

Dated: April 1, 2020.
Vanessa A. Countryman,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88530; File No. SR-CBOE-2020-031]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Rule 5.24

March 31, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 31, 2020, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend Rule 5.24.³ The text of the proposed rule change is provided in Exhibit 5.

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

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

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

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

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

1. Purpose

The Exchange proposes to amend Rule 5.24 regarding the Exchange’s business continuity and disaster recovery plans. Rule 5.24 describes which Trading Permit Holders (“TPHs”) are required to connect to the Exchange’s backup systems as well as certain actions the Exchange may take as part of its business continuity plans so that it may maintain fair and orderly markets if unusual circumstances occurred that could impact the Exchange’s ability to conduct business. This includes what actions the Exchange would take if its trading floor became inoperable. Specifically, Rule 5.24(e) states if the Exchange trading floor becomes inoperable, the Exchange will continue to operate in a screen-based only environment using a floorless configuration of the System that is operational while the trading floor facility is inoperable. The Exchange would operate using that configuration only until the Exchange’s trading floor facility became operational. Open outcry trading would not be available in the event the trading floor becomes inoperable.⁴ Rule 5.24(e)(1) also currently states in the event that the trading floor becomes inoperable, trading will be conducted pursuant to all applicable System Rules, except that open outcry Rules would not be in force, including but not limited to the Rules (or applicable portions) in Chapter 5, Section G,⁵ and that all non-trading rules of the Exchange would continue to apply. The Exchange recently proposed additional exceptions to Rules that would not apply during a time in which the trading floor is inoperable.⁶

⁴ Pursuant to Rule 5.26, the Exchange may enter into a back-up trading arrangement with another exchange, which could allow the Exchange to use the facilities of a back-up exchange to conduct trading of certain of its products. The Exchange currently has no back-up trading arrangement in place with another exchange.

⁵ Chapter 5, Section G of the Exchange’s rulebook sets forth the rules and procedures for manual order handling and open outcry trading on the Exchange.

⁶ See Securities Exchange Act Release Nos. 88386 (March 13, 2020), 85 FR 15823 (March 19, 2020) (SR-CBOE-2020-019); and 88447 (March 20, 2020) (SR-CBOE-2020-023). The rule changes adopted in that filing are effective until May 15, 2020, unless extended. See Rule 5.24(e)(1).

As of March 16, 2020, the Exchange suspended open outcry trading to help prevent the spread of the novel coronavirus and is currently operating in an all-electronic configuration. While the trading floor was open, the Exchange facilitated compression forums on the trading floor at the end of each calendar week, month, and quarter in which Trading Permit Holders reduce open positions in series of SPX options in order to mitigate the effects of capital constraints on market participants and help ensure continued depth of liquidity in the SPX options market.

The Exchange recently adopted Rule 5.24(e)(1)(E) to permit the Exchange to offer electronic compression forums while the trading floor is closed.⁷ Pursuant to Rule 5.24(e)(1)(E), the Exchange will make available an electronic “compression forum” in the same manner as an open outcry “compression forum” as set forth in Rule 5.88, except as provided in subparagraph (E). In both electronic and open outcry compression forums, TPHs may submit lists of open positions to the Exchange that they wish to close against opposing (long/short) positions of other TPHs, which the Exchange would then aggregate into a single list that would allow TPHs to more easily identify those positions with counterparty interest on the Exchange. The list provided by the Exchange includes a complete list of all possible combinations of offsetting multi-leg positions to each TPH that submitted compression-list positions to the Exchange.⁸

Rule 5.88, Interpretation and Policy .01 provides that for purposes of Rule 5.88, multi-leg positions include vertical call spreads, vertical put spreads, and box spreads, which interpretation and policy applies to both electronic and open outcry compression forums. The proposed rule change would add Rule 5.24(e)(1)(E)(iv), which states that notwithstanding Interpretation and Policy .01 in Rule 5.88, for purposes of subparagraph (E) (and thus for purposes of electronic compression forums held while the trading floor is inoperable), multi-leg positions include vertical call spreads, vertical put spreads, combos (*i.e.*, purchase (sale) of a call and a sale (purchase) of a put with the same expiration date and strike price), and box spreads. Because a combo is essentially a “synthetic future,” it is a common multi-leg strategy among market participants. Market participants

⁷ See Securities Exchange Act Release No. 88490 (March 26, 2020) (SR-CBOE-2020-026).

⁸ See Rule 5.88(a)(4); *see also* Rule 5.24(e)(1)(E)(ii).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange originally submitted a substantially similar rule change on March 30, 2020 (SR-CBOE-2020-030). On March 31, 2020, the Exchange withdrew that filing and submitted this filing.

often establish market neutral hedges by purchasing (selling) a number of combos with an offsetting SPX option position.⁹ As a result, market participants maintain a significant number of combos in their portfolios. Additionally, when markets are volatile (as they have been recently), market participants often take on positions in a larger range of strikes, which positions can be put together as combos. The Exchange believes closing combo positions will be advantageous because such positions can be risk neutral, which means the closing of the entire combo has little or no impact on a TPH's risk profile. However, the current compression forum framework limits multi-leg positions to vertical call¹⁰ and put¹¹ spreads and boxes. The Exchange notes that just as one put spread and one call spread combine to create a box spread, two combos similarly create a box spread.¹² For example, a box spread would be entered by purchasing 100 DEC 2040 calls and selling 100 DEC 2070 calls (*i.e.*, bull call spread) and selling 100 DEC 2040 puts and purchasing 100 DEC 2070 puts (*i.e.*, bear put spread). The purchase of 100 DEC 2040 calls and sale of 100 DEC 2040 puts comprises a combo (as does the sale of 100 DEC 2070 calls and purchase of 100 DEC 2070 puts). The Exchange believes that providing TPHs with this additional way to identify multi-leg positions with offsetting interest will enable more efficient closing of such common strategy positions.

Like the other multi-leg strategies currently covered by the rule, the Exchange will compile a list of all possible combos. The lists generated by the Exchange pursuant to Rule 5.24(e)(1)(E) are provided to TPHs for informational purposes only. Individual TPHs continue to determine whether to submit compression-list positions; whether to participate in the compression forum process; and whether to submit orders for execution in a compression forum. The Exchange's provision of the list does not constitute advice, guidance, a commitment to trade, an execution, or a recommendation to trade.

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.¹³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ 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)¹⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, 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, to protect investors and the public interest by adding a strategy for which the Exchange will make positions available during compression forums will benefit investors, which the Exchange believes will increase positions that market participants may close during compression forums. The Exchange believes the additional information that may be provided to TPHs in compression forums may encourage TPHs to close additional positions via the compression process. The Exchange believes this will enable TPHs to more efficiently and effectively close positions comprising a common multi-leg strategy in the SPX market via the compression forums, which, in general, helps to protect investors and the public interest because closing positions via the compression process serves to alleviate the adverse impact of bank capital requirements. As noted above, the information regarding combo positions is currently included in the compression position lists the Exchange provides to TPHs, as two combos create a box spread. The proposed rule change merely provides the Exchange with the

ability to list combo positions separately, as it currently does for vertical call and put spreads (which also comprise box spreads).

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 proposed rule change has no impact on the trading process used in compression forums, but rather, adds to the information the Exchange may provide to TPHs as part of its efforts to facilitate market participants' reduction in open interest. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as compression forums will continue to be available to all market participants with SPX open interest. The Exchange will make available a list of all possible offsetting combos, which will be available to all TPHs that submit compression-list positions (similar to all other information in these lists). The Exchange does not believe the proposed rule change will impose any burden on intermarket competition, as it will apply only to SPX options, which are currently listed for trading only on the Exchange. The proposed rule change is intended to permit market participants to further reduce open SPX interest to free up additional capital that will permit those parties to continue to provide liquidity to the market, which the Exchange believes benefits the entire market.

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

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

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁶ and Rule 19b-4(f)(6) thereunder.¹⁷ Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if

⁹ See, *e.g.*, Rule 5.85(e).

¹⁰ A vertical call spread involves the purchasing and selling of an equal number of call options with the same expiration date but different strike prices.

¹¹ A vertical put spread involves the purchasing and selling of an equal number of put options with the same expiration date but different strike prices.

¹² A box spread involves purchasing (selling) a bull call spread and purchasing (selling) a bear put spread. In other words, a box spread is composed of a long (short) call and short (long) put position at one strike price and a short (long) call and long (short) put position at another strike price.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ *Id.*

¹⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁷ 17 CFR 240.19b-4(f)(6).

consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁸ and Rule 19b-4(f)(6) thereunder.¹⁹

A proposed rule change filed under Rule 19b-4(f)(6)²⁰ normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. As explained above, the Exchange believes that the proposed rule change has no impact on the trading process for compression forums. The Exchange believes that providing the additional information proposed herein with respect to combos, in addition to the other information the Exchange regularly provides, may increase the ability of firms to find other firms with offsetting positions and maximize the impact of the quarter-end compression forum. Furthermore, the Exchange believes providing TPHs with separate combo information, as it provides separate vertical spread information, will provide TPHs with additional flexibility to locate offsetting positions against which they may execute in compression forums, which will permit them to further reduce open SPX interest and free up additional capital, which benefits all investors in the SPX market. Accordingly, the Exchange asserts that waiver of the operative delay would permit the Exchange to provide TPHs with this information in time for them to engage in compression transactions in connection with the expected first quarter CTPH capital recalculation. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.²²

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²⁰ 17 CFR 240.19b-4(f)(6).

²¹ 17 CFR 240.19b-4(f)(6)(iii).

²² For purposes only of waiving the 30-day operative delay, the Commission has considered the

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CBOE-2020-031 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-2020-031. 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

proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

offices of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2020-031, and should be submitted on or before April 27, 2020.

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

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 3:00 p.m. on Wednesday, April 8, 2020.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topic: Institution and settlement of injunctive actions; Institution and settlement of administrative proceedings; Resolution of litigation claims; and Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the

²³ 17 CFR 200.30-3(a)(12), (59).