Rule 5.2–E(j)(3).[16] The Commission notes that the Exchange proposes no other changes to the Funds. Accordingly, the Commission believes that the proposed continued listing requirements are adequately designed to help deter manipulation of the Shares.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Sections 6(b)(5) and 11A of the Act and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. 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–NYSEArca–2018–38 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–NYSEArca–2018–38. 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 this filing will also 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–NYSEArca–2018–38 and should be submitted on or before October 3, 2018.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of notice of Amendment No. 1 in the **Federal Register**. Amendment No. 1 supplements the proposal by, among other things, eliminating an issuer concentration requirement from the proposed continued listing criteria applicable to the Shares and deleting the condition that would require a change to the index methodology before the proposed continued listing criteria would apply. The changes and additional information in Amendment No. 1 raise no novel issues and assist the Commission in finding that the proposal is consistent with the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[17] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–NYSEArca–2018–38), as modified by Amendment No. 1 thereto, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–19772 Filed 9–11–18; 8:45 am]

BILLING CODE 8011–01–P

[16] *See supra* note 12 and accompanying text.

[17] 15 U.S.C. 78s(b)(2).

[18] 15 U.S.C. 78f(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84045; File No. SR–CBOE–2018–062]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 6.2, Interpretation and Policy .01 Concerning Strategy Orders

September 6, 2018.

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 August 24, 2018, 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

Cboe Options proposes a rule change to amend and clarify the definition of a strategy order, clarify other definitions related to the modified HOSS procedure, and permit the entry of orders that offset imbalances after the strategy order cut-off time.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 6.2. Hybrid Opening (and Sometimes Closing) System (''HOSS'')

(a)–(h) No change.

. . . *Interpretations and Policies:*

.01 Modified Opening Procedure for Series Used to Calculate the Exercise[/] *or* Final Settlement Value[s] of *Expiring* Volatility Index[es] *Derivatives.*

(a) Definitions. For purposes of this Interpretation and Policy .01, the following terms have the meanings below:

Volatility Index Derivatives

The term ''volatility index derivatives'' means volatility index options listed for trading on the Exchange (as determined under Rule 24.9(a)(5) and (6)), (security) futures

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

[2] 17 CFR 240.19b–4.

listed for trading on an affiliated designated contract market, or over-the-counter derivatives overlying a volatility index whose exercise or final settlement values, as applicable, are calculated pursuant to, or by reference to, as applicable, the modified opening procedure described in this Interpretation and Policy .01.

Exercise Settlement Value Determination Day

The term ''exercise settlement value determination day'' means a day on which the Exchange determines the exercise or final settlement value, as applicable, of expiring volatility index derivatives.

Constituent Option Series

The term ''constituent option series'' means all option series listed on the Exchange that are used to calculate the exercise or final settlement value, as applicable, of expiring volatility index derivatives.

Strategy Order

The Exchange deems individual orders (considered collectively) a market participant submits for participation in the modified opening procedure to be a ''strategy order,'' based on related facts and circumstances considered by the Exchange, only if the orders:

(1) Relate to the market participant's positions in expiring volatility index derivatives;

(2) are for option series with the expiration that the Exchange will use to calculate the exercise or final settlement value, as applicable, of the applicable volatility index derivative;

(3) are for option series with strike prices approximating the range of series that are later determined to constitute the constituent option series for the applicable expiration;

(4) are for put (call) options with strike prices equal to or less (greater) than the ''at-the-money'' strike price; and

(5) have quantities approximating the weighting formula used to determine the exercise or final settlement value, as applicable, in accordance with the applicable volatility index methodology.

Non-Strategy Order

The term ''non-strategy order'' means any order (including an order in a constituent option series) *a market participant submits for participation in the modified opening procedure that is not a strategy order (or a change to or cancellation of a strategy order). Examples of non-strategy orders include, but are not limited to:*

(1) A buy (sell) order in a constituent options series if an EOI disseminated no more than two minutes prior to the time a market participant submitted the order included a sell (buy) imbalance and the size of the order is no larger than the size of the imbalance in the EOI, regardless of whether the market participant previously submitted a strategy order or has positions in expiring volatility index derivatives; or

(2) a Market-Maker bid or offer in a constituent option series, as set forth in paragraph (e) below.

(b) Use of Modified Opening Procedure. [All provisions set forth in Rule 6.2 remain in effect unless superseded or modified by this Interpretation and Policy .01.] On [the dates on which the] exercise [and final] settlement value *determination day*s [are calculated for options (as determined under Rule 24.9(a)(5) or (6)) or (security) futures contracts on a volatility index (*i.e.,* expiration and final settlement dates)], the Exchange [utilizes]*uses* the [modified] opening procedure described *in Rule 6.2, as modified by this Interpretation and Policy .01, for constituent option series*[below for all series used to calculate the exercise/final settlement value of the volatility index for expiring options and (security) futures contracts (these option series referred to as ''constituent options'')].

