SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87072; File No. SR–CBOE–2019–045]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the AIM Automated Improvement Mechanism Upon the Migration of the Exchange's Trading Platform to the Same System Used by the Cboe Affiliated Exchanges

September 24, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 11, 2019, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] 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 the Automated Improvement Mechanism ("AIM") and move it from the currently effective Rulebook ("current Rulebook") to the shell structure for the Exchange's Rulebook that will become effective upon the migration of the Exchange's trading platform to the same system used by the Cboe Affiliated Exchanges (as defined below) ("shell Rulebook"). 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

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) ("Cboe Global"), which is also the parent company of Cboe C2 Exchange, Inc. ("C2"), acquired Cboe EDGA Exchange, Inc. ("EDGA"), Cboe EDGX Exchange, Inc. ("EDGX" or "EDGX Options"), Cboe BZX Exchange, Inc. ("BZX" or "BZX Options"), and Cboe BYX Exchange, Inc. ("BYX" and, together with Cboe Options, C2, EDGX, EDGA, and BZX, the "Cboe Affiliated Exchanges"). The Cboe Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the Cboe Affiliated Exchanges, in the context of a technology migration. Cboe Options intends to migrate its trading platform to the same system used by the Cboe Affiliated Exchanges, which the Exchange expects to complete on October 7, 2019. Cboe Options believes offering similar functionality to the extent practicable will reduce potential confusion for market participants.

In connection with this technology migration, the Exchange has a shell Rulebook that resides alongside its current Rulebook, which shell Rulebook will contain the Rules that will be in place upon completion of the Cboe Options technology migration. The Exchange proposes to delete Rule 6.74A in the current Rulebook and add the provisions regarding AIM Auctions for simple orders, as proposed to be modified in this rule filing, to Rule 5.37 in the shell Rulebook.[5]

The proposed rule change clarifies in the proposed introductory paragraph [6] that the Initiating Order may consist of one or more solicited orders. This accommodates multiple contra-parties and increases the opportunities for customer orders to be submitted into an AIM Auction with the potential for price improvement, since the Initiating Order must stop the full size of the Agency Order. This has no impact on the execution of the Agency Order, which may already trade against multiple contra-parties depending on the final auction price, as set forth in proposed paragraph (e). This proposed change is consistent with the Exchange's current interpretation of current Rule 6.74A, and the proposed rule change clarifies this in the Rule.[7] The proposed rule change moves the restriction that a solicited order cannot be for the account of any Market-Maker appointed in the class from current Interpretation and Policy .04 to the proposed introductory paragraph.

Proposed Rule 5.37(a)(5) states the Trading Permit Holder that electronically submits an order into an AIM Auction (the "Initiating TPH") may not designate an Agency Order or Initiating Order as Post Only. A Post Only order is an order the System ranks and executes pursuant to proposed Rule 5.32, subjects to the Price Adjust process pursuant to Rule 5.32, or cancels or rejects (including if it is not subject to the Price Adjust process and locks or crosses a Protected Quotation of another exchange), as applicable (in accordance with User instructions), except the order or quote may not remove liquidity from the Book or route away to another Exchange. The Exchange does not currently offer Post Only order functionality, but will as of the technology migration.[8] The Exchange believes it is appropriate to not permit the Agency or Initiating Order to be designated as Post Only, as the purpose of a Post Only order is to not execute upon entry and instead rest

in the Book, while the purpose of an AIM Auction is to receive an execution following the Auction but prior to entering the Book.

Proposed Rule 5.37(a)(6) states the Initiating TPH may only submit an Agency Order to an AIM Auction after the market open. This is consistent with current functionality, as executions cannot occur prior to the opening of trading. The proposed rule change clarifies this in the Rule.

Proposed Rule 5.37(a)(7) states the Initiating TPH may not submit an Agency Order if the NBBO is crossed (unless the Agency Order is an AIM Intermarket Sweep Order (''AIM ISO'') or Sweep and AIM order (see discussion below). This is consistent with current functionality, and the proposed rule change clarifies this in the Rule. The Exchange believes it is appropriate to not permit an AIM Auction to be initiated if the NBBO is crossed, as a crossed NBBO may indicate price uncertainty within the market. The Exchange believes this may prevent executions at potentially erroneous prices.

The proposed rule change moves the various other AIM Auction eligibility requirements to proposed paragraph (a) and makes nonsubstantive changes:

• The requirement that an Agency Order be in a class of options the Exchange designates as eligible for AIM Auctions remains in subparagraph (a)(1).[9]

• The requirement that the Initiating TPH mark an Agency Order for AIM processing moves from current subparagraph (b)(1)(A) to proposed subparagraph (a)(2).

• The provision that there is no minimum size for Agency Orders moves from current Interpretation and Policy .03 to proposed subparagraph (a)(3). Additionally, the requirement that the Initiating Order be for the same size as the Agency Order moves from current subparagraphs (a)(2) and (a)(3) to proposed subparagraph (a)(3).

• The provision regarding the minimum increment for the Agency Order and Initiating Order price moves from current subparagraph (a)(3) to proposed subparagraph (a)(4). As further

discussed below, the proposed rule change deletes he requirement that during Regular Trading Hours, at least three Market-Makers with an appointment in the class are quoting in the relevant series to initiate an AIM Auction moves from current subparagraph (a)(4). The proposed rule change also explicitly states that all of the eligibility requirements in proposed paragraph (a) must be met for an AIM Auction to be initiated, and that the System rejects or cancels both an Agency Order and Initiating Order submitted to an AIM Auction that do not meet the conditions in proposed paragraph (a).

