V. Commission’s Solicitation of Comments

The Commission requests written views, data, and arguments with respect to the concerns identified above as well as any other relevant concerns. Such comments should be submitted by September 15, 2021. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.33

The Commission asks that commenters address the sufficiency and merit of the Exchange’s statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule changes, 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 No. SR–NYSEArca–2021–52 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 No. SR–NYSEArca–2021–52. The 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 such 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 publicly available. All submissions should refer to File No. SR–NYSEArca–2021–52 and should be submitted on or before September 1, 2021. Rebuttal comments should be submitted by September 15, 2021.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(3)(C) of the Act,34 that File No. SR–NYSEArca–2021–52, be and hereby is, temporarily suspended. In addition, the Commission is instituting proceedings to determine whether the proposed rule change should be approved or disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.35

Jill M. Peterson, Assistant Secretary.

[FR Doc. 2021–17087 Filed 8–10–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Increase Position Limits for Options on Certain Exchange-Traded Funds and an Exchange-Traded Note

August 5, 2021.

I. Introduction

On April 21, 2021, Cboe Exchange, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)1 and Rule 19b–4 thereunder,2 a proposed rule change to amend Interpretation and Policy .07 of Exchange Rule 8.30, Position Limits, to increase the position limits for options on the following exchange traded funds (“ETFs”) and exchange traded note (“ETN”) (collectively, “Exchange Traded Products” or “ETP(s)”: SPDR Gold Shares (“GLD”), iShares iBoxx $ Investment Grade Corporate Bond ETF (“LQD”), iShares Silver Trust (“SLV”), iPath S&P 500 VIX Short-Term Futures ETN (“VXX”), ProShares Ultra VIX Short-Term Futures ETF (“UVXY”), and VanEck Vector Gold Miners ETF (“GDX”). The proposed rule change was published for comment in the Federal Register on May 10, 2021.3 On June 17, 2021, pursuant to Section 19(b)(2) of the Act,4 the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.5 On July 27, 2021, the Exchange submitted Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed.6 The Commission is publishing this notice and order to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act7 to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal, as Modified by Amendment No. 1

Currently, position limits for options on ETFs and ETNs traded on the Exchange, such as those subject to this

6 See Securities Exchange Act Release No. 92204, 86 FR 33305 (June 24, 2021). The Commission designated August 8, 2021, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.
11 In Amendment No. 1, the Exchange: (1) Reduced the proposed position limit for GLD options from 1,000,000 contracts to 500,000 contracts; and (2) provided additional justification and analysis in support of the proposal. The additional justification and analysis provided by Amendment No. 1 is included in the description below of the proposal as amended. The full text of Amendment No. 1 is available on the Commission’s website at: https://www.sec.gov/comments/sr-cboe-2021-029/ srcboe2021029-9094584-246812.pdf.
proposal, as amended, are determined pursuant to Exchange Rule 8.30, and generally vary according to the number of outstanding shares and past six-month trading volume of the underlying security. Options on the securities with the largest numbers of outstanding shares and trading volume have a standard option position limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market. In addition, Interpretation and Policy .07 of Exchange Rule 8.30 currently sets forth separate position limits for options on certain ETPs that range from 300,000 to 3.6 million contracts.

Options on GLD, SLV, LQD, GDX, VX, and UVXY are currently subject to the standard position limit of 250,000 contracts as set forth in Exchange Rule 8.30. The purpose of the proposed rule change, as modified by Amendment No.1, is to amend Interpretation and Policy .07 to increase the position limits for options on GLD, SLV, LQD, GDX, VX, and UVXY from 250,000 contracts to 500,000 contracts. The Exchange believes that the proposed position limit increases will lead to a more liquid and competitive market environment for these options that will benefit customers interested in trading these products.

The Exchange states that, to support the proposed position limit increases, it has considered, and provided statistics regarding, the liquidity of the underlying ETPs, the value of the underlying securities or index components and relevant marketplace, the share and option volume for the underlying ETPs, and, where applicable, the availability or comparison of economically equivalent products to options on the underlying ETPs.