([a]*c*) *Strategy Order[s] Cut-Off Time.* [All orders for participation in the modified opening procedure that are related to positions in, or a trading strategy involving, expiring volatility index options or (security) futures (''strategy orders'')]*Market participants must submit strategy orders (which orders must be entered into the Exchange by a Trading Permit Holder),* and [any] change*s* to or cancellation*s* of [any such]*strategy* order*s, prior to the strategy order cut-off time. Market participants*[:]

[(i) must be received prior to the applicable strategy order cut-off time for the constituent option series (as determined by the Exchange on a class-by-class basis), which may be no earlier than 8:00 a.m. and no later than the opening of trading in the series. The Exchange will announce all determinations regarding changes to the applicable strategy order cut-off time at least one day prior to implementation.

(ii)] may not [be cancelled or changed]*change or cancel strategy orders after the strategy order cut-off time, unless the market participant submits the change or cancellation:*

(1) [after the applicable strategy order cut-off time, unless the strategy order is not executed in the modified opening procedure and the cancellation or change is submitted] after the [modified opening procedure is concluded]*series is open for trading; or*

(2) [(provided that any such strategy order may be changed or cancelled after the applicable strategy order cut-off time and] prior to the [applicable] non-strategy order cut-off time in order to correct a legitimate error, in which case the [Trading Permit Holder]*market participant* submitting the change or cancellation [will]*must* prepare and maintain a memorandum setting forth the circumstances that resulted in the change or cancellation and [will file]*submit* a copy of the memorandum [with]*to* the Exchange no later than the next business day in a form and manner prescribed by the Exchange[)].

The Exchange determines the strategy order cut-off time on a class-by-class basis, which may be no earlier than 8:00 a.m. Chicago time and no later than the opening of trading in a series. The Exchange will announce any changes to the strategy order cut-off time at least one day prior to implementation.

[In general, the Exchange will consider orders to be strategy orders for purposes of this Rule 6.2.01 if the orders possess the following three characteristics:

(A) The orders are for option series with the expiration that will be used to calculate the exercise or final settlement value of the applicable volatility index option or futures contract.

(B) The orders are for option series spanning the full range of strike prices for the appropriate expiration for option series that will be used to calculate the exercise or final settlement value of the applicable volatility index option or futures contract, but not necessarily every available strike price.

(C) The orders are for put options with strike prices less than the ''at-the-money'' strike price and for call options with strike prices greater than the ''at-the-money'' strike price. The orders may also be for put and call options with ''at-the-money'' strike prices.

Whether orders are strategy orders for purposes of this Rule 6.2.01 depends upon specific facts and circumstances. The Exchange may also deem order types other than those provided above as strategy orders if the Exchange determines that to be the case based upon the applicable facts and circumstances.]

([b]*d*) *Non-Strategy Order[s] Cut-Off Time.* [All other orders for participation in the modified opening procedure (''non-strategy orders''), and any change to or cancellation of any such order, must be received]*Market participants must submit non-strategy orders (which*

orders must be entered into the Exchange by a Trading Permit Holder) prior to the [applicable]*non-strategy order* cut-off time. [(as determined by t]*T*he Exchange *determines the non-strategy order cut-off time* on a class-by-class basis[) in order to participate at the opening price for the applicable series], which may be no earlier than 8:25 a.m. and no later than the opening of trading in [the option]*a* series. The Exchange will announce [all determinations regarding]*any* changes to the [applicable] non-strategy order cut-off time at least one day prior to implementation.

([c]*e*) *Market-Makers.* A Market-Maker with an appointment in a class with constituent option series may submit bids and offers in those series for bona fide market-making purposes in accordance with Rule 8.7 and the Exchange Act for its market-maker account prior to the open of trading for participation in the modified opening procedure. The Exchange will deem these bids and offers to be non-strategy orders, and will not deem them to be changes to or cancellations of previously submitted strategy orders, if:

(i) the Trading Permit Holder with which the Market-Maker is affiliated has established, maintains, and enforces reasonably designed written policies and procedures (including information barriers, as applicable), taking into consideration the nature of the Trading Permit Holder's business and other facts and circumstances, to prevent the misuse of material nonpublic information (including the submission of strategy orders); and

(ii) when submitting these bids and offers, the Market-Maker has no actual knowledge of any previously submitted strategy orders.

* * * * *

(b) Not applicable.

(c) Not applicable.

* * * * *

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

(a) Purpose

Cboe Options and Cboe Futures Exchange, LLC (''CFE'') list options and futures, respectively, on different volatility indexes that are calculated using prices of options traded on Cboe Options.[3] The exercise settlement value for these volatility index derivatives is determined on the morning of their expiration date through a special opening quotation (''SOQ'') of the volatility index using the opening prices of a portfolio of options (for example, the exercise settlement value of VIX options and futures uses the opening prices of a portfolio of S&P 500 Index options (''SPX options'') that expire approximately 30 days later). On the days when the exercise settlement values for these volatility index derivatives are determined, Cboe Options opens the constituent options[4] for these volatility indexes using the modified Hybrid Opening System (''HOSS'') procedure.[5] The main feature of the modified HOSS procedure used to calculate the exercise settlement value for expiring volatility index options and (security) futures that distinguishes it from the normal opening procedure used on all other days is a cutoff time for the entry of strategy orders.[6] By providing market participants with a mechanism to buy and sell constituent options at prices used to calculate the exercise settlement value of the volatility index derivatives, the volatility index settlement process is ''tradable.''