Proposed subparagraph (b)(2) states if the Agency Order is to buy (sell), the stop price must be at least one minimum increment better than the Exchange best bid (offer), unless the Agency Order is a Priority Customer order and the resting order is not a Priority Customer, in which case the stop price must be at or better than the Exchange best bid (offer). Current Rule 6.74A(b)(3)(I) states if the final auction price locks a Priority Customer order in the Book on the same side of the market as the Agency Order, then, unless there is sufficient size in the Auction responses to execute both the Agency Order and the booked Priority Customer order (in which case they will both execute at the final auction price), the Agency Order will execute against the auction responses at one minimum increment worse than the final auction price against the auction participants that submitted the final auction price and any balance will trade against the priority customer order in the book at the order's limit price. The proposed rule change protects Priority Customers on the same side of the Book as the current rule does, except it does so by applying a check at the initiation of an AIM Auction rather than at the conclusion of an AIM Auction. By permitting a Priority Customer Agency Order to trade at the same price as a resting non-Priority Customer order, the proposed rule change also protects Priority Customer orders submitted into an AIM Auction. Additionally, application of this check at the initiation of an AIM Auction may result in the Agency Order executing at a better price, since the stop price must improve any same-side orders (with the exception of a Priority Customer Agency Order and a resting non-Priority Customer order described above), as under the current Rule, the Agency Order may execute at one minimum increment worse. The proposed rule

change is consistent with general customer priority principles.

The proposed rule change adds subparagraph (b)(3), which states if there is a buy (sell) all-or-none (''AON'') order (either Priority Customer or non-Priority Customer) resting on the Book at a price at or better than the Exchange best bid (offer), the stop price must be at least one minimum increment higher (lower) than the price of the buy (sell) AON order. The following examples demonstrate this proposed functionality:

Example #1

Suppose the BBO for a series is 1.00 to 1.05, and an AON order to sell is resting on the Book at an offer price of 1.04. An Initiating TPH submits an Agency Order to buy paired with an Initiating Order at a stop price of 1.04. The System will reject the Agency Order and Initiating Order, because the stop price equals the offer price of a resting sell AON Order on the Book (which offer price is lower than the Exchange best offer).

Example #2

Suppose the BBO for a series is 1.00 to 1.05, and an AON order to sell is resting on the Book at an offer price of 1.01. An Initiating TPH submits an Agency Order to buy paired with an Initiating Order at a stop price of 1.02. The System will reject the Agency Order and Initiating Order, because the stop price is higher than the offer price of a resting sell AON Order on the Book (which offer price is better than the Exchange best offer).

Example #3

Suppose the BBO for a series is 1.00 to 1.05, and an AON order to sell is resting on the Book at an offer price of 1.01. An Initiating TPH submits an Agency Order to sell paired with an Initiating Order at a stop price of 1.02. The System will reject the Agency Order and Initiating Order, because the stop price is higher than the offer price of a resting sell AON Order on the Book (which offer price is better than the Exchange best offer).

As discussed below, due to technical complexities, AON orders resting on the Book at the conclusion of an AIM Auction will not be eligible for execution against the Agency Order. If the Exchange were to initiate an AIM Auction for a buy Agency Order at a stop price equal to or through the price of a resting AON order on the opposite side of the Book, and that AON order were not eligible for execution against the Agency Order (if the stop price was the final auction price), that marketable

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[9] The proposed rule change deletes the provision that the Agency Order be within the designated Auction order eligibility size parameters determined by the Exchange, as the current and proposed rule explicitly state any applicable size parameters, as discussed below. Additionally, the Exchange will announce all determinations it may make with respect to an AIM Auction pursuant to Rule 1.2 in the current Rulebook (Rule 1.5 in the shell Rulebook), and therefore deletes current Interpretation and Policy .05 (and other provisions regarding how the Exchange will announce these determinations).

AON order would miss a potential execution opportunity that it could have had if an auction had not occurred (assuming its size contingency could be met after execution of all other interest).[10] Therefore, the Exchange believes the proposed rule change will protect AON orders resting on the Book at the time an AIM Auction begins.

The proposed rule change moves and makes nonsubstantive changes to the other provisions regarding the requirements for the price at which the Initiating Order must stop the entire Agency Order in proposed paragraph (b):

• The requirement that the stop price must be (1) at least one minimum increment better than the then-current NBBO or the Agency Order's limit price (if the order is a limit order), whichever is better, if the Agency Order is for less than 50 standard option contracts (or 500 mini-option contracts); or (2) at or better than the then-current NBBO) or the Agency Order's limit price, whichever is better, if the Agency Order is for 50 standard option contracts (or 500 mini-option contracts) or more, moves from current subparagraphs (a)(2) and (3) to proposed subparagraph (b)(1).

• The provisions that require the Initiating TPH to specify (1) a single price at which it seeks to execute the Agency Order against the Initiating Order (a ''single-price submission''), including whether it elects to have last priority in allocation; or (2) an initial stop price and instruction to automatically match the price and size of all AIM responses and other contra-side trading interest (''auto-match'') at each price up to a designated limit price, or at all prices, better than the price at which the balance of the Agency Order can be fully executed (the ''final auction price'') move from current subparagraph (b)(1)(A) to proposed subparagraph (b)(5).

