

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92116; File No. SR-CBOE-2021-036]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Rules in Connection With the Number of Legs of a Complex Order That May Be Entered on a Single Order Ticket at the Time of Systemization

June 7, 2021.

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 May 25, 2021, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act³ 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 its Rules in connection with the number of legs of a complex order that may be entered on a single order ticket at the time of systemization. The text of the proposed rule change is provided in Exhibit 5.

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

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

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

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

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

1. Purpose

The Exchange proposes to amend its Rules in connection with the number of legs of a complex order that may be entered on a single order ticket at the time of systemization.

Specifically, Rule 5.7(f) currently provides that each order, cancellation of, or change to an order transmitted to the Exchange must be “systematized” in a format approved by the Exchange, either before it is sent to the Exchange or upon receipt on the Exchange’s trading floor. An order is systematized if (1) the order is sent electronically to the Exchange or (2) the order that is sent to the Exchange nonelectronically (*e.g.*, telephone orders) is input electronically into the Exchange’s systems contemporaneously upon receipt on the Exchange, and prior to representation of the order. Any proprietary system approved by the Exchange on the Exchange’s trading floor that receives orders is considered an Exchange system for purposes of this Rule.⁵ Regarding the systemization of complex orders, Rule 5.7(f)(4) particularly provides that complex orders of 12 legs or less (one leg of which may be for an underlying security or security future, as applicable) must be entered on a single order ticket at time of systemization. If permitted by the Exchange (which the Exchange will announce by Regulatory Circular), complex orders of more than 12 legs (one leg of which may be for an underlying security or security future, as applicable) may be split across multiple order tickets, if the Trading Permit Holder representing the complex order uses the fewest order tickets necessary to systematize the order and identifies for the Exchange the order tickets that are part of the same complex order (in a form and manner prescribed by the Exchange).

The Exchange notes that it adopted the 12 leg maximum per order ticket in 2015 as a result of Exchange system limitations.⁶ At that time, the Exchange

could only support the processing of up to 12 legs on a single order ticket for representation and execution in open outcry as a complex order.⁷ Based on customer feedback, the Exchange understands that there are order entry and execution systems used by Trading Permit Holders (“TPHs”) that are able to support at least 16 legs. If a TPH with a system that can support 16 legs on a single order ticket receives a complex order for more than 12 legs to route to an Exchange system for execution on the Exchange’s trading floor, it must break up the order to comply with Rule 5.7(f)(4). As such, the Exchange proposes to amend Rule 5.7(f)(4) to increase the 12 leg maximum per single order ticket to a maximum of 16 legs per single order ticket at time of systemization. Pursuant to proposed Rule 5.7(f)(4), complex orders of 16 legs or less (one leg of which may be for an underlying security or security future, as applicable) must be entered on a single order ticket at time of systemization and orders of more than 16 legs may be split across multiple order tickets.⁸ The TPH representing the complex order must continue to use the fewest order tickets necessary to systematize the order and to identify for the Exchange the order tickets that are part of the same complex order. In addition, the proposed rule change also

(May 21, 2015), 80 FR 30514 (May 28, 2015) (SR-CBOE-2015-048).

⁷ Exchange systems have, since 2015, been enhanced and are able to support a greater number of legs per order ticket.

⁸ As similarly noted in the 2015 filing that implemented the 12 leg per order requirement currently reflected in Rule 5.7(f)(4), TPHs will not be required to make changes to their own or third-party vendor’s order entry and execution systems. However, to the extent a TPH wants to represent and execute a complex order (including SPX Combo Orders) in open outcry, the order must be entered on a single order ticket and cannot exceed 16 legs or, if for more than 16 legs, entered on fewest order tickets necessary (linked in a form and manner prescribed by the Exchange). For example, if a TPH’s order entry and execution system currently only supports the open outcry processing of a complex order with up to 12 legs, the system would not need to be enhanced if the TPH does not intend to represent and execute complex orders with more than 12 legs. If the TPH intends to represent and execute complex orders with more than 12 legs (*i.e.*, complex orders with 13 to 16 legs), then the TPH may need to enhance its existing system or utilize a third-party vendor’s order entry and execution system that supports the open outcry processing of such orders on a single order ticket. *See also* SR-CBOE-2015-011, *supra* note 6. The Exchange additionally notes that it plans to implement the proposed change approximately 60 days after disseminating notice of the proposed change to its TPHs. The Exchange believes that this will provide TPHs that intend to represent and execute complex orders with more than 12 legs with ample time to enhance, if necessary, their existing systems or utilize a third-party vendor’s order entry and execution system that supports the open outcry processing of such orders on a single order ticket.

⁵ See Rule 5.7.03.

⁶ See Securities Exchange Act Release No. 74169 (January 29, 2015), 80 FR 6145 (February 4, 2015) (SR-CBOE-2015-011), which implemented the 12 leg per order requirement in current Rule 5.7(f)(4); *see also* Securities Exchange Act Release No. 75026

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

updates paragraph (3) under the definition of SPX Combo Order⁹ in Rule 5.6(c), which currently reflects the same 12 leg maximum per single order ticket at time of systemization, to provide that an SPX Combo Order for 16 legs or fewer must be entered on a single order ticket at time of systemization and that an SPX Combo Order for more than 16 legs may be represented or executed as a single SPX Combo Order in accordance with Rule 5.85(e) if it is split across multiple order tickets and the Trading Permit Holder representing the SPX Combo Order uses the fewest order tickets necessary to systematize the order and identifies for the Exchange the order tickets that are part of the same SPX Combo Order.

Due to Exchange system limitations that may prevent a complex order with more than a certain number of legs from being entered on a single order ticket for representation and execution in open outcry, the single order ticket leg limitations in place are intended to provide consistency in processing and in order to continue to enhance the Exchange's audit trail by reducing the number of tickets required for larger complex orders. Notwithstanding the necessity of order ticket leg maximums given Exchange system limitations, the Exchange notes that splitting an order across multiple order tickets takes additional time, can leave room for error, and requires additional TPH administrative resources as a TPH must identify for the Exchange the order tickets that are part of the same complex order (in a form and manner prescribed by the Exchange). The proposed rule change is designed to reduce the number of complex orders that TPHs need to break up into multiple order tickets. As a result, the proposed rule change ultimately allows TPHs to more effectively and efficiently systematize complex orders for execution in open outcry.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 ("Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ 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)¹² requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will allow TPHs to submit order tickets for their open outcry complex orders (including SPX Combo Orders) in a manner that is more compatible with the processing capacity that their order entry systems are able to support today,¹³ thus reducing the number of complex orders that need to be broken up into multiple order tickets. By allowing TPHs to more effectively and efficiently systematize complex orders with a large amount of legs for execution in open outcry within the processing capacity limits of the order entry systems they use, the Exchange believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market and national market system. The Exchange notes that the proposed rule change does not impact the current manner in which TPHs may represent a complex order in open outcry, nor does it impact the permissible number of legs or permissible ratios of complex orders. The proposed rule change merely increases the leg limit per single order ticket, which may increase trading efficiencies for TPHs by allowing TPHs to reduce the number of order tickets submitted for their larger complex orders,¹⁴ while continuing to provide consistency in processing and further enhancing the Exchange's audit trail (as fewer orders will require multiple tickets). This, in turn, serves to protect investors by promoting transparency, assisting in surveillance, and providing the Exchange the ability to better enforce compliance by its TPHs with the Act and the Exchange Rules.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because a maximum number of legs per single order ticket will continue apply equally to all market participants that systematize complex orders (including SPX Combo Orders) for execution in open outcry. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change is not competitive in nature nor does it relate to trading on the Exchange. Rather, it relates solely to the manner in which market participants systematize complex orders for trading on the Exchange's trading floor.

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

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 Act¹⁵ and Rule 19b-4(f)(6) thereunder.¹⁶

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

⁹ An "SPX Combo Order" is an order to purchase or sell one or more SPX option series and the offsetting number of SPX combinations defined by the delta. See Rule 5.6(c).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² *Id.*

¹³ See also *supra* note 7.

¹⁴ See also *supra* note 8.

¹⁵ 15 U.S.C. 78s(b)(3)(A).

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

public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CBOE-2021-036 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-2021-036. 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 20549-1090, 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-2021-036, and should be submitted on or before July 2, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92123; No. SR-NYSEArca-2021-50]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule

June 7, 2021.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on June 2, 2021, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") 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 self-regulatory organization. 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 modify the NYSE Arca Options Fee Schedule ("Fee Schedule") regarding the charges applicable to Manual transactions by NYSE Arca Market Makers and Lead Market Makers. The Exchange proposes to implement the fee change effective June 2, 2021.⁴ The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ The Exchange originally filed to amend the Fee Schedule on May 3, 2021 (SR-NYSEArca-2021-34), then withdrew and refiled on May 12, 2021 (SR-NYSEArca-2021-42) and May 21, 2021 (SR-NYSEArca-2021-45), which latter filing the Exchange withdrew on June 2, 2021.

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 self-regulatory organization 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 those 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 parts of such statements.

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

1. Purpose

The purpose of this filing is to modify the Fee Schedule regarding the charges for Manual executions by NYSE Arca Market Makers ("Market Makers") and Lead Market Makers ("LMMs"). Currently, Market Makers are charged \$0.25 per contract for Manual executions, and LMMs are charged \$0.18 per contract for Manual executions.⁵

The Exchange proposes to modify the rates charged for Manual executions to \$0.35 per contract for Market Makers and \$0.30 per contract for LMMs. The proposed rate for Market Makers is competitive and intended to align the Exchange's fees for Manual transactions by Market Makers with those charged by other markets.⁶ The proposed rate for LMMs would reduce the existing disparity between rates charged to LMMs and Market Makers from seven cents (\$0.07) to five (\$0.05), which disparity the Exchange believes continues to be justified given the heightened obligations and additional fees imposed on LMMs.⁷

⁵ See Fee Schedule, NYSE Arca OPTIONS: TRADE-RELATED CHARGES FOR STANDARD OPTIONS, TRANSACTION FEE FOR MANUAL EXECUTIONS—PER CONTRACT.

⁶ See, e.g., Nasdaq PHLX LLC ("Phlx") Pricing Schedule, available at: <https://listingcenter.nasdaq.com/rulebook/phlx/rules/Phlx%20Options%207> (providing \$0.35 per contract rate for manual transactions by market makers); Cboe Exchange, Inc. ("Cboe") Fee Schedule, available at: https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf (providing \$0.35 per contract rate for manual transactions by market makers).

⁷ See Rules 6.37A-O(b) (setting forth the continuous quoting obligations of LMMs to provide two-sided quotations in its appointed issues for 90% of the time the Exchange is open for trading in each issue) and 6.82-O(c) (regarding additional obligations specific to LMMs, including that LMMs that operate on the Trading Floor are required to be