

## OMB APPROVAL

OMB Number: 3235-0045  
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Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 47

SECURITIES AND EXCHANGE COMMISSION  
 WASHINGTON, D.C. 20549  
 Form 19b-4

File No. \* SR - 2020 - \* 002

Amendment No. (req. for Amendments \*)

Filing by Cboe BZX Exchange, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) \*

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Section 806(e)(2) \*

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Security-Based Swap Submission pursuant  
to the Securities Exchange Act of 1934

Section 3C(b)(2) \*

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Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document



## Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

The Exchange proposes to amend its rules governing the give up of a Clearing Member by a User on Exchange transactions.

## Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Sarah Last Name \* Tadtman  
 Title \* Counsel  
 E-mail \* stadtman@cboe.com  
 Telephone \* (913) 815-7203 Fax

## Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date 01/02/2020

By Adrian Griffiths

(Name \*)

Assistant General Counsel

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

agriffiths@cboe.com

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFT website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**Item 1.        Text of the Proposed Rule Change**

(a)        Cboe BZX Exchange, Inc. (the “Exchange” or “BZX Options”) proposes to amend its rules governing the give up of a Clearing Member by a User on Exchange transactions. The text of the proposed rule change is provided in Exhibit 5.

(b)        Not applicable.

(c)        Not applicable.

**Item 2.        Procedures of the Self-Regulatory Organization**

(a)        The Exchange’s President (or designee) pursuant to delegated authority approved the proposed rule change on December 24, 2019.

(b)        Please refer questions and comments on the proposed rule change to Pat Sexton, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7467, or Sarah Tadtman, Counsel, (913) 815-7203.

**Item 3.        Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

(a)        Purpose

The Exchange proposes to amend Rule 21.12, which governs the give up of a Clearing Member<sup>1</sup> by a User<sup>2</sup> on Exchange transactions, to substantially conform to Cboe Exchange, Inc. (“Cboe Options”) Rule 5.10, proposed Cboe EDGX Exchange, Inc. (“EDGX Options”) Rule 21.12, and proposed Cboe C2 Exchange, Inc. (“C2 Options”)

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<sup>1</sup>        The term “Clearing Member” means an Options Member that is self-clearing or an Options Member that clears BZX Options Transactions for other Members of BZX Options. See Exchange Rule 16.1.

<sup>2</sup>        The term “User” means any Options Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3 (Access). See Exchange Rule 16.1.

Rule 6.30.<sup>3</sup>

Background

Under current Exchange rules, Users entering transactions on the Exchange must either be a Clearing Member or must establish a clearing arrangement with a Clearing Member, and must have a Letter of Guarantee issued by a Clearing Member. In addition, under current Rule 21.12, a User must give up the name of the Clearing Member through which each transaction will be cleared. Every Clearing Member accepts financial responsibility for all BZX Options transactions made by the guaranteed User pursuant to Exchange Rule 22.8(b) (Terms of Letter Guarantee). The proposed amendment will result in a more structured and coherent streamlined give up process on the Exchange as it will align with the give up functionality on BZX Options with that currently available on Cboe Options, C2 Options, and EDGX Options.

Additionally, beginning in early 2018, certain Clearing Members (in conjunction with the Securities Industry and Financial Markets Association (“SIFMA”)) expressed concerns related to the process by which executing brokers on U.S. options exchanges (the “Exchanges”) are allowed to designate or ‘give up’ a clearing firm for purposes of clearing particular transactions. The SIFMA-affiliated Clearing Members have recently identified the current give up process as a significant source of risk for clearing firms. SIFMA-affiliated Clearing Members subsequently requested that the Exchanges alleviate this risk by amending Exchange rules governing the give up process.<sup>4</sup> Therefore, the

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<sup>3</sup> See SR-CboeEDGX-2020-001 (filed January 2, 2020) and SR-C2-2020-001 (filed January 2, 2020) (collectively referred to as the “EDGX Options and C2 Options Proposed Give Up Rule”).