• The descriptions of AIM Sweep orders and Sweep and AIM orders move from current Rule 6.53 to proposed Rule 5.37(b)(4). The proposed rule change explicitly states that AIM responses, the stop price, and executions are permitted at a price inferior to the Initial NBBO if the Initiating TPH submits an AIM Sweep or Sweep and AIM Order to an AIM Auction, but the stop price is still subject to the price improvement requirement described above if the Agency Order is for less than 50 standard option contracts (or 500 mini-

option contracts).[11] The proposed rule change adds that the two orders submitted as a Sweep and AIM order may not both be for the accounts of Priority Customers. Unlike an AIM ISO (for which the Initiating TPH sends an ISO),[12] the Exchange sends the ISO for a Sweep and AIM order and then receives the fill report for the ISO during the AIM Auction period, so it knows by the end of the AIM Auction how much of the Agency Order is left for execution against contra-interest on the Exchange. If both orders were for Priority Customers, they would immediately cross pursuant to paragraph (f) (as described below), prior to the Exchange receiving information regarding the size of any executions on away exchanges (and thus prior to knowing the NBBO that price of the immediate cross should have traded through). Not permitting pairs of Priority Customer orders to be submitted as Sweep and AIM orders ensures that the Agency Order is not oversubscribed, which can be prevented if there is an AIM Auction period, and that the immediate cross occurs at a price at or better than the NBBO. TPHs can submit these pairs of orders through the AIM Auction process. The Exchange believes there is minimal demand to submit pairs of Priority Customer orders as Sweep and AIM orders.

The proposed rule change also explicitly states that all of the conditions in proposed paragraph (b) must be met for an AIM Auction to be initiated, and that the System rejects or cancels both an Agency Order and Initiating Order submitted to an AIM Auction that do not meet the conditions in proposed paragraph (b).

Proposed paragraph (c) describes the AIM Auction process. Currently, only one AIM auction may be ongoing at any given time in a series, and AIM Auctions in the same series may not queue or overlap in any manner. Proposed subparagraph (c)(1) states with respect to Agency Orders for less than 50 standard option contracts (or 500 mini-option contracts), only one AIM

Auction may be ongoing at any given time in a series, and AIM Auctions in the same series may not queue or overlap in any manner. Therefore, the proposed rule change has no impact on these smaller Agency Orders. However, for Agency Orders of 50 standard option contracts (or 500 mini-option contracts) or more, the proposed rule change states one or more AIM Auctions in the same series may occur at the same time. To the extent there is more than one AIM Auction in a series underway at a time, the AIM Auctions conclude sequentially based on the exact time each AIM Auction commenced, unless terminated early pursuant to paragraph (d). At the time each AIM Auction concludes, the System allocates the Agency Order pursuant to paragraph (e) and takes into account all AIM Auction responses and unrelated orders and quotes in place at the exact time of conclusion. In the event there are multiple AIM Auctions underway that are each terminated early pursuant to paragraph (d), the System processes the AIM Auctions sequentially based on the exact time each AIM Auction commenced. The Exchange believes the proposed new functionality may lead to an increase in AIM Auctions, which may provide additional opportunities for price improvement for Agency Orders.

The proposed rule change moves and makes nonsubstantive changes to other provisions regarding the AIM Auction process to proposed paragraph (c):

• The proposed rule change moves the provision regarding the AIM Auction notification message (currently called a request for responses (''RFR'')) from current subparagraph (b)(1)(B) to proposed subparagraph (c)(2). The proposed provision specifies that the message will detail the side, size, Auction ID, and options series of the Agency Order to all Users that elect to receive AIM Auction notification messages. This is consistent with the current RFR that is disseminated; the proposed rule change adds these details to the rule. The proposed rule change also adds that AIM Auction notification messages are not included in the disseminated BBO or OPRA, which is also consistent with current functionality.

• The proposed rule change moves the provision regarding the length of the AIM Auction period from current subparagraph (b)(1)(C) to proposed subparagraph (c)(3). The proposed rule change makes no changes to the current range of permitted lengths of AIM Auction periods.

• The proposed rule change moves the provision that prohibits an Initiating TPH from modifying or cancelling an

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[10] *See* Rule 6.45(a)(v) in the current Rulebook (Rule 5.32(a)(3)(C) in the shell Rulebook) (which provides that an AON order is always last in priority).

[11] Rule filing SR–CBOE–2019–027 deleted the definitions of AIM Sweep and Sweep and AIM orders from the current Rulebook, which deletion will not take effect until the completion of the technology migration, at which time the proposed rule change will take effect.

[12] TPHs are responsible for sending the ISO order for an AIM ISO, and thus the Exchange does not need to wait for a fill report for the ISO. Because it is a TPH's responsibility to send the ISO, and thus account for any executions resulting from that ISO at away exchanges (and the resulting NBBO), the proposed rule change does not prohibit pairs of Priority Customer orders to be submitted as an AIM ISO. However, the Exchange believes there is minimal demand for use of this order type for pairs of Priority Customer orders.

Agency Order or Initiating Order after submission to an AIM Auction from current subparagraph (b)(1)(A) to proposed subparagraph (c)(4).

The proposed rule change also moves all provisions regarding AIM Auction responses into proposed subparagraph (c)(5), as well as makes certain changes described below, as well as nonsubstantive changes:

• The proposed rule change moves the provision regarding which market participants may respond to AIM Auctions, as well as what must be specified in the responses (including price, size, side, and Auction ID) from current subparagraphs (b)(1)(D) and (E) to proposed subparagraph (c)(5). The current rule specifies that responses must specify prices and sizes; the proposed rule change adds responses must also specify side and an Auction ID. The proposed rule change adds that an AIM response may only participate in the AIM Auction with the Auction ID specified in the response. This is consistent with current functionality.[13] The Exchange proposes to include this language given the above proposal that permits concurrent AIM Auctions in the same series for larger Agency Orders.

Currently, only Market-Makers with an appointment in the applicable class and TPHs representing orders as agent at the top of the Book may respond to AIM Auctions.[14] The Exchange proposes to permit all Users to respond to AIM Auctions. By permitting additional participants to submit responses to AIM Auctions, the Exchange believes this may provide the opportunity for additional liquidity in these auctions, which could lead to additional price improvement opportunities. EDGX Options similarly permits all Users to respond to AIM Auctions.[15] In connection with this change, the proposed rule change deletes the requirement in current Rule 6.74A(a)(4) that during Regular Trading Hours, at least three Market-Makers with an appointment in the class be quoting in the relevant series to initiate a simple AIM Auction. The purpose of

this requirement was to ensure there were a minimum number of Market-Makers active in a series and thus available to potentially submit responses to an AIM Auction and provide liquidity to simple AIM Auctions, given the restriction on market participants that may respond to those Auctions. Given the proposed rule change to open AIM Auctions up to all Users, the Exchange believes the three-quoter requirement is no longer necessary.