The volatility index settlement process is patterned after the process used to calculate the exercise settlement value of SPX options. On the days SPX options expire, S&P calculates an SOQ of the S&P 500 Index using the opening prices of the component stocks in their primary markets. Market participants can replicate the exposure of their expiring SPX options by entering orders to buy and sell the component stocks of the S&P 500 Index at their opening prices. If they are successful, market participants can effectively construct a portfolio that matches the value of the SOQ. At this point, the derivatives and cash markets converge.

In a very similar way, the exercise settlement value for volatility index derivatives is an SOQ of the volatility index using opening prices of the constituent options used to determine the value of the index. With respect to VIX, the VIX exercise settlement value is calculated using the opening prices of SPX options that expire approximately 30 days later. Analogous to the settlement process for SPX options, market participants can replicate the exposure of their expiring VIX derivatives by entering buy and sell orders in constituent SPX options. If they are successful, market participants can effectively construct a portfolio of SPX options whose value matches the value of the VIX SOQ. By doing so, market participants may make or take delivery of the SPX options that will be used to calculate the exercise settlement value of their VIX derivatives.

A tradable settlement creates the opportunity to convert the exposure of an expiring VIX derivative into the portfolio of SPX options that will be used to calculate the exercise settlement

[3] These volatility indexes include the Cboe Volatility Index (''VIX'') and the Russell 2000 Volatility Index (''RVX''). Options expire on an expiration date and settle to an exercise settlement value, and futures settle on a final settlement date to a final settlement value. For ease of reference, the Exchange will use the options terminology throughout this filing when referring to the ''expiration/final settlement date'' and ''expiration/final settlement value'' for volatility index derivatives.

[4] ''Constituent options'' are the series used to calculate the exercise/final settlement value of the volatility index for expiring options and (security) futures contracts.

[5] *See* Rule 6.2, Interpretation and Policy .01.

[6] Currently, strategy orders are defined as all orders (defined in Rule 1.1(ooo) as a firm commitment to buy or sell option contracts) for participation in the modified opening procedure that are related to positions in, or a trading strategy involving, volatility index options or (security) futures (as discussed below, the proposed rule change is adding ''expiring'' to this definition). In general, the Exchange currently considers orders to be strategy orders if they are for (a) option series with the expiration that will be used to calculate the exercise or final settlement value of the applicable volatility index option or futures contract; (b) option series spanning the full range of strike prices for the appropriate expiration for option series that will be used to calculate the exercise or final settlement value of the applicable volatility index option or futures contract (not necessarily every available strike price); and (c) put options with strike prices at or less than the ''at-the-money'' strike price and for call options with strike prices greater than or at the ''at-the-money'' strike price. Whether orders are strategy orders depends upon specific facts and circumstances. The Exchange may also deem order types other than those provided above as strategy orders if the Exchange determines that to be the case based upon the applicable facts and circumstances. The strategy order cut-off time may be no earlier than 8:00 a.m. and no later than the opening of trading in the series, and is currently 8:20 a.m. Chicago time. *See* Rule 6.2, Interpretation and Policy .01.

value of the expiring contract. Specifically, some market participants may desire to maintain the vega, or volatility, risk exposure of expiring VIX derivatives. Since VIX derivatives expire 30 days prior to the SPX options used to calculate their settlement value, a market participant may have a vega risk from its portfolio of index positions that the participant wants to continue to hedge after the participant's VIX derivatives expire. To continue that vega coverage following expiration of a VIX derivative, a market participant may determine to trade the portfolio of SPX options used to calculate the exercise settlement value of an expiring VIX derivative, since those SPX options still have 30 more days to expiration. This trade essentially replaces the uncovered vega exposure ''hole'' created by an expiring VIX derivative.

Since the VIX settlement value converges with the value of the portfolio of SPX options used to calculate that VIX settlement value, trading this SPX option portfolio mitigates settlement risk.[7] This is because, if done properly, the vega exposure obtained in the SPX option portfolio will replicate the vega exposure of the expiring VIX derivative. Because a market participant is converting vega exposure from one instrument (expiring VIX derivative) to another (portfolio of SPX options expiring in 30 days), the market participant is likely to be indifferent to the settlement price received for the expiring VIX derivative. Importantly, trading the next VIX derivative expiration (*i.e.,* rolling) will not accomplish the conversion of vega exposure since that VIX derivative contract would necessarily cover a different period of expected volatility and would be based on an entirely different portfolio of SPX options.