<sup>4</sup> Cboe Options recently modified its give up procedure under rule 5.10 to allow clearing trading permit holders to “Opt In” such that the clearing trading permit

Exchange is now seeking to amend its Rule 21.17 to align with applicable rules of the Exchanges and also to substantially conform to existing Cboe Options Rule 5.10 and proposed EDGX Options Rule 22.12 and C2 Options Rule 6.30.

### Proposed Rule

The Exchange proposes to amend Rule 21.12 by replacing the current rule text with details regarding the give up procedure for a User executing transactions on the Exchange. As amended, Rule 21.12 would provide that a User may indicate, at the time of the trade or through post trade allocation, any Options Clearing Corporation (“OCC”) number of the Clearing Member through which the transaction will be cleared (“give up”) to either a “Designated Give Up”<sup>5</sup> or a “Guarantor”,<sup>6</sup> as those roles would be defined in the Rule and discussed in further detail below.<sup>7</sup> Further, Rule 21.12 would

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holder (“TPH”) may specify which Cboe Options TPH organizations are authorized to give up that clearing trading permit holder. See Securities and Exchange Act Release No. 86401 (July 17, 2019), 84 FR 35433 (July 23, 2019) (SR-CBOE-19-036). Nasdaq PHLX LLC (“PHLX”), NYSE Arca, Inc., (“NYSE Arca”), and NYSE American LLC (“NYSE American”) also recently modified their respect give up rules to adopt an “Opt In” process; see also Securities and Exchange Act Release No. 85136 (February 14, 2019), 84 FR 5526 (February 21, 2019) (SR-PHLX-2018-72), Securities and Exchange Act Release No. 85871 (May 16, 2019), 84 FR 23613 (May 22, 2019) (SR-NYSEArca 2019-32) and Securities and Exchange Act Release 85875 (May 16, 2019), 84 FR 23591 (May 22, 2019) (SR-NYSEAMER-2019-17). The Exchange’s proposal leads to the same result of providing its Clearing Member’s the ability to control risk and includes PHLX’s, NYSE Arca’s and NYSE American’s “Opt In” process, but it otherwise differs slightly in process from their give up rules. For example, the Exchange intends to maintain its provisions relating to Designated Give Ups and eliminate its provisions relating to the rejection of a trade. The Exchange’s proposal is substantially the same as the current give up process on Cboe Options.

<sup>5</sup> See proposed Exchange Rule 21.12(b)(1).

<sup>6</sup> See proposed Exchange Rule 21.12(b)(2).

<sup>7</sup> See proposed Exchange Rule 21.12(a); see also paragraph (a) of the EDGX Options and C2 Options Proposed Give Up Rule. The Exchange notes that paragraph (a) of Cboe Options 5.10 slightly differs from the proposed paragraph

provide that Clearing Members may elect to “Opt In” and restrict one or more of its OCC number(s) (“Restricted OCC Number”), as defined in the Rule and described in further detail below.<sup>8</sup>

Amended Rule 21.12(b)(1) would define the term “Designated Give Up” as a Clearing Member that a User (other than a Market-Maker)<sup>9</sup> identifies to the Exchange, in writing, as a Clearing Member the User requests the ability to give up.<sup>10</sup> To designate a Designated Give Up, a User must submit written notification to the Exchange, in a form and manner prescribed by the Exchange (“Notification Form”).<sup>11</sup> A copy of the proposed Notification Form is included with this filing in Exhibit 3. Similarly, should a User no longer want the ability to give up a particular Designated Give Up, the User would have to submit written notification to the Exchange, in a form and manner prescribed by the Exchange.<sup>12</sup>

The Exchange notes that, as proposed, a User may designate any Clearing Member as a Designated Give Up, provided that the Designated Give Up has not Opted

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(a) on the Exchange, EDGX Options, and C2 Options; however, Cboe Options plans to amend its paragraph (a) of Rule 5.10 to conform to proposed Exchange, EDGX Options, and C2 Options rules with slight differences as it relates to floor trading.

<sup>8</sup> Id.

<sup>9</sup> For purposes of this rule, references to “Market-Maker” shall refer to a Member acting in the capacity of a Market-Maker and shall include all Market-Maker capacities.

<sup>10</sup> See proposed Exchange Rule 21.12(b)(1); see also Cboe Options 5.10(b)(1).

<sup>11</sup> See proposed Exchange Rule 21.12(b)(3); see also Cboe Options Rule 5.10(b)(3).

<sup>12</sup> See proposed Exchange Rule 21.12(b)(7); see also Cboe Options Rule 5.10(b)(7).

In, or provided that the User is an Authorized User<sup>13</sup> of that Designated Give Up. Further, there would be no maximum number of Designated Give Ups that a User can identify. The Exchange would notify a Clearing Member, in writing and as soon as practicable, of each User that has identified it as a Designated Give Up.<sup>14</sup>

As amended, Rule 21.12(b)(2) would define the term Guarantor as a Clearing Member that has issued a Letter of Guarantee for the executing User, pursuant to the Rules of the Exchange<sup>15</sup> that are in effect at the time of the execution of the applicable trade.<sup>16</sup> An executing User may give up its Guarantor without such Guarantor being a Designated Give Up. The Exchange's Rule 22.8 provides that a Letter of Guarantee is required to be issued and filed by each Clearing Member through which a User clears transactions. Accordingly, a Market-Maker would only be enabled to give up a Guarantor that had executed a Letter of Guarantee on its behalf pursuant to Rule 22.8. Thus, Market-Makers would not identify any Designated Give Ups.

Proposed Rule 21.12(c) would provide that Clearing Members may request the Exchange restrict one or more of their OCC numbers ("Opt In") from being given up unless otherwise authorized.<sup>17</sup> If a Clearing Member Opts In, the Exchange will require written authorization from the Clearing Member permitting a User to give up a Clearing

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<sup>13</sup> An "Authorized User" refers to a User that has written authorization as described in proposed Rule 21.12(c)(2) to give up a Restricted OCC Number. See proposed Exchange Rule 21.12(a).

<sup>14</sup> Supra note 10.

<sup>15</sup> See Exchange Rule 22.8 (Letters of Guarantee).

<sup>16</sup> See proposed Exchange Rule 21.12(b)(2); see also Cboe Options Rule 5.10(b)(2).

<sup>17</sup> See proposed Exchange Rule 21.12(c); see also Cboe Options Rule 5.10(c).

Member's Restricted OCC number.<sup>18</sup> An Opt In would remain in effect until the Clearing Member terminates the Opt In as described in proposed subparagraph (c)(3).<sup>19</sup> If a Clearing Member does not Opt In, that Clearing Member's OCC number may be subject to being given up by any User that has designated it as a Designated Give Up.<sup>20</sup> Proposed Rule 21.12(c)(1) will set forth the process by which a Clearing Member may Opt In.<sup>21</sup> Specifically, a Clearing Member may Opt In by sending a completed "Clearing Member Restriction Form" listing all Restricted OCC Numbers and Authorized Users.<sup>22</sup> A copy of the proposed form is included in Exhibit 3. A Clearing Member may elect to restrict one or more OCC clearing numbers that are registered in its name at the OCC.<sup>23</sup> The Clearing Member would be required to submit the Clearing Member Restriction Form to the Exchange's MSD as described on the form. Once submitted, the Exchange requires ninety days before a Restricted OCC Number is effective within the System.<sup>24</sup> This time period is to provide adequate time for the Users of that Restricted OCC Number who are not initially specified by the Clearing Member as Authorized Users to obtain the required written authorization from the Clearing Member for that Restricted OCC Number. Such Users would still be able to give up that Restricted OCC Number during this ninety day

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<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> See proposed Exchange Rule 21.12(c)(1); see also Cboe Options Rule 5.10(c)(1).