• The proposed rule change moves the provision regarding the permissible minimum increment for AIM responses from current subparagraph (b)(1)(G) to proposed subparagraph (c)(5)(A).

• Proposed subparagraph (c)(5)(B) states AIM buy (sell) responses are capped at the Exchange best offer (bid), or one minimum increment better than the Exchange best offer (bid) if it is represented by a Priority Customer on the Book (unless the Agency Order is an AIM ISO or Sweep and AIM) that exists at the conclusion of the AIM Auction. The System will execute AIM responses, if possible, at the most aggressive permissible price not outside the BBO at the conclusion of the AIM Auction or the Initial NBBO. This is consistent with current subparagraph (b)(1)(E). The proposed rule change ensures the execution price of a response will not cross the Initial NBBO in accordance with linkage rules.[16] Additionally, proposed subparagraph (e) requires the execution price to be at or between the BBO at the conclusion of the AIM Auction. Therefore, as proposed, the price at which any response may execute will ultimately not be through the Initial NBBO or the BBO at the conclusion of the AIM Auction.

• Proposed subparagraph (c)(5)(C) states a User may submit multiple AIM responses at the same or multiple prices to an AIM Auction. This is consistent with current functionality. Current Rule 6.74A contains no restriction on how many responses a User may submit; the proposed rule change merely makes this explicit in the Rules. The proposed rule change also states for purposes of an AIM Auction, the System aggregates all of a User's orders and quotes on the Book and AIM responses for the same EFID at the same price. This (combined with the proposed size cap) will prevent a User from submitting multiple orders, quotes, or responses at the same price to obtain a larger pro-rata share of the Agency Order.

• Proposed subparagraph (c)(5)(D) states the System caps the size of an AIM response, or the aggregate size of a User's orders and quotes on the Book and AIM responses for the same EFID at the same price, at the size of the Agency Order (*i.e.,* the System ignores size in excess of the size of the Agency Order when processing the AIM Auction). This is consistent with current subparagraph (b)(1)(H), except the proposed rule change caps the aggregate size of a User's interest at the same price, rather than the size of an individual response. The Exchange believes this is reasonable to prevent a User from submitting an order, quote, or response with an extremely large size in order to obtain a larger pro-rata share of the Agency Order.

• Proposed subparagraph (c)(5)(E) states AIM responses must be on the opposite side of the market as the Agency Order, and the System rejects an AIM response on the same side of the market as the Agency Order. This is consistent with current functionality, and the proposed rule change merely adds this detail to the rules. Additionally, the Exchange believes this is reasonable given that the purpose of an AIM response is to trade against the Agency Order in the AIM Auction into which the AIM response was submitted.

• Proposed subparagraph (c)(5)(F) states AIM responses may be designated with the match trade prevention ("MTP") modifier of MTP Cancel Newest, but no other MTP modifiers, and the System rejects an AIM response with any other MTP modifier.[17] An incoming order marked with MTP Cancel Newest will not execute against opposite side interest marked with any MTP modifier originating from the same Unique Identifier, and the incoming order (the AIM response in this case) will be cancelled back to the originating User. If an Agency Order and response have the same Unique Identifier and an MTP modifier, the System will cancel the response and permit the Agency Order to execute against other interest. This is consistent with the prohibition on the Agency Order being cancelled after it is submitted.

• Proposed subparagraph (c)(5)(G) states AIM responses may not be designated as immediate-or-cancel ("IOC") or fill-or-kill ("FOK") and the System rejects an AIM response

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[13] Current subparagraph (b)(3)(K) permits an unexecuted balance of an AIM Auction response after the Agency Order has been executed and the balance to trade against any unrelated order(s) that cause the AIM Auction to conclude. The proposed rule change deletes that provision given the proposed rule change to permit concurrent auctions, as described above, and thus the requirement that responses may only trade with an Agency Order in the AIM Auction into which the AIM response was submitted. If a responder wishes to execute interest against any orders that caused an AIM Auction to conclude and that are resting in the Book, that responder may separately submit an order to the Exchange.

[14] *See* current Rule 6.74A(b)(1)(D) and (E).

[15] *See* EDGX Options Rule 21.19(c)(5).

[16] *See* current Rule 6.81(b)(8) (proposed Rule 5.66(b)(8)) (requires an order to be stopped at a price no worse than the price at the time of receipt of the order).

[17] *See* Rule 5.6(c) in the shell Rulebook for definitions of the various types of MTP Modifiers that will be available on the Exchange as of the System migration. The Exchange does not currently have any equivalent to an MTP modifier that may be applied to orders or auction responses.

designated as IOC or FOK.[18] This is consistent with the purpose of an AIM response, which is to potentially execute against an Agency Order at the conclusion of an AIM Auction (and thus not immediately upon entry, as required by the times-in-force of IOC and FOK).[19]

• The provision that states AIM responses are not visible to AIM Auction participants or disseminated to OPRA moves from current subparagraph (b)(1)(F) to proposed subparagraph (c)(5)(H).

• The provision that states AIM responses may be cancelled moves from current subparagraph (b)(1)(I) to proposed subparagraph (c)(5)(I). The proposed rule change also clarifies that AIM responses may be modified (which is consistent with current functionality and merely clarified in the rules).[20]

Proposed paragraph (d) states that an AIM Auction concludes at the earliest to occur of the following times:

• The end of the AIM Auction period (consistent with current subparagraph (b)(2)(A);

• upon receipt by the System of a Priority Customer order on the same side of the market with a price the same as or better than the stop price that would post to the Book;

• upon receipt by the System of an unrelated order or quote, including a Post Only order or quote, that is not a Priority Customer order on the same side of the market as the Agency Order that would cause the stop price to be outside of the BBO;

• the market close (consistent with current functionality and merely added to the rules); and

• any time the Exchange halts trading in the affected series, provided, however, that in such instance the AIM Auction concludes without execution (consistent with current subparagraph (b)(2)(F), and the proposed rule change adds detail that an AIM Auction in such a case will conclude without execution, which is consistent with current functionality, as no executions may

occur while a series is halted for trading).

The proposed rule change deletes the following events that currently cause an AIM Auction to conclude early:

• Upon receipt by the System of an unrelated order (in the same series as the Agency Order) that is marketable against either the BBO (when such quote is the NBBO) or the RFR responses;

• upon receipt by the System of an unrelated limit order (in the same series as the Agency Order and on the opposite side of the market as the Agency Order) that improves any RFR responses; and

• any time there is a quote lock on the Exchange pursuant to current Rule 6.45(c).

As discussed below, unrelated orders on the opposite side of the Agency Order received during the AIM Auction may execute against interest outside of the AIM Auction, and therefore, the Exchange will no longer terminate an AIM Auction due to the receipt of an order on the opposite side of the Agency Order.[21] The proposed rule change to conclude an AIM Auction early upon receipt of certain orders on the same side as the Agency Order ensure that the execution price does not occur at the same price as a Priority Customer order on the Book or at a price worse on than a non-Priority Customer order on the Book. This is consistent with the requirements for the stop price described above. Additionally, the Exchange will not have quote lock functionality following the technology migration, and therefore proposes to delete that as an event that may cause an AIM Auction to terminate early.[22]

An unrelated market or marketable limit order (against the BBO), including a Post Only Order, on the opposite side of the Agency Order received during the AIM Auction does not cause the AIM Auction to end early and executes against interest outside of the AIM Auction. If contracts remain from such unrelated order at the time the AIM Auction ends, they may be allocated for execution against the Agency Order pursuant to proposed paragraph (e). Because these orders may have the opportunity to trade against the Agency Order following the conclusion of the AIM Auction, which execution must still be at or better than the Initial NBBO

and BBO at the conclusion of the AIM Auction, the Exchange does not believe it is necessary to cause an AIM Auction to conclude early in the event the Exchange receives such orders. This will provide more time for potential price improvement, and the unrelated order will have the opportunity to trade against the Agency Order in the same manner as all other contra-side interest.

Proposed paragraph (e) describes how the System will allocate contra-side interest against the Agency Order at the best price(s), which provisions are in current subparagraph (b)(3) and moved to proposed paragraph (e).[23] Proposed paragraph (e) also clarifies that any execution price(s) must be at or better than both sides of the BBO existing at the conclusion of the AIM Auction (consistent with current Rules that require executions to occur at or better than the best prices available on the Exchange's Book) and at or better than both sides of the Initial NBBO (consistent with linkage rules). The proposed allocations following each potential outcome of an AIM Auction are substantially the same as the current allocations.[24] Priority Customer orders in the Book will continue to have first priority at each price level. With respect to the entitlement for the Initiating Order, the applicable percentage will be based on the number of other Users at the same price rather than the number of appointed Market-Makers and Trading Permit Holders acting as agent for an order resting at the top of the Book opposite the Agency order. The proposed rule change also codifies that the allocation percentages are based on the number of contracts remaining after execution against Priority Customer orders, which is consistent with current functionality but not currently specified in Rule 6.74A.[25] This proposed change will provide additional opportunities for other Users to have their interest execute against the Agency Order.[26]

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[18] *See* Rule 5.6(d) in the shell Rulebook. Current AIM response functionality does not permit a User to apply these order instructions to AIM responses.

[19] If a user designates an AIM response as Post Only, the System accepts the response but disregards the Post Only instruction, as the response (like all AIM responses) will execute against the Agency Order or cancel at the conclusion of the AIM Auction. In an AIM Auction, the Agency Order is treated as a taker of liquidity, while a response is treated like a maker of liquidity, and therefore responses are consistent with the purpose of a Post Only order instructions (which is to not remove liquidity from the Book upon entry).

[20] Proposed subparagraph (e)(6) states the System will cancel or reject any unexecuted AIM responses (or unexecuted portions) at the conclusion of the AIM Auction.

[21] The proposed rule change also deletes current subparagraphs (b)(3)(D) and (E), as they relate to the handling of orders that currently terminate an AIM Auction but will no longer terminate an AIM Auction as proposed.

[22] *See* SR–CBOE–2019–033 (proposed rule change in which the Exchange deletes quote lock functionality).

[23] The proposed rule change adds to the provision regarding last priority (which the proposed rule change moves from current subparagraph (b)(3)(J) to proposed subparagraph (e)(5)) that last priority information is not available to other market participants and may not be modified after it is submitted.

[24] *See* current subparagraph (b)(3).

[25] This proposed change will ensure the size used to determine the allocation percentage for the Initiating Order will be based on the same number of contracts that would otherwise be available to other contra-side interest. It is also the same as other options exchanges. *See, e.g.,* ISE Rule 723(d)(2); and MIAX Rule 515A, Interpretation and Policy .11.

[26] The proposed rule change also adds that under no circumstances does the Initiating TPH receive an allocation percentage, at the price at which the balance of the Agency Order can be fully executed

Current subparagraph (b)(3)(H) provides that if the AIM Auction does not result in price improvement over the Exchange's disseminated price at the time the AIM Auction began, resting unchanged quotes or orders that were disseminated at the best price before the AIM Auction began will have priority after any Priority Customer orders and the Initiating TPH's priority have been satisfied. The proposed rule change defines these resting displayed quotes and orders as Priority Orders, and provides that these orders will have priority at each price level, not just the Initial NBBO.[27] The Exchange believes giving these orders and quotes priority encourages market participants to display their best bids and offers.

The proposed rule change clarifies that AON orders will have last priority at price levels better than the stop price following the conclusion of an AIM Auction if there is sufficient size to satisfy the size of the AON order (with Priority Customer AON order trading ahead of non-Priority Customer AON orders). AON orders (both Priority Customer and non-Priority Customer) resting at the final auction price (which may be the stop price if there is no price improvement) at the conclusion of the AIM Auction do not trade against the Agency Order, even if the Initiating Member of an AIM auction selects last priority.[28] The Exchange notes there would be significant technical complexities associated with reprogramming priority within the System to provide AON orders with second to last priority in a specific (and likely uncommon situation), as would be required to permit AON orders to execute at the final auction price (which may be the stop price), even if the Initiating TPH selects last priority. As noted above, the Exchange will not initiate an AIM Auction at a stop price equal to or more aggressive than the price of an AON order resting on either

side of the Book at or between the BBO at the time an Agency Order and Initiating Order is submitted to the Exchange. Thus, the only AON orders that could be resting on the Book at the final auction price (and thus excluded from potential execution against the Agency Order) are those that were submitted during the AIM Auction and do not execute upon entry.[29] The Exchange believes the possibility of this occurring is very small, and therefore it would be rare for there to be a resting AON order at the stop price or final auction price of an AIM Auction that could be satisfied by the remaining contracts of an Agency Order at that price. Therefore, the Exchange believes the proposed rule change will have a de minimis impact, if any, on the execution opportunities for AON orders on the Book.

The proposed rule change also provides that the System will exclude the size of any AON orders when determining the number of contracts the Initiating Order will execute against at each price level better than the stop price when the Initiating Member selects auto-match.[30] Due to the size contingency of an AON order, the System cannot determine whether there will be sufficient contracts remaining in the Agency Order to execute against any AON order at a price level until after execution of the applicable number of contracts against the Initiating Order and other contra-side interest. However, after those auto-match executions at that price level, the System will execute the Agency Order against any AON orders at that price level for which the size can be satisfied by the remaining contracts in the Agency Order.[31]

The proposed rule change moves the provision regarding customer-to-customer immediate crosses from current Interpretation and Policy .08 to proposed paragraph (f). Proposed paragraph (f) does not specify that the execution price must be in the applicable standard increment, as the minimum increment applicable to these crosses is covered by the provisions

described above.[32] The proposed rule change also deletes the provision that states customer-to-customer immediate crosses are available in classes the Exchange designates as eligible for these crosses, as they are and will be available classes in which the Exchange has designated as eligible for AIM Auctions.

The proposed rule change deletes current Interpretation and Policy .09 regarding AIM retained order functionality. TPHs currently do not use this functionality, so the Exchange has determined to no longer offer it.

The proposed rule change moves from current Rule 6.74A, Interpretation and Policy .08 to proposed Rule 5.37, Interpretation and Policy .03 that states a TPH may not execute agency orders to increase its economic gain from trading against the order without first giving other trading interests on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the TPH was already bidding or offering on the book. The proposed rule change also moves current Rule 6.74A, Interpretations and Policies .01 and .02 to proposed Rule 5.37, Interpretations and Policies .01 and .02, respectively, with no substantive changes.

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.[33] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[34] 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

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(the "final auction price"), of more than 50% of the initial Agency Order in the event there is interest from one other User or 40% of the initial Agency Order in the event there is interest from two or more other Users. This is consistent with current functionality, and merely clarified in the Rules. Additionally, this is consistent with current subparagraph (b)(3)(C) which states no participation entitlement applies to orders executed in an AIM Auction.

[27] Priority Orders at the same price will be allocated pursuant to Rule 5.32(a) (the base allocation algorithm applicable to the class).

[28] This is consistent with current functionality, as well as current allocation and priority principles, pursuant to which executions following an AIM Auction with respect to contra-side interest other than Priority Customer orders and the Initiating Order entitlement. *See* current Rule 6.45(a)(v) (which provides that AON orders (including Priority Customer AON orders) always have last priority).

[29] As noted above, AON orders resting in the Book at the conclusion of an AIM Auction at prices better than the final auction price may execute against the Agency Order if their size contingencies can be met. *See* proposed Rule 5.37(e)(2) (pursuant to which AON orders may execute at those prices after all other interest has traded).

[30] This is consistent with current functionality.

[31] After executions at price levels better than the final auction price, including against AON orders for which the size can be satisfied at those price levels, if there are remaining contracts from Agency Order at the final auction price, those contracts will execute against contra-side interest as set forth in subparagraph (e)(1). This is consistent with current functionality.

[32] Users may not submit customer orders for immediate execution as Post Only, as that instruction is inconsistent with functionality to provide for immediate execution. As discussed above, the purpose of the Post Only order instruction is to prevent an order from executing upon entry. The purpose of a customer-to-customer immediate cross, as described above, is to execute immediately upon entry and not rest in the Book.

[33] 15 U.S.C. 78f(b).

[34] 15 U.S.C. 78f(b)(5).

the Section 6(b)(5) [35] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule change is generally intended to align certain system functionality currently offered by Cboe Options to the Exchange's System in order to provide a consistent technology offering for the Cboe Affiliated Exchanges. A consistent technology offering, in turn, will simplify the technology implementation, changes and maintenance by Users of the Exchange that are also participants on Cboe Affiliated Exchanges. This will provide Users with greater harmonization of price improvement auction mechanisms available among the Cboe Affiliated Exchanges.