To replicate expiring volatility index derivatives on their expiration dates with portfolios of constituent options, market participants generally submit strategy orders to participate in the modified HOSS procedure on exercise settlement value determination dates. The Exchange understands that the entry of strategy orders may lead to order imbalances in the option series being used to determine the exercise settlement value. To the extent (1) market participants seeking to replicate an expiring VIX derivative position are on one side of the market (*e.g.,* strategy order to buy SPX options) and (2) those market participants' orders predominate over other orders during the modified HOSS procedure, those trades may contribute to an order imbalance prior to the open.

To provide market participants with time to enter additional orders and quotes to offset any such imbalances prior to the opening of these series, the Exchange established a strategy order cut-off time.[8] The time period after this cut-off time also permits market participants to, among other things, update prices of orders and quotes (except, as discussed below, changes to or cancellations of non-strategy orders may not be submitted after this cut-off time) in response to changing market conditions until the open of trading.[9] Generally, if a series (1) has a market order imbalance, or (2) is at a price that is outside the Exchange prescribed opening width (as described in Rule 6.2(d)), the series will not open for trading. Prior to the open, the Exchange disseminates messages to market participants indicating the expected opening price for a series or imbalance information for that series (as applicable) to further encourage market participants to enter orders and quotes to offset any imbalances and to promote a fair and orderly opening.

The proposed rule change first moves all defined terms in Interpretation and Policy .01 to proposed paragraph (a), adds certain defined terms, and revises and clarifies existing defined terms as each is used in Interpretation and Policy .01. Cboe Options proposes to add and modify the following defined terms in Interpretation and Policy .01 with respect to the modified HOSS procedure:

- *Volatility Index Derivatives:* The proposed term ''volatility index derivatives'' means volatility index options listed for trading on the Exchange (as determined under Rule 24.9(a)(5) and (6)), (security) futures listed for trading on an affiliated designated contract market, or over-the-counter (''OTC'') derivatives overlying a volatility index whose exercise or final settlement values, as applicable, are calculated pursuant to, or by reference to, as applicable, the modified opening procedure described in Interpretation and Policy .01. The current introductory paragraph to Interpretation and Policy .01 states the modified opening procedure is used on the dates on which the exercise and final settlement values are calculated for options (as determined under Rule 24.9(a)(5) or (6)) or (security) futures contracts on a volatility index (*i.e.,* expiration and final settlement dates), which is consistent with the proposed definition. Additionally, the proposed definition includes OTC derivatives overlying a volatility index, as these derivatives often reference the exercise settlement value the Exchange determines using the modified HOSS procedure.
- *Exercise Settlement Value Determination Day:* The proposed term ''exercise settlement value determination day'' means a day on which the Exchange determines the exercise or final settlement value, as applicable, of expiring volatility index derivatives. This proposed definition is consistent with the current introductory paragraph in Interpretation and Policy .01, which refers to the date on which the exercise and final settlement values are calculated for options (as determined under Rule 24.9(a)(5) or (6)) or (security) futures contracts on a volatility index (*i.e.,* expiration and final settlement dates) as the dates on which the Exchange uses the modified HOSS procedure set forth in Interpretation and Policy .01.
- *Constituent Option Series:* The proposed term ''constituent option series'' means all option series listed on the Exchange that are used to calculate the exercise or final settlement value, as applicable, of expiring volatility index derivatives. The current definition of ''constituent options'' in the current introductory paragraph to Interpretation and Policy .01 is all series used to calculate the exercise/final settlement value of the volatility index for expiring options and (security) futures contracts, which is consistent with the proposed definition. The proposed definition makes nonsubstantive changes to the definition and incorporates new defined terms.

[7] In the absence of a tradeable settlement, settlement risk refers to the difference between the exercise settlement value of the expiring volatility index derivatives and the value of the portfolio of the option series used to calculate the exercise settlement value. The potential disparity between the exercise settlement value for expiring volatility index derivatives and the value of the replicating portfolio of constituent options series is referred to as ''slippage.'' A tradeable settlement provides convergence between the value of the exercise settlement value and the value of the portfolio of option series used to calculate the exercise settlement value (*i.e.,* eliminates slippage). With respect to expiring VIX derivatives, for example, while it is possible to construct a replicating portfolio of SPX options, it is highly unlikely that traders would be able to trade constituent SPX options at prices that would match the final settlement price.

[8] *See* Securities Exchange Act Release Nos. 52367 (August 31, 2005), 70 FR 53401 (September 8, 2005) (SR–CBOE–2004–86) (established initially for rapid opening system procedure, which is no longer used). The Commission stated it believed that the proposed rule change may serve the intended benefits of the strategy order cut-off time without imposing an undue burden on market participants. *Id.* at 53402.

[9] Pursuant to Rule 6.2, Interpretation and Policy .01(b), the Exchange may determine a non-strategy order cut-off time, which may be no earlier than 8:25 a.m. and no later than the opening of trading. The current non-strategy order cut-off time is the opening of trading.