<sup>22</sup> This form will be available on the Exchange's website. The Exchange will also maintain, on its web site, a list of the Restricted OCC Numbers, which will be updated on a regular basis, and the Clearing Member's contact information to assist Users (to the extent they are not already Authorized Users) with requesting authorization for a Restricted OCC Number. The Exchange may utilize additional means to inform its Members of such updates on a periodic basis.

<sup>23</sup> Supra note 25.

<sup>24</sup> Supra note 25.



period (i.e., until the number becomes restricted within the System).

Proposed Rule 21.12(c)(2) will set forth the process for Users to give up a Clearing Member's Restricted OCC Number.<sup>25</sup> Specifically, a User desiring to give up a Restricted OCC Number must become an Authorized User.<sup>26</sup> The Clearing Member will be required to authorize a User as described in subparagraph (1) or (3) of Rule 21.12(c) (i.e., through a Clearing Member Restriction Form), unless the Restricted OCC Number is already subject to a Letter of Guarantee that the User is a party to, as set forth in Rule 21.12(b)(6).<sup>27</sup> Pursuant to proposed Rule 21.12(c)(3), a Clearing Member may amend the list of its Authorized Users or Restricted OCC Numbers by submitting a new Clearing Member Restriction Form to the Exchange's MSD indicating the amendment as described on the form.<sup>28</sup> Once a Restricted OCC Number is effective within the System pursuant to Rule 21.12(c)(1), the Exchange may permit the Clearing Member to authorize, or remove authorization for, a User to give up the Restricted OCC Number intra-day only in unusual circumstances, and on the next business day in all regular circumstances.<sup>29</sup> The Exchange will promptly notify Users if they are no longer authorized to give up a Clearing Member's Restricted OCC Number.<sup>30</sup> If a Clearing Member removes a Restricted OCC Number, any User may give up that OCC clearing number once the removal has become effective on or before the next business day,

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<sup>25</sup> See proposed Exchange Rule 21.12(c)(2); see also Cboe Options Rule 5.10(c)(2).

<sup>26</sup> Id.

<sup>27</sup> Id.

<sup>28</sup> See proposed Exchange Rule 21.12(c)(3) and (e); see also Cboe Options Rule 5.10(c)(3) and (e).

<sup>29</sup> Id.

<sup>30</sup> Id.

provided that Clearing Member has been designated as a Designated Give Up.<sup>31</sup>

As noted above, amended Rule 21.12 would provide that a User may only give up (A) a Clearing Member that has previously been identified and processed by the Exchange as a Designated Give Up for that User, provided that the Designated Give Up has not Opted In, or provided that the User is an Authorized User of that Designated Give Up, or (B) a Guarantor for that user.<sup>32</sup> This proposed requirement would be enforced by the Exchange's trading systems.<sup>33</sup> Specifically, the Exchange has configured its trading systems to only accept orders from a User that identifies a Designated Give Up or Guarantor for that User. For any Restricted OCC Number, the Exchange's trading systems will only accept orders for that number from an Authorized User that has also designated that Clearing Member as a Designated Give Up. The System would reject any order entered by a User not meeting the aforementioned criteria. The Exchange notes that it would notify a User in writing when an identified Designated Give Up becomes effective (i.e., when a Clearing Member has been identified by the User as a Designated Give Up, has been enabled by the Exchange's trading systems to be given up).<sup>34</sup> A Guarantor for a User, by virtue of having an effective Letter of Guarantee on file with the Exchange, would be enabled to be given up for that User without any further action by the User.<sup>35</sup> The Exchange notes that this configuration (i.e., the trading systems accepting only orders that identify a Designated Give Up or a Guarantor) is intended to help reduce

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<sup>31</sup> Id.

<sup>32</sup> See proposed Exchange Rule 21.12(b)(3); see also Cboe Options Rule 5.10(b)(3).

<sup>33</sup> See proposed Exchange Rule 21.12(d); see also Cboe Options Rule 5.10(d).

<sup>34</sup> See proposed Exchange Rule 21.12(e); see also Cboe Options Rule 5.10(e).