The Exchange's AIM Auction as proposed will function in a substantially similar manner following the technology migration as it does today. The proposed rule change clarifies in the Rules that the Initiating Order may be comprised of multiple contra-party orders will benefit investors. As noted above, this is consistent with current functionality, and the proposed rule change merely adds this detail to the rule, which additional transparency will benefit investors. Permitting the Initiating Order to be comprised of multiple contra-party orders may increase the opportunity for customers to have orders participate in an AIM auction. As a result, this may increase opportunities for price improvement, because this will increase the liquidity available for the Initiating Order, which is consistent with the purpose of AIM Auctions. The Exchange believes that this is beneficial to participants because allowing multiple contra-parties should foster competition for filling the Initiating Order and thereby result in potentially better prices, as opposed to only allowing one contra-party and, thereby requiring that contra-party to do a larger size order which could result in a worse price for the trade.

The proposed rule change to prohibit Initiating TPHs from designating an Agency Order or Initiating Order as Post Only is appropriate, as the purpose of a Post Only order is to not execute upon entry and instead rest in the Book, while the purpose of an AIM Auction is to receive an execution following the Auction but prior to entering the Book.

The proposed rule change to require the stop price to be at least one minimum increment better than the BBO, unless the Agency Order is a Priority Customer order and the resting

order is not a Priority Customer, in which case the stop price must be at or better than the BBO, will protect investors. It will protect Priority Customer orders on the same side of the Book, as the current rule does, except it does so by applying a check at the initiation of an AIM rather than at the conclusion of an AIM. By permitting a Priority Customer Agency Order to trade at the same price as a resting non-Priority Customer order, the proposed rule change also protects Priority Customer orders submitted into an AIM Auction. Additionally, application of this check at the initiation of an AIM Auction may result in the Agency Order executing at a better price, since the stop price must improve any same-side orders (with the exception of a Priority Customer Agency Order and a resting non-priority customer order described above), as under the current Rule, the Agency Order may execute at one minimum increment worse. The proposed rule change is consistent with general customer priority principles.

The Exchange believes the proposed rule change will protect investors by rejecting Sweep and AIM orders with pairs of orders for customer accounts, as this will ensure customers will receive better prices at least as good as the Initial NBBO and not oversubscribe the Agency Order. The Exchange believes there is minimal demand for use of Sweep and AIM orders for pairs of Priority Customer orders.

As noted above, the proposed rule change will allow AIM Auctions for 50 standard option contracts (or 500 mini-option contracts) or more to occur concurrently with other AIM Auctions. Although AIM Auctions for larger Agency Orders will be allowed to overlap, the Exchange does not believe that this raises any issues that are not addressed by the proposed rule change. For example, although overlapping, each AIM Auction will be started in a sequence and with a time that will determine its processing. Thus, even if there are two AIM Auctions that commence and conclude, at nearly the same time, each AIM Auction will have a distinct conclusion at which time the Auction will be allocated. In turn, when the first AIM Auction concludes, unrelated orders that then exist will be considered for participation in the Auction. If unrelated orders are fully executed in such AIM Auction, then there will be no unrelated orders for consideration when the subsequent Auction is processed (unless new unrelated order interest has arrived). If instead there is remaining unrelated order interest after the first AIM Auction has been allocated, then such unrelated

order interest will be considered for allocation when the subsequent Auction is processed. As another example, each AIM response is required to specifically identify the Auction for which it is targeted and if not fully executed will be cancelled back at the conclusion of the Auction. Thus, AIM responses will be specifically considered only in the specified Auction.

The proposed rule change to allow multiple auctions to overlap for Agency Orders of 50 standard option contracts (or 500 mini-option contracts) or more is consistent with functionality already in place on other exchanges.[36] Different series are essentially different products—orders in different series cannot interact, just as orders in different classes cannot interact. Therefore, the Exchange believes concurrent AIM Auctions in different series is appropriate. As proposed, AIM Auctions will ensure that Agency Orders execute at prices that protect Priority Customer orders in the Book and that are not inferior to the BBO, even when there are concurrent AIM Auctions occurring. The proposed rule change sets forth how any Auctions in overlapping series will conclude if terminated due to the same event. The Rules do not currently prevent a COA in a complex strategy from occurring at the same time as an AIM in one of the components of the complex strategy. Therefore, the Exchange believes it is similarly reasonable to permit multiple AIM Auctions in the same series. The Exchange believes this new functionality may lead to an increase in Exchange volume and should allow the Exchange to better compete against other markets that permit overlapping price improvement auctions, while providing an opportunity for price improvement for Agency Orders and assuring that Priority Customers on the Book are protected.

The proposed rule changes regarding permissible designations on responses are reasonable and promote a fair and orderly market, because they are consistent with the general auction functionality. The proposed rule change that prohibits Users from designating an AIM Auction response with an MTP Modifier other than MTP Cancel Newest is consistent with the prohibition on the Agency Order being cancelled after it is submitted. Additionally, the proposed rule change that prohibits Users from designating a response as IOC or FOK, because it consistent with the purpose

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[35] *Id.*

[36] *See, e.g.,* EDGX Rule 21.19(c)(1); *see also, e.g.,* Nasdaq ISE LLC (''ISE'') Rules 716(d) and 723, Interpretation and Policy .04; and Boston Options Exchange LLC (''BOX'') Rule 7270 and BOX IM–7150–3.

of an AIM response, which is to potentially execute against an Agency Order at the conclusion of an AIM Auction (and thus not immediately upon entry, as required by the times-in-force of IOC and FOK).

The proposed rule change to permit all Users to respond to AIM Auctions will benefit investors. Permitting all Users to submit responses to AIM Auctions, rather than only appointed Market-Makers and TPHs representing orders as agent at the top of the Book, may result in more Users having the opportunity to participate in executions at the conclusion of AIM Auctions. Additionally, it may increase liquidity in AIM Auctions, which may lead to more opportunities to price improvement. The Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because other exchanges permit all market participants other than appointed market-makers to respond to similar price improvement auctions.[37]

The proposed events that will conclude an AIM Auction are reasonable and promote a fair and orderly market and national market system, because they will ensure that executions at the conclusion of an Auction occur at permissible prices (such as not outside the BBO and not at the same price as a Priority Customer order). The proposed rule change will also benefit investors by providing clarity regarding what will cause an AIM Auction to conclude. These events would create circumstances under which an AIM Auction would not have been permitted to start, or that would cause the auction price no longer be consistent with the permissible prices at which executions at the conclusion of an AIM Auction may occur. Thus the Exchange believes it is appropriate to conclude an AIM Auction if those circumstances occur. The Exchange will no longer conclude an AIM Auction early due to the receipt of an opposite side order. The Exchange believes this promotes just and equitable principles of trade, because these orders may have the opportunity to trade against the Agency Order following the conclusion of the Auction, which execution must still be at or better than the BBO. The Exchange believes this will protect investors, because it will provide more time for price improvement, and the unrelated order will have the opportunity to trade against the Agency Order in the same manner as all other contra-side interest.

The proposed rule change to provide Priority Orders with priority (after Priority Customers and any entitlement for the Initiating Order) at every price level will remove impediments to and perfect the mechanism of a free and open market and a national market system and will protect investors, because it encourages market participants to display their best bids and offers. Displayed interest may lead to enhanced liquidity and tighter markets, which benefits all investors.

The allocation of AON orders following an AIM auction will protect investors, because it is consistent with current functionality and adds transparency to the Rules. This allocation provides Priority Customers and other displayed interest with priority over non-displayed orders and is consistent with the proposed general priority of AON orders in the Exchange's Rules.[38] As noted above, the Exchange believes this encourages market participants to display their best bids and offers, which may lead to enhanced liquidity and tighter markets. While AON orders will not be eligible for execution at the final auction price (which may be the stop price), the Exchange believes it would be rare for there to be a resting AON order at the that price at the conclusion of an AIM Auction that could be satisfied by the remaining contracts of an Agency Order at that price. This is because the Exchange will not initiate an AIM Auction at a stop price that is at or through the price of an AON order resting on the Book at or between the BBO. Thus, the only potential AON orders resting on the Book at the final auction price at the conclusion of the AIM Auction are those that submitted during the AIM Auction. Given this likely uncommon situation, and because the proposed rule change will protect AON orders resting on the Book at the time the Exchange initiates an AIM Auction, the Exchange believes the proposed rule change will have a de minimis impact, if any, on the execution opportunities for AON orders. The Exchange notes there would be significant technical complexities associated with reprogramming priority within the System to provide AON orders with second to last priority in a specific (and likely uncommon situation), as would be required to permit AON orders to execute at the stop price, even if the Initiating TPH selects last priority. Similarly, due to the size contingency of an AON order, the System cannot determine whether

there will be sufficient contracts remaining in the Agency Order to execute against any AON order at a price level until after execution of the applicable number of contracts against the Initiating Order and other contra-side interest. However, AON orders at each price level better than the final auction price for which the size can be satisfied by the remaining contracts in the Agency Order will execute.

The Exchange believes the proposed rule changes that add detail to the Rules, which are consistent with current functionality, will remove impediments to and perfect the mechanism of a free and open market and protect investors, as these changes provide transparency in the Rules regarding AIM Auctions. Additionally, the proposed rule change aligns rule language with corresponding provisions in the EDGX Options rule.

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 the proposed rule change will impose any burden on intramarket competition, as the proposed changes to the Exchange's AIM Auction will apply to all orders submitted to an Auction in the same manner. AIM Auctions will continue to be voluntary for TPHs to use, and are available to all TPHs. Additionally, the ability to respond to AIM Auctions will now be available to all Users. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition, because the proposed changes are substantially the same as another options exchange's rules.[39] The general framework and primary features of the Exchange's current AIM Auctions are not changing, and will continue to protect orders, including Priority Customer orders, resting in the Book.

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

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[37] *See, e.g.,* EDGX Options Rule 21.19.

[38] *See* current Rule 6.45(a)(v) (Rule 5.32 in the shell Rulebook).

[39] *See* EDGX Options Rule 21.19.

19(b)(3)(A) of the Act [40] and Rule 19b–4(f)(6) [41] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [42] and Rule 19b–4(f)(6) [43] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [44] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[45] the Commission may designate a shorter time if such action is consistent with 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 prior to the proposed Exchange's system migration on October 7, 2019, in order to permit the Exchange to provide the AIM functionality to market participants on an uninterrupted basis. In support of its waiver request, the Exchange cites to similarities between its proposed rule and EDGX Options Rule 21.19. The Exchange further notes that the general framework of the Exchange's AIM Auction is not changing. The Commission believes that, as described above, the Exchange's proposal does not raise any new or novel issues. Therefore, the Commission believes that waving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative on upon filing.[46]

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 will 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–2019–045 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–2019–045. 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–2019–045 and should be submitted on or before October 21, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–21098 Filed 9–27–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87094; File No. SR–Phlx–2019–35]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Pricing Schedule, at Equity 7, Section 3

September 24, 2019.

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 September 12, 2019, 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 transaction fees at Equity 7, Section 3, as described further below.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* 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

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[40] 15 U.S.C. 78(b)(3)(A).

[41] 17 CFR 240.19b–4(f)(6).

[42] 15 U.S.C. 78s(b)(3)(A).

[43] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

[44] 17 CFR 240.19b–4(f)(6).

[45] 17 CFR 240.19b–4(f)(6).

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

[47] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.