Specifically, in support of its proposal to increase the position limits for options on GLD and SLV from 250,000 contracts to 500,000 contracts, the Exchange, among other things, compares the trading characteristics of GLD and SLV to those of the iShares MSCI Brazil Capped ETF (“EWZ”), the iShares 20+ Year Treasury Bond Fund ETF (“TLT”), the iShares MSCI Japan ETF (“EWW”), and the iShares iBoxx High Yield Corporate Bond Fund (“HYG”), all of which currently have a position limit of 500,000 contracts.

The Exchange states that the average daily trading volume (“ADV”) in calendar year 2020 for GLD was 12.3 million shares and SLV was 33.1 million shares compared to 29.2 million shares for EWZ, 11.5 million shares for TLT, 8.2 million shares for EWW, and 30.5 million shares for HYG; the total shares outstanding as of April 5, 2021 for GLD was 33.5 million and SLV was 61.9 million compared to 173.8 million for EWZ, 103.7 million for TLT, 185.3 million for EWW, and 254.5 million for HYG.

In addition, the Exchange states that it recognizes that the spot metal markets underlying SLV and GLD differ from the equities markets underlying EWZ, EWW, TLT, and HYG, but that it does not believe that position limit increases for options on GLD and SLV will have any adverse impact on the underlying spot gold and silver markets. Specifically, the Exchange states that gold futures currently have a value of approximately $93.2 billion in open interest, have experienced an ADV of approximately 264.000 contracts, and that gold futures and GLD differ from the physical gold and silver markets. The Exchange also states that gold futures currently have a value of approximately $25.7 billion in open interest, have experienced an ADV of approximately 93,000 contracts, and that gold futures and GLD differ from the physical gold and silver markets.

The Exchange believes that the volume in and value of the gold and silver futures markets mitigate the potential for adverse impact on the ability of the underlying metals markets to absorb any additional volume related to increased position limits and hedging activity.

In support of its proposal to increase the position limits for options on VX, and UVXY from 250,000 contracts to 500,000 contracts, the Exchange, among other things, compares the trading characteristics of VX and UVXY to those of EWZ, TLT, EWW, and HYG, all of which currently have a position limit of 500,000 contracts.

The Exchange states that the ADV in calendar year 2020 for VX was 39.3 million shares and UVXY was 29.3 million shares compared to 29.2 million shares for EWZ, 11.5 million shares for TLT, 8.2 million shares for EWW, and 30.5 million shares for HYG; the total shares outstanding as of April 14, 2021 for VX was 110.8 million and UVXY was 228.7 million compared to 173.8 million for EWZ, 103.7 million for TLT, 185.3 million for EWW, and 254.5 million for HYG; and the fund market cap as of January 14, 2021 for VX was $1,023 million and UVXY was $1,580.6 million compared to $6,506.8 million for EWZ, $17,121.3 million for TLT, $13,860.7 million for EWW, and $24,067.5 million for HYG.

The Exchange also provides data showing that the volume-weighted average of the absolute value of deltas for GLD and SLV options trades from March 2019 through June 2021 was approximately 0.34 per GLD options trade and approximately 0.28 per SLV options trade.

The Exchange believes these low absolute value deltas indicate that increases in GLD and SLV options trading would have minimal impact on the ability of the underlying metals markets to absorb any additional volume related to increased position limits and hedging activity.

10 See Amendment No. 1, supra note 6, at 24.
million for EWJ, and $24,067.5 million for HYG.25 The Exchange also states that the 2020 ADV for trading in VIX futures was approximately 192,000 contracts and VIX futures currently have a value of approximately $7.6 billion in open interest.26 The Exchange believes that its proffered data indicates that the market for VXX and UVXY is sufficiently large and liquid enough to absorb price movements and large-sized trades.27

The Exchange further states that the VIX futures that comprise both VXX and UVXY are a perfect hedge to the underlying delta risk, but that such futures are not recognized as hedges for options contract equivalent of the net delta (“OCEND”) purposes.28 A TPH that is not delta neutral must be hedged to the extent that the OCEND stays within the applicable position limit.29

