

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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEAMER-2023-62 and should be submitted on or before January 4, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority:<sup>44</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99119; File No. SR-CBOE-2023-063]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Its Rules Relating to Position and Exercise Limits

December 8, 2023.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 29, 2023, Cboe Exchange, Inc. (the "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

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend its rules relating to position and exercise limits. The text of the proposed rule change is in Exhibit 5.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

###### Background

The Exchange proposes to amend its rules relating to position limits. By way of background, in March 2005, the Securities and Exchange Commission (the "Commission") approved the current position limit (and exercise limit) structure, which incorporates five categories of limits ranging from 25,000 to 250,000 contracts, based on two criteria: (1) the securities trading volume over the prior six months and (2) the number of shares outstanding.<sup>3</sup>

<sup>3</sup> See Securities Exchange Act Release No. 51244 (February 23, 2005), 70 FR 10010 (March 1, 2005) (order approving SR-CBOE-2003-30, as amended), which adopted two pilot programs that increase position and exercise limits for equity options ("Pilot Program Order"). The Pilot Programs were extended 5 times for 6-month periods by the Commission, and expired on March 1, 2008. See Securities Exchange Act Release No. 52262 (August 15, 2005), 70 FR 48995 (August 22, 2005) (SR-CBOE-2005-61), Securities Exchange Act Release No. 53348 (February 22, 2006), 71 FR 10574 (March 1, 2006) (SR-CBOE-2006-11), Securities Exchange Act Release No. 54336 (August 18, 2006), 71 FR 50952 (August 28, 2006) (SR-CBOE-2006-69), Securities Exchange Act Release No. 55266 (February 9, 2007), 72 FR 7698 (February 16, 2007) (SR-CBOE-2007-12), and Securities Exchange Act Release No. 56266 (August 15, 2007), 72 FR 47094

More specifically, Cboe Options Rule 8.30 sets forth the position limits for equity options. Specifically, Rule 8.30 provides that the position limits for equity options are 25,000 or 50,000 or 75,000 or 200,000 or 250,000 option contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market or such other number of option contracts as may be fixed from time to time by the Exchange. Interpretation and Policy .02 to Rule 8.30 describes how the Exchange determines which of the five position limit amounts will apply to an equity option class (i.e., the position limit applicable to a class is determined based on the trading volume and outstanding shares of the underlying security). These categories have remained unchanged for the last 18 years.<sup>4</sup>

By way of further background, position limits are designed to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. While position limits should address and discourage the potential for manipulative schemes and adverse market impact, if such limits are set too low, participation in the options market may be discouraged. The Exchange believes that position limits must therefore be balanced between mitigating concerns of any potential manipulation and the cost of inhibiting potential hedging activity that could be used for legitimate economic purposes.

###### Proposal

To modernize the position limit rule, while minimizing impact of such change on industry participants, the Exchange is proposing the addition of three additional position limit categories: 500,000, 1,000,000 and 2,000,000 option contracts. Particularly, the proposed rule would adopt new Rule 8.30.02(f) which would provide that in order to be eligible for the 500,000-option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 500,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 375,000,000 shares and the underlying security must have

(August 22, 2007) (SR-CBOE-2007-97). The Pilot Programs were made permanent in 2008. See Securities Exchange Act Release No. 57352 (February 19, 2007), 73 FR 10076 (February 25, 2008) (SR-CBOE-2008-007).

<sup>4</sup> See Cboe Options Rule 8.30. Pursuant to Rule 8.42, the exercise limit for an equity option is the same as the position limit established in Rule 8.30 for that equity option.

<sup>44</sup> 17 CFR 200.30-3(a)(12).

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

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

at least 1,500,000,000 shares currently outstanding. The Exchange also proposes to adopt Rule 8.30.02(g) which would provide that in order to be eligible for the 1,000,000-option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 1,000,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 750,000,000 shares and the underlying security must have at least 3,000,000,000 shares currently outstanding. Finally, the Exchange proposes to adopt Rule 8.30.02(h) which provides that in order to be eligible for the 2,000,000-option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 5,000,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 3,750,000,000 shares and the underlying security must have at least 15,000,000,000 shares currently outstanding.<sup>5</sup>

As noted above, the current position limit categories were last updated 18 years ago. Since that time, there has been a significant increase in the overall volume of exchange traded equity options and a steady increase in the number of accounts that approach the current highest position limit (*i.e.*, 250,000 option contracts). The below chart demonstrates this growth in equity options trading industry-wide between 2005 and 2023.<sup>6</sup> Indeed, annual equity options trading volume in recent years is nearly *seven* times the volume amount when the current position tier limits were adopted in 2005 and has more than doubled since 2017.

| Year       | Annual industry equity options trading volume (contracts) |
|------------|---|
| 2005 ..... | 1,369,048,282   |
| 2006 ..... | 1,844,181,918   |
| 2007 ..... | 2,592,102,961   |
| 2008 ..... | 3,284,761,345   |
| 2009 ..... | 3,366,967,321   |
| 2010 ..... | 3,610,436,931   |
| 2011 ..... | 4,224,604,529   |
| 2012 ..... | 3,681,820,659   |
| 2013 ..... | 3,725,864,134   |

<sup>5</sup> Current Rule 8.30.02(f) will be renumbered to Rule 8.30.02(i).

<sup>6</sup> See Options Clearing Corporation ("OCC"), Annual Historical Volume Statistics at <https://www.theocc.com/market-data/market-data-reports/volume-and-open-interest/historical-volume-statistics>. Annual Industry Options Trading Volume for 2023 is as of November 24, 2023.

| Year       | Annual industry equity options trading volume (contracts) |
|------------|---|
| 2014 ..... | 3,845,073,167   |
| 2015 ..... | 3,727,919,066   |
| 2016 ..... | 3,626,455,947   |
| 2017 ..... | 3,689,013,636   |
| 2018 ..... | 4,572,482,342   |
| 2019 ..... | 4,420,542,768   |
| 2020 ..... | 7,004,304,148   |
| 2021 ..... | 9,366,823,566   |
| 2022 ..... | 9,599,301,629   |
| 2023 ..... | 9,285,621,375   |

By way of further example, based on the proposed criteria, over 300 equity options classes that currently are limited to the maximum position limit tier of 250,000 contracts would qualify for one of the three proposed position limit tiers. Particularly, the Exchange has determined that 182 equity options classes would be eligible for the 500,000 contracts tier limit; 110 equity options classes would be eligible for the 1,000,000 contracts tier limit and 13 equity options classes would be eligible for the 2,000,000 tier limit.<sup>7</sup>

By way of further example, prior to the stock split in August 2020,<sup>8</sup> equity options class AAPL had approximately 4,000,000,000 shares outstanding and the position limit of 250,000 contracts represented control of 25,000,000 shares or 0.625% of the shares outstanding. After the stock split, AAPL had approximately 16,000,000,000 shares outstanding. The immediate adjustment of the position limit from 250,000 contracts to 1,000,000 contracts reflects control of 100,000,000 shares or 0.625% of the shares outstanding which retains the pre-stock split ratio. When the last AAPL option listed at the time of the stock split in 2020 expired in September 2022, the OCC reverted back to the original position limit for AAPL of 25,000,000 shares (250,000 contracts), which is the maximum stock option position limits permitted under the Exchange's rules.<sup>9</sup> Although this position limit technically adheres to the Exchange's rules, it is more restrictive than the original position limit. Particularly, readjusting the position limit back to 25,000,000 shares (250,000

<sup>7</sup> As of October 12, 2023.

<sup>8</sup> See Notice, 88 FR at 29728, citing OCC Memo #47509, Apple Inc.—4 for 1 Stock Split (August 28, 2020).

<sup>9</sup> Position limit increases that result in the case of a stock split remain in effect until the expiration of all listed options that existed at the time of the split, at which time the position limits revert to pre-split levels. This is an industry practice applied by OCC, which currently administers position limit levels on behalf of U.S. options exchanges.

contracts) when there are 16,000,000,000 shares outstanding reduces the position limit to 0.156% of the shares outstanding, making the post-stock split position limit more restrictive than the pre-stock split position limit and would [sic] arguably no longer be meaningfully related to the current shares outstanding. Further, the Exchange notes that the current 250,000 position limit for AAPL forces market participants to reduce trading activity because the maximum position limit only represents 0.156% of the total shares outstanding. This reduction in trading volume also represents a reduction in available liquidity and negatively impacts liquidity, trading volume, and possibly execution prices. By comparison, under the proposed criteria, AAPL options would qualify for the 2,000,000 contract position limit, which is over 12% higher than the current maximum position limit. The adjustment of the position limit from 250,000 contracts to 2,000,000 contracts reflects control of 200,000,000 shares or 1.25% of the shares outstanding, which is well within ratios provided by the prior methodology and the Exchange believes would lead to a more liquid and competitive market environment for these options, which will benefit customers that trade these options. Further, given the total increased volume in trading, the Exchange believes it is reasonable to conclude that in addition to AAPL, position limits for many classes is [sic] currently more restrictive than they were when adopted in 2005.

The Exchange also believes that the increase in options volume and lack of evidence of market manipulation occurrences over the past twenty years justifies the proposed increases in the position and exercise limits. Moreover, several market participants across the industry have petitioned the industry to increase the current levels.

The Commission has previously stated,

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for manipulations and for corners or squeezes of the underlying market. In addition, such limits serve to reduce the possibility for

disruption of the options market itself, especially in illiquid options classes.<sup>10</sup>

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange are adequate to identify violative trading activity. These procedures include daily monitoring of market activity via automated surveillance techniques to identify unusual activities in both options and underlying stocks and Exchange Traded Products (“ETPs”).

The Exchange believes that increasing the position limits for qualifying equity options would lead to a more liquid and competitive market environment for these options, which will benefit customers that trade these options. Further, the reporting requirement for such options would remain unchanged. Thus, the Exchange will still require that each TPH or TPH organization that maintains positions in impacted options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information includes, but would not be limited to, the options’ positions, whether such positions are hedged and, if so, a description of the hedge(s). Market-Makers (including Designated Primary Market-Makers (“DPMs”)) would continue to be exempt from this reporting requirement, however, the Exchange may access Market-Maker position information.<sup>11</sup> Moreover, the Exchange’s requirement that TPHs file reports with the Exchange for any customer who held aggregate large long or short positions on the same side of the market of 200 or more option contracts of any single class for the previous day will remain at this level and will continue to serve as an important part of the Exchange’s surveillance efforts.<sup>12</sup>

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange and other SROs are capable of properly identifying disruptive and/or manipulative trading activity. The Exchange also represents that it has adequate surveillances in place to detect

potential manipulation, as well as reviews in place to identify continued compliance with the Exchange’s listing standards. These procedures utilize daily monitoring of market activity via automated surveillance techniques to identify unusual activity in both options and the underlyings, as applicable. The Exchange also notes that large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G,<sup>13</sup> which are used to report ownership of stock which exceeds 5% of a company’s total stock issue and may assist in providing information in monitoring for any potential manipulative schemes.

The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in equity options. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a TPH must maintain for a large position held by itself or by its customer.<sup>14</sup> In addition, Rule 15c3–1<sup>15</sup> imposes a capital charge on TPHs to the extent of any margin deficiency resulting from the higher margin requirement.

The Exchange also has no reason to believe that the growth in trading volume in equity options will not continue. Rather, the Exchange expects continued options volume growth as opportunities for investors to participate in the options markets increase and evolve. The Exchange believes that the current position and exercise limits are restrictive, and not adopting increased position and exercise limit categories will hamper the listed options markets from being able to compete fairly and effectively with the over-the-counter (“OTC”) markets. OTC transactions occur through bilateral agreements, the terms of which are not publicly disclosed to the marketplace. As such, OTC transactions do not contribute to the price discovery process on a public exchange or other lit markets. In fact, the Commission previously highlighted competition with the OTC markets as a reason for increasing the standard position and exercise limits.<sup>16</sup> Specifically, the Commission stated,

The increase in position and exercise limits for standardized equity options should

allow the Exchanges to better compete with the growing OTC market in customized equity options, thereby encouraging fair competition among brokers and exchange markets.<sup>17</sup>

In addition, the Exchange believes that without the proposed changes to position and exercise limits, market participants will find the standard equity position limits an impediment to their business and investment objectives. As such, market participants may find the less transparent OTC markets a more attractive alternative to achieve their investment and hedging objectives, leading to a retreat from the listed options markets, where trades are subject to reporting requirements and daily surveillance.

#### Implementation Date

Given this is an industry-wide proposal, implementation will require that all U.S. listed options exchanges adopt similar rule language regarding position limits. The Exchange will wait to announce implementation date for the proposed rule change (via Exchange Notice) until all exchanges have received regulatory approval for similar rule language.

#### 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>18</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>19</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>20</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed adoption of three increased

<sup>10</sup> See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-1997-11).

<sup>11</sup> The Options Clearing Corporation (“OCC”) through the Large option Position Reporting (“LOPR”) system acts as a centralized service provider for TPH compliance with position reporting requirements by collecting data from each TPH or TPH organization, consolidating the information, and ultimately providing detailed listings of each TPH’s report to the Exchange, as well as Financial Industry Regulatory Authority, Inc. (“FINRA”), acting as its agent pursuant to a regulatory services agreement (“RSA”).

<sup>12</sup> See Rule 8.43 for reporting requirements.

<sup>13</sup> 17 CFR 240.13d–1.

<sup>14</sup> See Rule 10.3 for a description of margin requirements.

<sup>15</sup> 17 CFR 240.15c3–1.

<sup>16</sup> See Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999) (SR-CBOE-1998-25).

<sup>17</sup> *Id.*

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

<sup>20</sup> *Id.*

position limit categories 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, because it will provide market participants with the ability to more effectively execute their trading and hedging activities. Also, adopting increased position limit categories for equity options may allow Market-Makers to maintain their liquidity in these options in amounts commensurate with the continued high consumer demand in the impacted underlyings' options market. The proposed higher position limits may also encourage other liquidity providers to continue to trade on the Exchange rather than shift their volume to OTC markets, which will enhance the process of price discovery conducted on the Exchange through increased order flow.

In addition, the Exchange believes that the current liquidity in shares of and options on the underlyings will mitigate concerns regarding potential manipulation of the products and/or disruption of the underlying markets upon increasing the relevant position limits. As a general principle, increases in active trading volume and deep liquidity of the underlying securities do not lead to manipulation and/or disruption. This general principle applies to the recently observed increased levels of trading volume and liquidity in shares of and options on the underlyings (as described above), and, as a result, the Exchange does not believe that the options markets or underlying markets would become susceptible to manipulation and/or disruption as a result of the proposed higher position limit categories. Further, as noted above, the Exchange has no reason to believe that the growth in trading volume in equity options will not continue. Rather, the Exchange expects continued options volume growth as opportunities for investors to participate in the options markets continue to increase and evolve. Additionally, the Exchange continues to maintain a process in which every six-months, the status of the underlying securities are reviewed to determine what limit should apply.<sup>21</sup> Accordingly, in the event stock trading volume and/or outstanding shares for particular securities significantly declines in the future, such overlying options classes will merely be moved to a lower corresponding, position tier limit under the rules at the next regularly scheduled review.

Further, the Exchange notes that the proposed rule change to adopt increased position limits for actively traded options is not novel. Indeed, the Commission has previously expressed the belief that not just increasing, but removing, position and exercise limits may bring additional depth and liquidity to the options markets without increasing concerns regarding intermarket manipulation or disruption of the options or the underlying securities.<sup>22</sup> The Commission also has approved similar proposed rule changes by the Exchange to increase position limits for options on highly liquid and actively traded ETPs (e.g., iShares Russell 2000 ETF ("IWM"), the iShares MSCI Emerging Markets ETF ("EEM"), iShares China Large-Cap ETF ("FXI"), and iShares MSCI EAFE ETF ("EFA"), VanEck Vectors Gold Miners ETF ("GDX"), and iShares iBoxx \$ Investment Grade Corporate Bond ETF ("LQD")).<sup>23</sup> While those are ETPs and the current proposal applies to equity options, pursuant to Rule 8.30, the position limits for options on stock and ETPs are generally calculated in the same manner and based in part on trading volume of the underlying. Further, by way of comparison, the outstanding shares of AAPL stock is significantly higher than that of IWM, EEM, FXI and EFA, which have an overlying options position limit of 1,000,000 (as compared to the 250,000 position limit for AAPL options).<sup>24</sup> Particularly, while the outstanding shares of AAPL is currently nearly 16 billion shares, the outstanding shares of IWM, EEM, FXI and EFA range between approximately 187 million and 673 million. The Exchange notes that the criteria under the proposed new position limit tier categories of 1,000,000 and 2,000,000 for equity options require the most recent six-month trading volume of the underlying security to have totaled at least 1 billion or 5 billion shares, respectively or have at least 3 billion or 15 billion shares,

<sup>22</sup> See Securities Exchange Act Release No. 40969 (January 22, 1999), 64 FR 4911, 4913 (February 1, 1999) (SR-CBOE-98-23).

<sup>23</sup> See Securities Exchange Act Release Nos. 93525 (November 4, 2021), 86 FR 62584 (November 10, 2021) (SR-CBOE-2021-029); 88768 (April 29, 2020), 85 FR 26736 (May 5, 2020) (SR-CBOE-2020-015); 83415 (June 12, 2018), 83 FR 28274 (June 18, 2018) (SR-CBOE-2018-042); and 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

<sup>24</sup> See Securities Exchange Act Release Nos. 93525 (November 4, 2021), 86 FR 62584 (November 10, 2021) (SR-CBOE-2021-029); 88768 (April 29, 2020), 85 FR 26736 (May 5, 2020) (SR-CBOE-2020-015); 83415 (June 12, 2018), 83 FR 28274 (June 18, 2018) (SR-CBOE-2018-042); and 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

respectively, of the underlying security outstanding.<sup>25</sup> The proposed criteria under the 500,000 position limit category requires the most recent six-month trading volume of the underlying security to have totaled at least 500 million shares or have at least 1.5 billion shares of the underlying security outstanding<sup>26</sup> (by comparison, LQD and GDX, have approximately 275 million shares and 395 million shares outstanding, and have an overlying options position limit of 500,000). The Exchange therefore believes it is reasonable and appropriate to increase the position limit of options as proposed to similar position limits that apply for certain ETPs.

Finally, as discussed above, the Exchange's surveillance and reporting safeguards continue to be designed to deter and detect possible manipulative behavior that might arise from increasing or eliminating position and exercise limits in certain classes. The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in the options on the underlying securities, further promoting just and equitable principles of trading, the maintenance of a fair and orderly market, and the protection of investors.

#### *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 intra-market competition as the rules of the Exchange apply equally to all TPHs of the Exchange and all TPHs of the Exchange are required to adhere to the position limits established by the Exchange's rules. The Exchange believes that the proposed rule change will also provide additional opportunities for market participants to continue to efficiently achieve their investment and trading objectives for equity options on the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on inter-market competition as the proposal is not competitive in

<sup>25</sup> There is also a corresponding recent six-month volume of the underlying security requirement that must be satisfied in addition to the requirement relating to total outstanding shares.

<sup>26</sup> There is also a corresponding recent six-month volume of the underlying security requirement that must be satisfied in addition to the requirement relating to total outstanding shares.

<sup>21</sup> See Current Cboe Options Rule 8.30.02(f).

nature. The Exchange expects that all option exchanges will adopt substantively similar proposals for adopting the additional position limit tiers, such that the Exchange's proposal would benefit competition. For these reasons, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

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

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

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:

*Electronic Comments*

- Use the Commission's internet comment form (<https://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-2023-063 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-2023-063. 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CBOE-2023-063 and should be submitted on or before January 4, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Sherry R. Haywood,**  
*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-99125; File No. SR-Phlx-2023-53]

**Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Its GPS Antenna Fees at General 8, Section 1**

December 8, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 29, 2023, Nasdaq PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 Exchange proposes to amend the Exchange's GPS antenna fees at General 8, Section 1, as described further below. The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/phlx/rules>, at the principal office of the Exchange, 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**<sup>3</sup>

The Exchange offers a GPS antenna, which allows co-location customers<sup>4</sup> to synchronize their time recording systems to the U.S. Government's Global Positioning System ("GPS") network time (the "Service"). The Exchange proposes to modify its monthly fees for the Service at General 8, Section 1(d).

GPS network time is the atomic time scale implemented by the atomic clocks in the GPS ground control stations and GPS satellites. Each GPS satellite contains multiple atomic clocks that contribute precise time data to the GPS signals. GPS receivers decode these signals, synchronizing the receivers to the atomic clocks. A GPS antenna serves as a time signal receiver and feeds a primary clock device the GPS network time using precise time data. Firms can

<sup>3</sup> The Exchange initially filed the proposed pricing changes on September 29, 2023 with an effective date of October 1, 2023 (SR-Phlx-2023-46). On November 15, 2023, the Exchange withdrew SR-Phlx-2023-46 and replaced with SR-Phlx-2023-50. The instant filing replaces SR-Phlx-2023-50, which was withdrawn on November 29, 2023.

<sup>4</sup> The Exchange offers customers the opportunity to co-locate their servers and equipment within the Exchange's primary data center, located in Carteret, New Jersey.

<sup>27</sup> 17 CFR 200.30-3(a)(12).

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

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