• *Strategy Orders:* Pursuant to the proposed rule change, the Exchange will deem individual orders (considered collectively) a market participant submits for participation in the modified opening procedure to be a ''strategy order,'' based on related facts and circumstances [10] considered by the Exchange, only if the orders:

○ Relate to the market participant's positions in expiring volatility index derivatives;

○ are for option series with the expiration that the Exchange will use to calculate the exercise or final settlement value, as applicable, of the applicable volatility index derivative;

○ are for option series with strike prices approximating the range of series that are later determined to constitute the constituent option series for the applicable expiration;

○ are for put (call) options with strike prices equal to or less (greater) than the ''at-the-money'' strike price; and

○ have quantities approximating the weighting formula used to determine the exercise or final settlement value, as applicable, in accordance with the applicable volatility index methodology.

Current paragraph (a) defines strategy orders as all orders for participation in the modified opening procedure that are related to positions in, or a trading strategy involving, expiring volatility index options or (security) futures. The current rule also says, in general, the Exchange will consider orders to be strategy orders for purposes of Rule 6.2, Interpretation and Policy .01 if the orders possess three characteristics:

• The orders are for option series with the expiration that will be used to calculate the exercise or final settlement value of the applicable volatility index option or futures contract;

• the orders are for option series spanning the full range of strike prices for the appropriate expiration for option series that will be used to calculate the exercise or final settlement value of the applicable volatility index option or futures contract, but not necessarily every available strike; and

• the orders are for put options with strike prices less than the ''at-the-money'' strike price and for call options with strike prices greater than the ''at-the-money'' strike price. The orders may also be for put and call options with ''at-the-money'' strike prices. The current rule also states whether orders are strategy orders for purposes of Rule 6.2, Interpretation and Policy .01 depends upon specific facts and circumstances. Currently, the Exchange may also deem order types other than those provided above as strategy orders if the Exchange determines that to be the case based upon the applicable facts and circumstances.

When the definition of strategy order was adopted, volatility index derivatives had only just begun trading. The Exchange believed some flexibility within the rules regarding what constituted a strategy order was appropriate to permit market participants to submit strategy orders in a manner consistent with their businesses. Additionally, flexibility within the rule provided the Exchange with the ability to gain experience in monitoring trading in these products and evaluating the use of strategy orders.[11] However, the Exchange understands this flexibility has created some confusion among market participants regarding what orders constitute a strategy order. As a result of this confusion, the Exchange understands certain market participants may hesitate to submit orders in the modified opening procedure out of concern that such orders could be deemed either a new strategy order or a modification to or cancellation of an existing strategy order. This perceived risk may lead to reduced liquidity and may increase the time it takes to open a series at a competitive price.[12]

The proposed definition of strategy order limits strategy orders to strips of orders in constituent options series submitted by a market participant that contain the characteristics of orders that would replicate the exposure of the market participant's expiring volatility index derivatives. This is consistent with how market participants use strategy orders, as discussed above, and is also consistent with the initial purpose of the strategy order cut-off time.[13] The rule specifies that a group of orders must contain the five specific characteristics to be deemed a strategy order. The first characteristic in the proposed strategy order definition, which requires orders to be related to the market participant's positions in expiring volatility index derivatives, is a factor under the current rule for orders to be deemed a strategy order.[14] Similarly, under the current rule, if orders possess the second through fourth characteristics in the proposed definition of strategy order, the Exchange will generally consider those orders to be strategy orders for purposes of Rule 6.2, Interpretation and Policy .01.[15] The fifth characteristic in the proposed definition of strategy orders is not listed in the current rule as a requirement for orders to be deemed strategy orders. However, currently, the Exchange generally looks for orders to be in quantities that approximate the weighting formula used in the volatility index methodology when determining whether orders are strategy orders. In order for groups of orders in constituent options series to replicate the vega exposure of related expiring volatility index derivatives, the orders in constituent options series would need to possess these quantities.

The proposed rule change deletes the provision stating that the Exchange may also deem order types other than those provided in the rule as strategy orders if the Exchange determines it to be the cased based upon the applicable facts and circumstances. Ultimately, based on the Exchange's experience of monitoring trading in volatility index derivatives and the modified opening procedure used on exercise settlement value determination days, orders intending to replicate the vega of expiring volatility index derivatives (or to liquidate a hedge) possess the five specified

[10] The Exchange will evaluate facts and circumstances to determine whether the five criteria are satisfied. For example, the Exchange will consider whether orders are for option series with strike prices approximating the range of series that are later determined to constitute the constituent option series for the applicable expiration based on facts and circumstances. Approximate range includes not only the beginning and end points of the range, but also the population of strikes within the range.

[11] *See* note 6.

[12] *See* Rule 6.2(d).

[13] *See* Securities Exchange act Release No. 52367 (August 31, 2005), 70 FR 53401 (September 8, 2005) (SR–CBOE–2004–86) (order approving modified ROS opening procedure).

[14] *See* current Rule 6.2, Interpretation and Policy .01(a). The proposed rule change deletes the concept of being related to a trading strategy, as that is a broad term, and ultimately, as described in this rule filing, strategy orders relate specifically to positions in expiring volatility index derivatives, thus making the term ''trading strategy'' unnecessary.

[15] *See* current Rule 6.2, Interpretation and Policy .01(A)–(C). The Exchange notes the proposed rule change modifies the characteristic in current .01(B) to provide that the orders must approximate the range of series that later are determined to constitute the constituent option series rather than be for the full range. The purpose of this change is to account for the fact that, while many market participants can determine what the full range and population of strike prices will be, they may not be exact. Bids and offers of series may change in response to market conditions between the strategy order cut-off time and the opening of trading, which may impact which series ultimately constitute the constituent option series. For example, with respect to VIX, participants may not have certainty prior to the strategy order cut-off time regarding which series will have zero-bid prices and thus be excluded from the settlement calculation. *See* VIX methodology at *http://www.cboe.com/micro/vix/vix-index-rules-and-methodology.pdf.* Additionally, this will ensure that market participants cannot purposefully not enter an order for one strike within the range to avoid their orders being subject to the strategy order cut-off time. As the current rule provides the Exchange with significant flexibility to determine what constitutes a strategy order, this flexibility is consistent with the current rules.

characteristics,[16] and thus orders intended to be strategy orders would possess the proposed characteristics.[17] The Exchange believes the proposed definition provides market participants with more clarity with respect to what constitutes strategy orders. The Exchange believes this added clarity may increase liquidity on volatility settlement dates, as it provides more certainty with respect to which orders they need to submit prior to the strategy order cut-off time and which orders they may submit after that time.

- *Non-Strategy Orders:* The proposed term ''non-strategy order'' means any order (including an order in a constituent option series) a market participant submits for participation in the modified opening procedure that is not a strategy order (or a change to or cancellation of a strategy order). Examples of non-strategy orders include, but are not limited to:
  - A buy (sell) order in a constituent options series if an expected opening information message (''EOI'') [18] is disseminated no more than two minutes prior to the time a market participant submitted the order included a sell (buy) imbalance and the size of the order is no larger than the size of the imbalance in the EOI, regardless of whether the market participant previously submitted a strategy order or has positions in expiring volatility index derivatives; or
  - a Market-Maker bid or offer in a constituent option series, as set forth in proposed paragraph (e) (current paragraph (c)).

As discussed above, the Exchange understands the entry of strategy orders may create imbalances in the constituent option series. To provide market participants with time to enter additional orders and quotes to offset any such imbalances prior to the opening of these series, the Exchange established a strategy order cut-off time.[19] Imbalances may prevent a series from opening, such as if it is a market order imbalance (as described in Rule 6.2(d)). Prior to the open, the Exchange disseminates EOIs to market participants indicating, among other things, imbalance information for series to further encourage market participants to enter orders to offset any imbalances and promote a fair and orderly opening.[20] However, Rule 6.2 currently does not permit market participants that submitted strategy orders prior to the cut-off time to submit orders that would address order imbalances after the strategy order cut-off time in series used to calculate the exercise settlement value.

However, if a market participant enters a strategy order prior to the strategy order cut-off time, the Exchange understands such market participant may refrain from entering orders to offset imbalances because of the perceived risk that such an order may be deemed to be a new strategy order or a change to the existing strategy order, which is activity the current rule does not permit. This perceived risk may reduce liquidity at the opening on exercise settlement value determination days and may increase the risk that some series do not open because of an imbalance.[21]

In order to promote a fair and orderly opening process, the Exchange seeks to encourage all market participants to enter orders following the strategy order cut-off time for the purpose of offsetting imbalances in constituent option series until the opening of trading., [sic] Accordingly, the Exchange proposes to add to the definition of non-strategy orders a buy (sell) order in a constituent options series if an EOI disseminated no more than two minutes prior to the time a market participant submitted the order included a sell (buy) imbalance and the size of the order is no larger than the size of the imbalance in the EOI,[22] regardless of whether the market participant previously submitted a strategy order or has positions in expiring volatility derivatives.

The purpose of permitting market participants to enter orders to offset order imbalances is not to permit them to modify strategy orders, but rather to encourage them to respond to EOIs that indicate an imbalance in a series exists. The Exchange believes explicitly permitting market participants to offset order imbalances in response to EOIs, as set forth in the proposed definition of non-strategy orders, may increase liquidity in series, including in constituent option series, which would contribute to a fair and orderly opening in those series. The Exchange disseminates these messages for the purpose of encouraging submission of orders to address order imbalances. Therefore, the Exchange does not believe such orders are ''related to'' expiring volatility index derivatives, and thus would not constitute a strategy order under the current or proposed definition, as discussed above. The Exchange believes the proposed rule change is consistent with the definition of strategy order because the proposed rule explicitly excludes orders submitted for this imbalance offsetting purpose from falling within the strategy order definition.

The remainder of the proposed definition, including subparagraphs (1) and (3), is consistent with the current definition of non-strategy orders in current paragraph (b), and just clarifies examples of non-strategy orders that exist in the current rule. The proposed definition also makes nonsubstantive changes and incorporates new defined terms.

Proposed paragraph (b) provides that, on exercise settlement value determination days, the Exchange uses the opening procedure described in Rule 6.2, as modified by Interpretation and Policy .01, for constituent option series. This clarifies that the opening procedure the Exchange uses for constituent option series on exercise settlement value determination days is the same as the opening procedure used for all option series on all other days, except as set forth in Interpretation and Policy .01. This proposed provision is consistent with the current introductory paragraph, and makes nonsubstantive changes and incorporates new defined terms.

Proposed paragraph (c) states market participants must submit strategy orders, and changes to or cancellations of strategy orders, prior to the strategy order cut-off time (which the Exchange has currently set as 8:20 a.m. Chicago time). Market participants may not change or cancel strategy orders after the strategy order cut-off time, unless the market participant submits the change or cancellation (1) after the modified opening procedure is concluded; or (2) to correct a legitimate error, in which case the market participant submitting the change or cancellation must prepare and maintain a memorandum setting forth the

[16] For example, the VIX methodology describes how a portfolio of options may provide a constant exposure to the variance of an asset, which is what strategy orders attempt to do. *See http://www.cboe.com/micro/vix/vix-index-rules-and-methodology.pdf.*

[17] As discussed above, the proposed rule retains some flexibility pursuant to which the Exchange may consider facts and circumstances to determine whether orders possess the five proposed criteria for what constitutes a strategy order, and a modification of a strategy order.

[18] *See* Rule 6.2(a)(ii).

[19] *See* Securities Exchange Act Release Nos. 52367 (August 31, 2005), 70 FR 53401 (September 8, 2005) (SR–CBOE–2004–86) (established initially for rapid opening system procedure, which his no longer used).

[20] *See* Rule 6.2(a)(ii).

[21] *See* Rule 6.2(d).

[22] Currently, EOIs are disseminated every five seconds. Therefore, for example, if an EOI disseminated at 8:27:00 indicated a sell order imbalance of 500 contracts, a market participant's submission of a buy order of 100 contracts at 8:28 would not be a strategy order or modification of a previously submitted strategy order. The two-minute time period is intended to provide market participants with sufficient time to manually enter an order in response to an EOI message.

circumstances that resulted in the change or cancellation and submit a copy of the memorandum to the Exchange no later than the next business day in a form and manner prescribed by the Exchange. The Exchange determines the strategy order cut-off time on a class-by-class basis, which may be no earlier than 8:00 a.m. Chicago time and no later than the opening of trading in a series. The Exchange has currently set the strategy order cut-off time as 8:20 a.m. Chicago time. The Exchange will announce any changes to the strategy order cut-off time at least one day prior to implementation. Proposed paragraph (c) is substantively the same as information in current paragraph (a), and makes nonsubstantive changes and incorporates defined terms. Proposed paragraph (c) also excludes the description of what constitutes a strategy order, which was included in current paragraph (a) and has been moved to proposed paragraph (a) as a defined term, as discussed above.

Proposed paragraph (d) states market participants must submit non-strategy orders prior to the non-strategy order cut-off time. The Exchange determines the non-strategy order cut-off time on a class-by-class basis, and it may be no earlier than 8:25 a.m. Chicago time and no later than the opening of trading in a series. The Exchange has currently set the non-strategy order cut-off time to be the opening of trading. The Exchange will announce any changes to the non-strategy order cut-off time at least one day prior to implementation. Proposed paragraph (d) is substantively the same as current paragraph (b), and makes nonsubstantive changes and incorporates defined terms. Proposed paragraph (d) also excludes the description of what constitutes a non-strategy order, which is currently included in current paragraph (a) and has been moved to proposed paragraph (a) as a defined term, as discussed above.

The proposed rule change makes additional nonsubstantive changes, including revising the heading for Interpretation and Policy .01 and updating the paragraph lettering.

The Exchange notes the proposed rule change would not impact a Trading Permit Holder's requirements to abide by Exchange Rules 4.1 (Just and Equitable Principles of Trade), 4.7 (Manipulation), and 4.18 (Prevention of the Misuse of Material, Nonpublic Information). The Exchange believes the proposed rule change may contribute to additional liquidity during the modified HOSS procedure, and thus a fair and orderly opening on exercise settlement value determination days. A fair and orderly opening in these series benefits all market participants who trade in the volatility index derivatives and the constituent series. The Exchange will continue to conduct surveillance procedures to monitor trading in the constituent option series, including but not limited to compliance with the strategy order cut-off time (in accordance with the proposed rule change).