According to the Exchange, due to the OCEND limitations and current position limits for options on VXX and UVXY, heightened demand for liquidity in VXX and UVXY options can cause TPHs that are hedged via the component futures to approach position limits more rapidly.30 In order to stay within the applicable position limit, TPHs may shift out of futures hedges into hedges with options or may purchase or create shares of the underlying ETPs. As a result, TPHs may be unable to provide the most concise pricing to customers participating in these ETPs due to increased costs associated with transacting in additional or alternative hedging vehicles, and risk may concentrate in the ETP issuer rather than being spread across multiple market participants, which may exacerbate an already volatile market.31 The Exchange believes that increasing position limits for options on VXX and UVXY may assist in maintaining a fair and orderly market during times of higher market volatility, and may reduce any potential additional impact on the futures markets as a result of an increased demand (or, conversely, supply) for shares of the ETPs during periods of higher market volatility or illiquidity.32

The Exchange further believes that the VIX futures markets, including in the

Trade at Settlement (“TAS”) VIX futures market, wherein VXX and UVXY are primarily rebalanced, maintain robust, liquid markets such that they can sufficiently handle any additional options delta exposure and resulting increase in volatility options trading, including during the rebalancing period.33 Specifically, the Exchange states that it has observed that the ADV in the VIX futures TAS market has grown from approximately 32,200 contracts in 2018 to approximately 42,200 contracts in 2021.34

In support of its proposal to increase the position limits for options on GDX from 250,000 contracts to 500,000 contracts, the Exchange, among other things, compares the trading characteristics of GDX to those of EWZ, TLT, and EWJ, all of which currently have a position limit of 500,000 contracts.35 The Exchange states that the ADV in calendar year 2020 for GDX was 39.4 million shares compared to 29.2 million shares for EWZ, 11.5 million shares for TLT, and 30.5 million shares for EWJ. The total shares outstanding as of April 5, 2021 for GDX was $16,170.5 million compared to $6,506.8 million for EWZ, $17,121.3 million for TLT, and $13,860.7 million for EWJ. The Exchange also states that LQD tracks the performance of the Market iBoxx USD Liquid Investment Grade Index, which is an index designed as a subset of the broader U.S. dollar-denominated corporate bond market and can be used in creating a basket of securities that equate to the LQD ETF, and which is comprised of over 8,000 bonds for which the outstanding face value of each must be greater than or equal to $2 billion.44

The Exchange states that the current position limits for the options subject to the proposal may have impeded the ability of market makers to make markets on the Exchange. Specifically, the Exchange avers, the proposal is designed to encourage liquidity providers to provide additional liquidity to the Exchange and other market participants to shift liquidity from over-the-counter markets onto the Exchange, which, it believes, would enhance the process of price discovery conducted on the Exchange through increased order flow. The proposal also would benefit market participants, the Exchange maintains, by providing them with the ability to more effectively execute their trading and hedging activities. With regard to the concerns that position limits generally are meant to address, the Exchange represents that the structure of the underlying ETPs subject to this proposal, the considerable market capitalization of the ETPs and their underlying

30 See id.
31 See id.
32 See id.
33 See id.
34 See id.
35 See id.
36 See id.
37 See id.
38 See id.
39 See id.
40 See id.
41 See id.
42 See id.
43 See id.
44 See id.
45 See id.
46 See id.
47 See id.
component securities, and the liquidity of the market for options on these ETPs and the underlying component securities mitigate concerns regarding potential manipulation of the products and disruption of the underlying markets due to the increased position limits. The Exchange also describes: (i) the creation and redemption process for ETPs (and a similar process for the ETN to which the proposal relates); (ii) the arbitrage activity that ensues when such instruments are overpriced or are trading at a discount to the securities on which they are based and helps to keep the instrument’s price in line with the value of its underlying portfolio; and (iii) how these processes, in the Exchange’s view, serve to mitigate the potential price impact of the ETF or ETN shares that might otherwise result from increased position limits.

In addition, the Exchange states that the options reporting requirements of Exchange Rule 8.43 would continue to be applicable to the options subject to this proposal. As set forth in Exchange Rule 8.43(a), each TPH must report to the Exchange certain information in relation to any customer who, acting alone, or in concert with others, on the previous business day maintained aggregate long or short positions on the same side of the market of 200 or more contracts in any single class of option contracts dealt in on the Exchange. Further, Exchange Rule 8.43(b) requires each TPH (other than an Exchange market-maker or designated primary market-maker) that maintains a position in excess of 10,000 non-FLEX equity option contracts on the same side of the market, on behalf of its own account or for the account of a customer, to report to the Exchange information as to whether such positions are hedged, and provide documentation as to how such contracts are hedged.