<sup>35</sup> See proposed Exchange Rule 21.12(b)(6); see also Cboe Options Rule 5.10(b)(6).

keypunch errors (errors involving erroneous data entry), and prevent the User from mistakenly giving up the name of a Clearing Member that it does not have the ability to give up a trade. However, in light of Clearing Members having the ability to restrict their OCC numbers from being given up by unauthorized Users, the Exchange does not propose to adopt a process for Clearing Members to “reject” trades.<sup>36</sup>

The Exchange also proposes in Rule 21.12(f) three scenarios in which a give up on a transaction may be changed without Exchange involvement.<sup>37</sup> First, if an executing User has the ability through an Exchange system to do so, it could change the give up on a trade to another Designated Give Up, provided it’s an Authorized User for any Restricted OCC Number, or its Guarantor.<sup>38</sup> The Exchange notes that Users often make these changes when, for example, there is a keypunch error. The ability of the executing User to make any such change would end at the “Trade Date Cutoff Time”.<sup>39</sup> Next, the modified rule would provide that, if a Designated Give Up has the ability to do so, it may change the give up on a transaction for which it was given up to (A) another Clearing Member affiliated with the Designated Give Up or (B) a Clearing Member for which the Designated Give Up is a back office agent.<sup>40</sup> The ability to make such a change would

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<sup>36</sup> See paragraph (f) of existing EDGX Options Rule 21.12 and C2 Options Rule 6.30(f). The Exchange notes, that the EDGX Options and C2 Options Proposed Give Up Rule seeks to eliminate existing paragraph (f). Further, Cboe Options Rule 5.10 does not have a process for Clearing Members to “reject” trades.

<sup>37</sup> See proposed Exchange Rule 21.12(f); see also Cboe Options Rule 5.10(f).

<sup>38</sup> See proposed Exchange Rule 21.12(f)(1); see also Cboe Options Rule 5.10(f)(1).

<sup>39</sup> The “Trade Date Cutoff Time” is established by the Clearing Corporation (or 15 minutes thereafter if the Exchange receives and is able to process a request to extend its time of final trade submission to the Clearing Corporation). Id.

<sup>40</sup> See proposed Exchange Rule 21.12(f)(2); see also Cboe Options Rule 5.10(f)(2).

end at the Trade Date Cutoff Time.<sup>41</sup> The Exchange notes that often Clearing Members themselves have the ability to change a give up on a trade for which it was given up to another Clearing Member affiliate or Clearing Member for which the Designated Give Up is a back office agent. Therefore, Exchange involvement in these instances is not necessary. In addition, the proposed rule provides that if both a Designated Give Up or Guarantor and a Clearing Member have the ability through an Exchange system to do so, the Designated Give Up or Guarantor and Clearing Member may each enter trade records into the Exchange's systems on the next trading day ("T+1") that would effect a transfer of the trade in a non-expired option series from that Designated Give Up (or Guarantor) to that Clearing Member.<sup>42</sup> The Designated Give Up or Guarantor could not make any such change after the T+1 Cutoff Time.<sup>43</sup> The Exchange notes that a Designated Give Up or Guarantor must notify, in writing, the Exchange and all the parties to the trade, of any such change made pursuant to this provision.<sup>44</sup> This notification alerts the parties and the Exchange that a change to the give up has been made. Finally, the Designated Give Up or Guarantor would be responsible for monitoring the trade and ensuring that the other Clearing Member has entered its side of the transaction timely and correctly. If either a Designated Give Up (or Guarantor) or Clearing Member cannot themselves enter trade records into the Exchange's systems to effect a transfer of the trade from one to the other, the Designated Give Up (or Guarantor) may request the ability from the Exchange to

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<sup>41</sup> Id.

<sup>42</sup> See proposed Exchange Rule 21.12(f)(3); see also Cboe Options Rule 5.10(f)(3).

<sup>43</sup> The "T+1 Cutoff Time" is 1:00 p.m. Eastern Time on T+1; see proposed Exchange Rule 21.12(f)(3); see also Cboe Options Rule 5.10(f)(3) (which provides a cutoff time of 12:00 p.m. Central Time).