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.[23] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[24] 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)[25] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed definition of a strategy order provides market participants with additional clarity regarding what orders constitute strategy orders, and the Exchange believes this added clarity benefits investors and promotes just and equitable principles of trades. The proposed rule change with respect to the definition of strategy orders is consistent with the current definition of strategy orders and the Exchange's view of what orders constitute a strategy order, as well as the legitimate purposes of strategy orders, because orders submitted for the purposes of constituting a strategy order generally possess the five specified characteristics (four of which are in current Rule 6.2, Interpretation and Policy .01(a)).

Additionally, the proposed definition of non-strategy order provides market participants with additional clarity regarding orders that do not constitute strategy orders (and thus that may be submitted after the strategy-order cut-off time and prior to the non-strategy order cut-off time). The Exchange believes explicitly permitting market participants to enter orders to offset order imbalances in response to EOIs that indicate an imbalance in a series exists will encourage entry of orders when there is an imbalance in a series, even if market participants previously submitted strategy orders. This proposed rule change allows the maximum number of participants to address order imbalances during the opening process for the constituent option series while executing their investment and hedging strategies. The Exchange believes these changes may increase liquidity in series, including in constituent option series, to offset imbalances. This result would contribute to a fair and orderly opening process and would benefit all market participants who trade in the volatility index derivatives or the constituent option series. The Exchange also believes these changes are consistent with the original purpose of the strategy order cut-off time. The Exchange believes this additional clarity with respect to what is and is not a strategy order will provide market participants with more certainty with respect to which orders constitute strategy orders, and thus which orders need to be submitted prior to the strategy order cut-off time. It also clarifies for market participants the activity in which they may engage after the strategy order cut-off time. The Exchange believes the proposed reorganization of Interpretation and Policy .01, including defining all relevant terms at the beginning of Interpretation and Policy .01, also benefits market participants by providing additional clarity with respect to all defined terms for the modified HOSS procedure.

The Exchange notes the proposed rule change would not impact a Trading Permit Holder's requirements to abide by Exchange Rules 4.1 (Just and Equitable Principles of Trade), 4.7 (Manipulation), and 4.18 (Prevention of the Misuse of Material, Nonpublic Information). The Exchange believes the proposed rule change may contribute to additional liquidity during the modified HOSS procedure, and thus to a fair and orderly opening in constituent option series on exercise settlement value determination days. A fair and orderly opening in these series benefits all market participants who trade in the volatility index derivatives and the

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] *Id.*

constituent series. The Exchange will continue to conduct surveillance procedures to monitor trading in the constituent option series, including but not limited to compliance with the strategy order cut-off time (in accordance with the proposed rule change).

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options 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 applies in the same manner to all market participants who submit orders to the Exchange in constituent option series on exercise settlement value determination days. The proposed rule change, and the proposed definition of strategy order in particular, provides market participants with clarity for market participants with respect to what constitutes a strategy order and is generally consistent with the current rules and the Exchange's view of what orders constitute a strategy order. Additionally, the proposed definition of non-strategy order, particularly the explicit permission to enter orders in response to EOIs that indicate an imbalance in a series, is consistent with the original intent of the strategy order cut-off time.[26] The proposed rule change has no impact on intermarket competition, as it applies to orders submitted for participation in the Exchange's modified opening procedure used to calculate settlement values for expiring volatility index derivatives. The Exchange believes the proposed rule change provides market participants with more certainty with respect to which orders they need to submit prior to the strategy order cut-off time and which orders they may be submit after that time, which may increase liquidity in constituent option series on volatility settlement dates.

Cboe Options believes that the proposed rule change will relieve any burden on, or otherwise promote, competition. The Exchange believes the proposed rule change may contribute to liquidity in constituent option series during the modified HOSS procedure, and thus a fair and orderly opening on exercise settlement value determination days. A fair and orderly opening in these series benefits all market participants who trade in the volatility index derivatives and the constituent option series.

[26] *See supra* note 8.

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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2018–062 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–2018–062. 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–2018–062 and should be submitted on or before October 3, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Eduardo A. Aleman,

Assistant Secretary.

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[27] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Docket No. SBA–2018–0008]

Community Advantage Pilot Program

AGENCY: U.S. Small Business Administration.

ACTION: Notice of extension of and changes to Community Advantage Pilot Program; and request for comments.

SUMMARY: The Community Advantage (''CA'') Pilot Program is a pilot program to increase SBA-guaranteed loans to small businesses in underserved areas. The Small Business Administration (''SBA'') continues to refine and improve the design of the Community Advantage Pilot Program. To support SBA's commitment to expanding access to capital for small businesses and entrepreneurs in underserved markets, SBA is issuing this Notice to extend the term of the CA Pilot Program, to mitigate risks of the program by placing a moratorium on accepting new CA Lender applications, to limit fees that can be collected from an applicant for a CA loan, and to revise other program requirements.

DATES: The moratorium on accepting applications from lenders for participation in the CA Pilot Program and all other changes identified in this Notice will be effective on October 1,