The Exchange also represents that the existing surveillance procedures and reporting requirements at the Exchange and other self-regulatory organizations are capable of properly identifying disruptive and/or manipulative trading activity. According to the Exchange, its surveillance procedures utilize daily monitoring of market activity via automated surveillance techniques to identify unusual activity in both options and the underlying products. In addition, the Exchange states that its surveillance procedures have been effective for the surveillance of trading in the options subject to this proposal, and will continue to be employed.

The Exchange further states its belief that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns that a TPH or its customer may try to maintain an inordinately large unhedged position in the options subject to this proposal. Current margin and risk-based haircut methodologies, the Exchange states, serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a TPH must maintain for a large position held by itself or by its customer. In addition, the Exchange notes that the Commission’s net capital rule, Rule 15c3–1 under the Act, imposes a capital charge on TPHs to the extent of any margin deficiency resulting from the higher margin requirement.

III. Proceedings To Determine Whether To Approve or Disapprove SR–CBOE–2021–029, as Modified by Amendment No. 1, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposal, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comment on the proposed rule change, as modified by Amendment No. 1.

Pursuant to Section 19(b)(2)(B) of the Act, the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the consistency of the proposed rule change, as modified by Amendment No. 1, with the Act and, in particular, Section 6(b)(5) of the Act, which requires that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Under the Commission’s Rules of Practice, the “burden to demonstrate that a proposed rule change is consistent with the [Act] and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change.” The description of a proposed rule change, its purpose and operation, its effects, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding and any failure of a self-regulatory organization to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.

Position and exercise limits serve as a regulatory tool designed to address manipulative schemes and adverse
market impact surrounding the use of options. As discussed above, the Exchange has proposed to increase the position and exercise limits for options on GLD, SLV, LQD, GDX, VXX, and UVXY from 250,000 contracts to 500,000 contracts. The proposed doubling of the position and exercise limits for these options would be a substantial increase from current levels, and raises the potential for adverse impacts in the underlying markets implicated by this proposal. The initial proposal did not provide sufficient information to explain why all of these underlying markets are sufficiently comparable to the markets underlying the option products currently subject to a 500,000 contract position limit or sufficient information to independently support a finding that all of the proposed position limit increases would not have an adverse market impact. Accordingly, the initial proposal did not provide an adequate basis for the Commission to conclude that the proposal would be consistent with Section 6(b)(5) of the Act.

The Exchange recently provided additional analysis and justification for its proposal in Amendment No. 1. Amendment No. 1 was submitted shortly before the expiration of the statutory deadline for the Commission to act on the Exchange’s proposal, leaving the Commission, as well as any potential commenters, with insufficient time to carefully consider the new data and analysis before the deadline. In the proceedings that the Commission is instituting today, the Commission will be evaluating, among other things, the Exchange’s amended statements, and invites comment on the extent to which they justify approval of the proposal.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Exchange’s statements in support of the proposal, as modified by Amendment No. 1, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on whether the position and exercise limit for each option as proposed could impact markets adversely.

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved by September 1, 2021. Any person who wishes to file a rebuttal to any other person’s submission must file that rebuttal by September 15, 2021. 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 No. SR–CBOE–2021–029 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 No. SR–CBOE–2021–029. The 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 No. SR–CBOE–2021–029 and should be submitted by September 1, 2021. Rebuttal comments should be submitted by September 15, 2021.

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

Jill M. Peterson, Assistant Secretary.

[FR Doc. 2021–17086 Filed 8–10–21; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17074 and #17075; Oklahoma Disaster Number OK–00150]

Administrative Declaration of a Disaster for the State of Oklahoma

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of OKLAHOMA dated 08/05/2021.

Incident: Flooding.

Incident Period: 06/07/2021.

DATES: Issued on 08/05/2021.

Physical Loan Application Deadline Date: 10/04/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 05/05/2022.

ADDRESS: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration.