an option order, but prior to announcing such order to the trading crowd, provided that the option order is in a class designated as eligible for “tied hedge” transactions and within the eligibility size parameters, which are determined by the Exchange and may not be smaller than 500 standard option contracts (or 5,000 mini-option contracts). The

proposed rule change adds that 50,000 micro-option contracts is the corresponding minimum size for orders that may qualify as tied hedge transactions and not be deemed a violation of Rule 5.86(e).

#### Position and Exercise Limits<sup>51</sup>

Rule 8.31 governs position limits for broad-based index options, and currently provides that there are no

position limits for broad-based index option contracts (including reduced-value option contracts) on DJX, OEX, XEO, RUT, and SPX classes (among others). With respect to the other broad-based index options that the Exchange currently lists for trading, the Exchange fixes the position limits, which may not be larger than the limits in the following table:

Broad-based index	Standard limit (on the same side of the market)
Russell 1000 Russell 1000 Growth Russell 1000 Value .....	50,000 contracts (no more than 30,000 near-term).
MSCI Emerging Markets Index MSCI EAFE Index .....	50,000 contracts.
Other .....	25,000 contracts (no more than 15,000 near-term).

The proposed rule change adds Rule 8.31(f) to provide that positions in micro-options (with an index multiplier of one) will be aggregated with positions in standard options (including reduced-value option contracts) (with an index multiplier of 100) on the same broad-based index and, for purposes of determining compliance with the position limits under Rule 8.31, 100 micro-option contracts with an index multiplier of one equal one standard option contract with an index multiplier of 100. This is consistent with Rule 8.31(d), which similarly provides that positions in reduced-value index options are aggregated with positions in full-value index options based on economic equivalent values of those options.<sup>52</sup>

Rule 8.32 governs position limits for industry index options, and currently provides that industry index options are subject to the following position limits:

(1) 18,000 contracts if the Exchange determines, at the time of a review conducted pursuant to Rule 8.32(b),<sup>53</sup> that any single underlying stock accounted, on average, for 30% or more of the index value during the 30-day period immediately preceding the review; or

(2) 24,000 contracts if the Exchange determines, at the time of a review conducted pursuant to Rule 8.32(b), that any single underlying stock accounted, on average, for 20% or more of the index value or that any five underlying stocks together accounted, on average, for more than 50% of the index value, but that no single stock in the group accounted, on average, for 30% or more of the index value, during the 30-day period immediately preceding the review; or

(3) 31,500 contracts if the Exchange determines that the conditions specified above which would require the establishment of a lower limit have not occurred.<sup>54</sup>

The proposed rule change adds Rule 8.32(g) to provide that positions in micro-options (with an index multiplier of one) will be aggregated with positions in standard options (including reduced-value option contracts) (with an index multiplier of 100) on the same industry index and, for purposes of determining compliance with the position limits under Rule 8.32, 100 micro-option contracts with an index multiplier of one equal one standard option contract with an index multiplier of 100. This is consistent with Rule 8.32(e), which

similarly provides that positions in reduced-value index options are aggregated with positions in full-value index options based on economic equivalent values of those options.<sup>55</sup>

Rule 8.42(b) governs exercise limits for index options, and provides that exercise limits for index option contracts will be equivalent to the position limits prescribed for option contracts with the nearest expiration date in Rule 8.31, 8.32, or 8.34. As is the case for certain broad-based index options as noted above, there will be no exercise limits for broad-based index options (including reduced-value option contracts). The proposed rule change adds to Rule 8.42(b) that there will similarly be no exercise limits on micro-option contracts on those same broad-based indexes.

The proposed rule change amends Rule 8.35(a) regarding position limits for FLEX Options to describe how FLEX Micro Options will be counted for purposes of determining compliance with position limits.<sup>56</sup> Because 100 FLEX Micro Options are equivalent to one FLEX Index Option with a multiplier of 100 overlying the same index due to the difference in contract multipliers, proposed Rule 8.35(a)(7)

<sup>51</sup> This discussion focuses on position and exercise limits with respect to indexes on which the Exchange currently lists standard options and may also list micro-options. To the extent the Exchange lists micro-options on other indexes in the future, they would be subject to the same position and exercise limits set forth in the applicable Rules, and similarly aggregated with standard options on the same indexes, as proposed.

<sup>52</sup> As noted above, an index option with a reduced multiplier has the same practical effect as an index option on a reduced-value index. A micro-option is the economic equivalent to a reduced-value index that is  $\frac{1}{100}$ th of the full-value index.

<sup>53</sup> Rule 8.32(b) provides the Exchange will make these determinations with respect to options on each industry index at the commencement of trading of such options on the Exchange and

thereafter review the determination semi-annually on January 1 and July 1.

<sup>54</sup> These position limits are subject to Rule 8.32(c), which provides that if the Exchange determines, at the time of a semi-annual review, that the position limit in effect with respect to options on a particular industry index is lower than the maximum position limit permitted by the criteria set forth in Rule 8.32(a), the Exchange may effect an appropriate position limit increase immediately. If the Exchange determines, at the time of a semi-annual review, that the position limit in effect with respect to options on a particular industry index exceeds the maximum position limit permitted by the criteria set forth in Rule 8.32(a), the Exchange shall reduce the position limit applicable to such options to a level consistent with such criteria; provided, however, that such a reduction shall not become effective until after the

expiration date of the most distantly expiring option series relating to the industry index, which is open for trading on the date of the review; and provide further that such a reduction shall not become effective if the Exchange determines, at the next succeeding semi-annual review, that the existing position limit applicable to such options is consistent with the criteria set forth in Rule 8.32(a).

<sup>55</sup> As noted above, an index option with a reduced multiplier has the same practical effect as an index option on a reduced-value index. A micro-option is the economic equivalent to a reduced-value index that is  $\frac{1}{100}$ th of the full-value index.

<sup>56</sup> The proposed rule change also corrects an administrative error in Rule 8.35(a). Currently, there are two subparagraphs numbered as (a)(5). The proposed rule change amends paragraph (a) to renumber the second subparagraph (a)(5) to be subparagraph (a)(6).



states that for purposes of determining compliance with the position limits under Rule 8.35, 100 FLEX Micro Option contracts equal one FLEX Index Option contract with a multiplier of 100 with the same underlying index. The proposed rule change makes a corresponding change to Rule 8.35(b) to clarify that, like reduced-value FLEX contracts, FLEX Micro Option contracts will be aggregated with full-value contracts and counted by the amount by which they equal a full-value contract for purposes of the reporting obligation in that provision (*i.e.*, 100 FLEX Micro Options will equal one FLEX Index Option contract with a multiplier of 100 overlying the same index). This is consistent with the current treatment of other reduced-value FLEX Index Options with respect to position limits. The proposed rule change adds paragraph (g) to Rule 8.42 to make a corresponding statement regarding the application of exercise limits to FLEX Micro Options. The margin requirements set forth in Chapter 10 of the Rules will apply to FLEX Micro Options (as they currently do to all FLEX Options).<sup>57</sup>

#### Capacity

The Exchange has analyzed its capacity and represents that it believes the Exchange and Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the additional traffic associated with the listing of new series that may result from the introduction of the micro-options. Because the proposed rule change is limited to equity index options, which currently represent only 19 of the option classes listed on the Exchange, the Exchange believes any additional traffic that may be generated from the introduction of micro-options will be manageable. The Exchange also understands that the OCC will be able to accommodate the listing and trading of micro-options.

#### 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>58</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section

6(b)(5)<sup>59</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>60</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 the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The Exchange believes the proposed rule change will expand investor choice and flexibility by providing investors with the ability to gain exposure to the market or specific industries using index options with a notional value of  $\frac{1}{100}$ th of the value of current index options. The Exchange believes there is unmet market demand from market participants for micro-options. The availability of micro-options may broaden the base of investors that use options to manage their trading and investment risk, as the Exchange believes they will appeal to retail investors who currently may not participate in the trading of index options. Due to the larger-value of indexes (which generally result in options with five and six figure notional values, as demonstrated above), the Exchange believes that investors, most notably average retail investors, would benefit from the availability of micro-options by making currently high-priced options more readily available as an investing tool and at more affordable and realistic prices and thus with reduced investment risk. Micro-options will make available to investors a relatively low-cost method to hedge or speculate on market risk and meet their investment needs associated with index options. The lower cost of micro-options will allow investors to trade index options and hedge their portfolios with a smaller outlay of capital, and thus with less investment risk. This may facilitate overall investor participation in the markets for index options, which

may increase the depth and liquidity of these markets, to the benefit of all investors.

Additionally, the Exchange will further remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest by providing additional granularity with respect to the prices at which investors may execute and exercise index options on the Exchange. Micro-options will provide investors with an exchange-traded tool to manage more precisely based on notional value the positions and associated risk in their portfolios, which currently may equal a fraction of a standard contract. Because micro-options and standard index options will overlie the same indexes, market participants may use them as hedging vehicles to meet their investment needs in connection with index-related products and cash positions in a similar manner as they currently do with standard index options, but as a more manageably sized contract. The smaller-sized contract will provide all market participants with more precision with respect to hedging their portfolios more effectively with far greater precision. Given the various trading and hedging strategies employed by investors, this additional granularity may provide investors with more control over the trading of their investment strategies and management of their positions and risk associated with option positions in their portfolios.

Additionally, micro-options will provide investors with the ability to execute and exercise options with a smaller index multiplier in a listed market environment as opposed to in the unregulated OTC options market. The proposed rule change may shift liquidity from the OTC market onto the Exchange, which the Exchange believes would increase market transparency as well as enhance the process of price discovery conducted on the Exchange through increased order flow to the benefit of all investors. By permitting index options to trade with the same multiplier currently available to customized options in the OTC market, the Exchange believes the proposed rule change will also promote competition and remove impediments to and perfects the mechanism of a free and open market and a national market system by further improving a comparable alternative to the OTC market in customized options. By enhancing our Exchange products to provide additional terms available in the OTC market but not currently available in the listed options market,

<sup>57</sup> Pursuant to Rule 8.43(j), FLEX Index Options with a multiplier of one will be aggregated with non-FLEX Index Options on the same underlying index in the same manner as all other FLEX Index Options.

<sup>58</sup> 15 U.S.C. 78f(b).

<sup>59</sup> 15 U.S.C. 78f(b)(5).

<sup>60</sup> *Id.*

the Exchange believes it may be a more attractive alternative to the OTC market. The Exchange believes market participants benefit from being able to trade customized options in an exchange environment in several ways, including but not limited to the following: (1) Enhanced efficiency in initiating and closing out positions; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of the OCC as issuer and guarantor of all listed options.

The Exchange believes the ability to list micro-options is consistent with several current rules. Particularly, the underlying indexes on which micro-options (and FLEX Micro Options) would be listed satisfied the initial listing standards for index in the Exchange's current Rules and would need to continue to satisfy the maintenance listing criteria in the Rules.<sup>61</sup> Pursuant to the definition of index multiplier<sup>62</sup> in Rule 4.11, the Exchange may determine the index multiplier of an option, which it generally does in the specifications for an index option.<sup>63</sup> Similarly, Article I, Section 1, I(3) of the OCC By-Laws defines "index multiplier" as the dollar amount (as specified by the Exchange on which such contract is traded) by which the current index value is to be multiplied to obtain the aggregate current index value. Unlike the definition of a unit of trading in the OCC By-Laws, which states the unit of trading in is designated by OCC but is 100 shares if not otherwise specified, the definition of index multiplier includes no such default.<sup>64</sup> Therefore, the Exchange believes the current index multiplier definition in the OCC By-Laws (which would have previously been filed with the Commission) permits any index multiplier specified by the listing Exchange given the lack of a default index multiplier for index options (and the inclusion of a default unit of trading for equity options). This is consistent with the lack of default number in Exchange's definition of index multiplier and the ability for the Exchange to specify the index multiplier, as noted above. Additionally, the Exchange believes any

potential risks of index options with a multiplier of one are covered by disclosures of the ODD, as it considers the possibility of differing values of index multipliers.<sup>65</sup> However, certain other Rules reflect an index multiplier of 100, and the proposed rule change updates those Rules to reflect the potential listing of an index option with an index multiplier of one.

The listing of micro-options has the same practical effect as the listing of reduced-index value options, which the Exchange (and other options exchanges) currently has the authority to do with respect to several indexes (in accordance with previously Commission-approved rules). For example, the Exchange may list options on both the S&P 500 Index (SPX options) and the Mini-S&P 500 Index (XSP options), which is  $\frac{1}{10}$ th the value of the S&P 500 Index.<sup>66</sup> This is economically equivalent to if the Exchange listed an S&P 500 Index option with an index multiplier of 100 and with an index multiplier of 10, respectively. The proposed rule change will permit the Exchange to make reduced-value options on all indexes available without relying on a reporting authority to create and disseminate a reduced-value index at a reduced-value level that the Exchange believes may be beneficial to the marketplace. The Commission also previously approved a proposed rule change of at least one other options exchange to list reduced-value options on a "micro-index" (which has  $\frac{1}{100}$ th the value of the full index) as well as the full-value index and "mini-index" (which has  $\frac{1}{10}$ th the value of the full index).<sup>67</sup> Similarly, designated contract markets also list index futures (with which the Exchange's options contracts compete) with varying

multipliers. For example, the Chicago Mercantile Exchange currently lists standard, mini-, and micro- futures on the S&P 500 Index, the Russell 2000, and the DJIA with multipliers of \$250, \$50 and \$5 (which is  $\frac{1}{50}$ th the size of the full-size future), respectively.<sup>68</sup> Therefore, the Exchange believes the availability of micro-options will increase investor choice and promote competition in the listed derivatives markets.

As described above, the proposal contains a number of features designed to protect investors by reducing investor confusion. For example, micro-options will be designated by different trading symbols from their related standard contracts. Additionally, the proposed rule change describes in the Rules the differences regarding the meanings of bids and offers, exercise prices (and thus deliverables), and minimum sizes of index options contracts with a multiplier of one and a multiplier of 100, all of which are adjusted proportionately to reflect the difference in multiplier, and thus the difference in the deliverable value of the underlying.<sup>69</sup> The Exchange believes the transparency and clarity the proposed rule change adds to the Rules regarding the distinctions between index options due to the different multipliers will benefit investors. These proposed changes are not novel, as they correspond to similar rule provisions regarding other reduced-value options.<sup>70</sup>

Other than these differences, micro-options will trade in the same manner as index options (and FLEX Micro Options will trade in the same manner

<sup>68</sup> See CME contract specifications, available at [https://www.cmegroup.com/trading/equity-index/us-index/e-mini-sandp500\\_contract\\_specifications.html](https://www.cmegroup.com/trading/equity-index/us-index/e-mini-sandp500_contract_specifications.html). In addition to these indexes, CME also lists index futures with multipliers of \$250 and \$50 on several other indexes on which the Exchange also lists index options (and on which the Exchange would be able to list micro-options pursuant to the proposed rule change, including the FTSE Developed Europe Index, the FTSE Emerging Markets Index, the S&P Select Sector Indexes, the Russell 1000 Index, the Russell 1000 Growth Index, and the Russell 1000 Value Index.

<sup>69</sup> These proposed changes correspond to similar provisions for mini-options, which also have a smaller multiplier than standard-sized options.

<sup>70</sup> See, e.g., Rules 4.5, Interpretation and Policy .18 (description of strike prices for mini-options, which have a multiplier of 10), 5.3(c) (description of bids and offers for mini-options), and 5.74(a)(4) (description of minimum size of FLEX Agency Order for mini-options). Just as terms for mini-options, which have a multiplier of  $\frac{1}{10}$ th the size of standard options, equal  $\frac{1}{10}$ th of the same terms for standard options, the proposed terms for FLEX Index Options with a multiplier of one, which have a multiplier  $\frac{1}{100}$ th the size of FLEX Index Options with a multiplier of 100, equal  $\frac{1}{100}$ th of the same terms as FLEX Index Options with a multiplier of 100.

<sup>61</sup> See Rule 4.10.

<sup>62</sup> Rule 4.11 defines the term "index multiplier" as the amount specified in the contract by which the current index value is to be multiplied to arrive at the value required to be delivered to the holder of a call or by the holder of a put upon valid exercise of the contract.

<sup>63</sup> Option specifications are available on the Exchange's public website, available at [cboe.com/tradable\\_products/](http://cboe.com/tradable_products/).

<sup>64</sup> See OCC Bylaws Article I, Section 1, U(5).

<sup>65</sup> The ODD is available at <https://www.theocc.com/about/publications/character-risks.jsp>. The ODD states that the exercise price of a stock option is multiplied by the number of shares underlying the option to determine the aggregate exercise price and aggregate premium of that option. See ODD at 18. Similarly, the ODD states that the total exercise price for an index option is the exercise price multiplied by the multiplier, and the aggregate premium is the premium multiplied by the multiplier. See ODD at 8, 9, and 125.

<sup>66</sup> The Exchange notes if it desired to list a reduced-value index option on other indexes, or list an option on a micro-level index (i.e., an index with  $\frac{1}{100}$ th the value of the full-sized index), it could do so without Commission approval if the underlying index satisfied the generic listing criteria in Rule 4.12.

<sup>67</sup> See, e.g., Securities Exchange Act Release No. 53484 (March 14, 2006), 71 FR 14268 (March 21, 2006) (SR-ISE-2005-25) (order approving proposed change to permit International Securities Exchange ("ISE") to list and trade options on the FTSE 100 Index and FTSE 250 Index based on the full-value of the indexes, one-tenth of the value of the indexes, and one-hundredth of the value of the indexes).

as all other FLEX Index Options). Each micro-option will be on an index consisting of the same components as the underlying index of standard index options that may currently be listed on the Exchange, but with  $\frac{1}{100}$ th the value of those indexes. Because micro-options and standard index options overlie the same indexes, market participants may use micro-options as hedging vehicles to meet their investment needs in connection with index-related products and cash positions in a similar manner as they do with standard index options, but as a more manageably sized contract. The smaller-sized contract may provide market participants with more precision with respect to hedging their portfolios. Additionally, the smaller size makes micro-options a lower cost option, making it a more affordable and lower risk option for investors, particularly retail investors. Therefore, the Exchange believes it is reasonable and appropriate to be able to list the same expirations and settlements for micro-options as it may for standard index options.

The Exchange believes the proposed rule change for the minimum price increment for micro-options to be the same as the minimum price increment for index options overlying the same index will benefit investors, as it may lessen investor and marketplace confusion. While price protection between micro-options and standard options on the same index is not required, the Exchange believes that consistency between micro-options and standard options as to the minimum price variation is desirable and is designed to promote just and equitable principles of trade. Matching the minimum price increment between micro-options and standard options on the same index would help to eliminate any unnecessary arbitrage opportunities that could result from having contracts on the same underlying index traded in different minimum price increments. Similarly, the Exchange believes matched minimum pricing may generate enhanced competition among liquidity providers. The Exchange believes that matched pricing for micro-options and standard options on the same index would attract additional liquidity providers who would make markets in micro-options and standard options on the same index. In addition to the possibility of more liquidity providers, the Exchange believes that the ability to quote micro-options and standard options on the same index in the same minimum increments would hopefully result in more efficient pricing via arbitrage and possible price

improvement in both contracts on the same index. Finally, having the same minimum increment for micro-options and standard options would be beneficial from a logistical perspective since firms' existing systems are generally configured using the "root symbol" of an underlying index, and it may be difficult and resource-intensive for firms to assign different minimum pricing to micro-options and standard options on the same index.

The Exchange believes the proposed rule change regarding the treatment of micro-options with respect to determining compliance with position and exercise limits is designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade. Index options with a multiplier of one will be counted for purposes of those limits in a proportional manner to index options (including reduced-value indexes) with a multiplier of 100 and aggregated with options overlying the same index (including reduced-value indexes) in the same manner as index options currently are. This is equivalent to current limits imposed on reduced-value options. As noted above, while the multipliers of reduced-value indexes are \$100, a reduced-value index option has an economically equivalent effect to an index option with a smaller multiplier. An index option with a multiplier of one corresponds to an option overlying a reduced-valued index that is  $\frac{1}{100}$ th the value of the full-value index. It just uses a different multiplier rather than a different value of the underlying index.<sup>71</sup> The Exchange believes its surveillances continue to be designed to deter and detect violations of Exchange Rules, including position and exercise limits and possible manipulative behavior, and those surveillance will apply to index options with a multiplier of one that the Exchange determines to list for trading. Ultimately, the Exchange does not believe that this proposed rule change raises any unique regulatory concerns because existing safeguards—such as position and exercise limits (and the aggregation of options overlying the same index (including reduced-value indexes)) and reporting requirements—would continue to apply.

The Exchange also believes the proposed initial low appointment weight for micro-options will promote competition and efficiency by incentivizing more Market-Makers to

obtain an appointment in each micro-option the Exchange lists. The Exchange believes this may result in liquidity and competitive pricing in this class, which ultimately benefits investors. The Exchange does not believe that the proposed rule change is unfairly discriminatory, as the appointment weight will apply to all Market-Makers in the class. Additionally, the proposed appointment weight is the same as the appointment weight for a majority of other Tier AA options classes, as well as a recently listed index option classes to likewise promote Market-Maker appointment, liquidity and competitive

Finally, the Exchange represents that it has the necessary systems capacity to support the new option series given these proposed specifications. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading micro-options. The Exchange further notes that current Exchange Rules that apply to the trading of other index options traded on the Exchange will also apply to the trading of micro-options, such as Exchange Rules governing customer accounts, margin requirements and trading halt procedures. The Exchange understands that market participants may currently, and currently do, execute orders in options like the ones being proposed in the unregulated OTC options market, where neither the Exchange nor the Commission has oversight over market participants that may be purposely trading at prices through the listed market. As discussed below, the proposed rule change may encourage these orders to be submitted to the Exchange, which could bring these orders into a regulated market and be subject to surveillance and oversight to which they are currently not subject with respect to execution of these option orders.

A robust and competitive market requires that exchanges respond to investors' evolving needs by constantly improving their offerings. When Congress charged the Commission with supervising the development of a "national market system" for securities, Congress stated its intent that the "national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed."<sup>72</sup> Consistent with this purpose, Congress and the Commission have repeatedly stated their preference for competition, rather than regulatory intervention to determine products and

<sup>71</sup> This is also similar to position limits for other options with multipliers less than 100. *See, e.g.*, Rule 8.30, Interpretation and Policy .08 (describing position limits for mini-options).

<sup>72</sup> *See* H.R. Rep. No. 94–229, at 92 (1975) (Conf. Rep.).

services in the securities markets.<sup>73</sup> This consistent and considered judgment of Congress and the Commission is correct, particularly in light of evidence of robust competition in the options trading industry. The fact that an exchange proposed something new is a reason to be receptive, not skeptical—innovation is the life-blood of a vibrant competitive market—and that is particularly so given the continued internalization of the securities markets, as exchanges continue to implement new products and services to compete not only in the United States but throughout the world. Options exchanges continuously adopt new and different products and trading services in response to industry demands in order to attract order flow and liquidity to increase their trading volume. This competition has led to a growth in investment choices, which ultimately benefits the marketplace and the public. The Exchange believes that the proposed rule change will help further competition by providing market participants with yet another investment option for the listed options market.

#### *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 will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as any micro-options the Exchange lists for trading will be available for all market participants in the same manner who wish to trade such options. The Exchange may list micro-options on all indexes currently authorized to be listed

on the Exchange, subject to the same listing criteria. These options will trade in the same manner as index options and FLEX Index Options, as applicable, with a multiplier of 100, with certain terms proportionately adjusted to reflect the different contract multipliers. Additionally, the Exchange believes that the proposed rule change will enhance competition by allowing products on the same index to be priced in the same minimum price increments. The Exchange also believes the proposed initial low Market-Maker appointment cost for micro-options will apply equally to all Market-Makers with an appointment in micro-options and will promote competition by incentivizing more Market-Makers to obtain an appointment in the newly listed class, resulting in liquidity and competitive pricing within the class.

The Exchange does not believe 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 micro-options may only be listed for trading on the Exchange. To the extent that the availability of these products makes the Exchange a more attractive marketplace to market participants at other exchanges, market participants are free to elect to become market participants on the Exchange. As noted above, other derivative products related to these indexes are listed for trading on other exchanges. Additionally, the Exchange notes that listing and trading micro-options on the Exchange will subject such options to transparent exchange-based rules as well as price discovery and liquidity, as opposed to alternatively trading these products in the OTC market.

The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition. The proposal is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar products. The Exchange believes the proposed rule change encourages competition amongst market participants to provide lower-priced (and thus lower risk) and more granular option products, which may appeal to all market participants, including retail investors.

Additionally, the Exchange believes this is an enhancement to a comparable alternative to the OTC market in

customized options. By enhancing our trading platform to provide additional contract granularity that available in the OTC market but not currently available in the listed options market, the Exchange believes it may be a more attractive alternative to the OTC market. The Exchange believes market participants will benefit from being able to trade customized options in an exchange environment in several ways, including but not limited to the following: (1) Enhanced efficiency in initiating and closing out position; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor of all listed options.

The proposed nonsubstantive changes (to move and clarify the current contract multiplier for FLEX Equity Options and FLEX Index Options with a multiplier of 100 in Rule 4.21(b) and to correct the numbering of subparagraphs in Rule 8.35(a), as well as examples of the exercise prices and the meanings of bids and offers) will have no impact on competition, as they merely clarify or correct, as applicable, information in the Rules and make no changes to how FLEX Options 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**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be 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:

<sup>73</sup> See S. Rep. No. 94–75, 94th Cong., 1st Sess. 8 (1975) (“The objective [in enacting the 1975 amendments to the Exchange Act] would be to enhance competition and to allow economic forces, interacting within a fair regulatory field, to arrive at appropriate variations in practices and services.”); Order Approving Proposed Rule Change Relating to NYSE Arca Data, Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (“The Exchange Act and its legislative history strongly support the Commission’s reliance on competition, whenever possible, in meeting its regulatory responsibilities for overseeing the [self-regulatory organizations] and the national market system. Indeed, competition among multiple markets and market participants trading the same products is the hallmark of the national market system.”); and Regulation NMS, 70 FR at 37499 (observing that NMS regulation “has been remarkably successful in promoting market competition in [the] forms that are most important to investors and listed companies”).

*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-2020-117 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-2020-117. 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-2020-117, and should be submitted on or before February 1, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>74</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2021-00199 Filed 1-8-21; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-90849; File No. SR-MEMX-2020-17]

**Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.8(b) Relating to the Handling of Limit Orders When the National Best Bid or Offer Is Not Available**

January 5, 2021.

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 29, 2020, MEMX LLC ("MEMX" or the "Exchange") 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 is filing with the Commission a proposed rule change to amend Exchange Rule 11.8(b) as it relates to the System's<sup>5</sup> handling of Limit Orders<sup>6</sup> when the national best bid or offer ("NBBO") is not available. The text of the proposed rule change is provided in Exhibit 5.

**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**

On May 4, 2020, the Commission approved the Exchange's Form 1 application for registration as a national securities exchange, including the initial Rules of the Exchange.<sup>7</sup> In preparation for the Exchange's launch on September 21, 2020, the Exchange adopted in August 2020 certain additional Rules relating to the System's handling of Market Orders<sup>8</sup> and Limit Orders when the NBBO is not available.<sup>9</sup> Specifically, the Exchange adopted Exchange Rule 11.8(a)(7), which provides that a Market Order received by the System when the NBBO is not available will be rejected or cancelled back to the entering User, and Exchange Rule 11.8(b)(9), which similarly provides that a Limit Order received by the System when the NBBO is not available will be rejected or cancelled back to the entering User. These Rules were based on language applicable to Pegged Orders<sup>10</sup> set forth in Exchange Rule 11.8(c)(7) and were intended to match the handling of Market Orders and Limit Orders with the handling of Pegged Orders when the NBBO is not available under that Rule (*i.e.*, that such orders will be rejected or cancelled back to the entering User).<sup>11</sup> The Exchange noted in the proposal to adopt Exchange Rules 11.8(a)(7) and 11.8(b)(9) that it believed that, at least in connection with the launch of the

<sup>7</sup> See Securities Exchange Act Release No. 88806 (May 4, 2020), 85 FR 27451

(May 8, 2020) (the "Approval Order").

<sup>8</sup> Market Orders are described in Exchange Rule 11.8(a) and generally defined as an order to buy or sell a stated amount of a security that is to be executed at the NBBO or better when the order reaches the Exchange.

<sup>9</sup> See Securities Exchange Act Release No. 89581 (August 17, 2020), 85 FR 51799 (August 21, 2020) (SR-MEMX-2020-04).

<sup>10</sup> In addition to Market Orders and Limit Orders, Pegged Orders are the third of three primary order types offered by the Exchange. Pegged Orders are described in Exchange Rules 11.6(h) and 11.8(c) and generally defined as an order that is pegged to a reference price and automatically re-prices in response to changes in the NBBO. The two types of peg instructions for Pegged Orders are: (1) Primary Peg, which pegs to the NBB (NBO) for buy (sell) orders; and (2) Midpoint Peg, which pegs to the midpoint of the NBBO.

<sup>11</sup> See Exchange Rule 11.8(c)(7).

<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).

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

<sup>5</sup> As defined in Rule 1.5(gg), the Exchange's "System" is the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing. As defined in Rule 1.5(jj), a "User" is a member of the Exchange ("Member") or sponsored participant of a Member who is authorized to obtain access to the System pursuant to Rule 11.3.

<sup>6</sup> Limit Orders are described in Exchange Rule 11.8(b) and generally defined as an order to buy or sell a stated amount of a security at a specified price or better.

<sup>74</sup> 17 CFR 200.30-3(a)(12).