<sup>44</sup> Id.

enter both sides of the transaction in accordance with amended Rule 21.12(f)(3).

The Exchange proposes Rule 21.12(g) to state that a Clearing Member would be financially responsible for all trades for which it is the give up at the Applicable Cutoff Time (for purposes of the proposed rule, the “Applicable Cutoff Time” shall refer to the T+1 Cutoff Time for non-expiring option series and to the Trade Date Cutoff Time for expiring option series).<sup>45</sup> The Exchange notes, however, that nothing in the proposed rule shall preclude a different party from being responsible for the trade outside of the Rules of the Exchange pursuant to OCC Rules, any agreement between the applicable parties, other applicable rules and regulations, arbitration, court proceedings or otherwise.<sup>46</sup> Additionally, the proposed Rule does not preclude these factors from being considered in a different forum (e.g., court or arbitration), nor does it preclude any Clearing Member that violates any provision of amended Rule 21.12 from being subject to disciplinary actions in accordance with Exchange rules.

The Exchange also proposes to adopt subparagraph (h) of Rule 21.12 to provide that an intentional misuse of this Rule is impermissible, and may be treated as a violation of Rule 3.1, titled “Business Conduct of Members”.<sup>47</sup> This language will make clear that the Exchange will regulate an intentional misuse of this Rule, and that such behavior

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<sup>45</sup> See proposed Exchange Rule 21.12(g); see also Cboe Options Rule 5.10(g).

<sup>46</sup> See proposed Interpretation and Policy .01 to Exchange Rule 21.12 (“Nothing herein will be deemed to preclude the clearance of Exchange transactions by a non-User pursuant to the By-Laws of the Options Clearing Corporation so long as a Clearing Member who is a User is also designated as having responsibility under these Rules for the clearance of such transactions.”); see also Interpretation and Policy .01 to Cboe Options Rule 5.10.

<sup>47</sup> See Cboe Options Rule 5.10(h), which states that intentional misuse of Rule 5.10 may be treated as a violation of Rule 8.1 (Just and Equitable Principles of Trade).

would be a violation of Exchange rules. The proposed language is similar to corresponding provisions in other exchanges' give up rules.<sup>48</sup>

Lastly, the Exchange proposes to amend its current Member Notification of Designated Give ups Form ("Designated Give ups Form"). As of October 7, 2019 the Cboe affiliated Options Exchanges are on the same technology platform. To provide further harmonization across the Cboe affiliated Options Exchanges and provide more seamless administration of the Give Up rule, the Exchange proposes to adopt the forms currently applicable to the Cboe Exchange, Inc., which will be applicable to all Cboe affiliated Options Exchanges. The proposed Designated Give Up forms are included in Exhibit 3.

#### Implementation Date

The Exchange proposes to announce the implementation date of the proposed rule change in an Exchange Notice, to be published no later than thirty (30) days following the operative date. The implementation date will be no later than sixty (60) days following the operative date.

#### (b) Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>49</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>50</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to

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<sup>48</sup> See e.g., Cboe Options Rule 5.10(h).

<sup>49</sup> 15 U.S.C. 78f(b).

<sup>50</sup> 15 U.S.C. 78f(b)(5).

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 facilitation 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)<sup>51</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Detailing in the rules how Users would give up Clearing Members provides transparency and operational certainty. The Exchange believes additional transparency removes a potential impediment to, and would contribute to perfecting, the mechanism of a free and open market and a national market system, and, in general, would protect investors and the public interest. Moreover, the Exchange notes that amended Rule 21.12 requires Users to adhere to a standardized process to ensure a seamless administration of the Rule. For example, all notifications relating to a change in give up must be made in writing. The Exchange believes that these requirements will aid the Exchange's efforts to monitor and regulate Users and Clearing Members as they relate to amended Rule 21.12 and changes in give ups, thereby protecting investors and the public interest.

Further, as discussed above, several clearing firms affiliated with SIFMA have recently expressed concerns relating to the current give up process, which permits Users to identify any Clearing Member as a Designated Give Up for purposes of clearing particular transactions, and have identified the current give up process (i.e., a process that

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<sup>51</sup> Id.

lacks authorization) as a significant source of risk for clearing firms. The Exchange believes that the proposed changes to Rule 21.12 help alleviate this risk by enabling Clearing Members to ‘Opt In’ to restrict one or more of its OCC clearing numbers (i.e., Restricted OCC Numbers), and to specify which Authorized Users may give up those Restricted OCC Numbers. As described above, all other Users would be required to receive written authorization from the Clearing Member before they can give up that Clearing Member’s Restricted OCC Number. The Exchange believes that this authorization provides proper safeguards and protections for Clearing Members as it provides controls for Clearing Members to restrict access to their OCC clearing numbers, allowing access only to those Authorized Users upon their request. The Exchange also believes that its proposed Clearing Member Restriction Form allows the Exchange to receive in a uniform fashion, written and transparent authorization from Clearing Members, which ensures seamless administration of the Rule.

The Exchange believes that the proposed Opt In process strikes the right balance between the various views and interests across the industry. For example, although the proposed rule would require Users (other than Authorized Users) to seek authorization from Clearing Members in order to have the ability to give them up, each User will still have the ability to give up a Restricted OCC Number that is subject to a Letter of Guarantee without obtaining any further authorization if that User is party to that arrangement. The Exchange also notes that to the extent the executing User has a clearing arrangement with a Clearing Members (i.e., through a Letter of Guarantee), a trade can be assigned to the executing User’s Guarantor. Accordingly, the Exchange believes that the proposed rule change is reasonable and continues to provide certainty that a Clearing



Members would be responsible for a trade, which protects investors and the public interest.

**Item 4. 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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose an unnecessary burden on intramarket competition because it would apply equally to all similarly situated Members. The Exchange also notes that, should the proposed changes make the Exchange more attractive for trading, market participants trading on other exchanges can always elect to become Members on the Exchange to take advantage of the trading opportunities. Furthermore, the proposed rule change does not address any competitive issues and ultimately, the target of the Exchange's proposal is to provide transparency and operational certainty to the Exchange's give up process, and also to reduce risk for Clearing Members. Clearing firms make financial decisions based on risk and reward, and while it is generally in their beneficial interest to clear transactions for market participants in order to generate profit, it is the Exchange's understanding from SIFMA and clearing firms that the current process can create significant risk when the clearing firm can be given up on any market participant's transaction, even where there is no prior customer relationship or authorization for that designated transaction. In the absence of a mechanism that governs a market participant's use of a Clearing Member's services, the Exchange's proposal may indirectly facilitate the ability of a Clearing Member to manage their existing customer relationships while continuing to allow market participant choice in broker execution services. While Clearing Members may compete with executing brokers for order flow, the Exchange does not believe this

proposal imposes an undue burden on competition. Rather, the Exchange believes that the proposed rule change balances the need for Clearing Members to manage risks and allows them to address outlier behavior from executing brokers while still allowing freedom of choice to select an executing broker.

**Item 5. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

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

**Item 6. Extension of Time Period for Commission Action**

Not applicable.

**Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)**

The Exchange believes that the proposal qualifies for immediate effectiveness upon filing as a “non-controversial” rule change in accordance with Section 19(b)(3)(A) of the Act<sup>52</sup> and Rule 19b-4(f)(6) thereunder.<sup>53</sup>

The Exchange asserts that the proposed rule change (i) will not significantly affect the protection of investors or the public interest, (ii) will not impose any significant burden on competition, and (iii) by its terms, will not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a

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<sup>52</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>53</sup> 17 CFR 240.19b-4(f)(6).

brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as the Commission may designate.

The proposed rule change is substantially similar in all material respects to Cboe Options Rule 5.10. Accordingly, the Exchange believes the proposed rule change does not present any new, unique or substantive issues; it merely establishes a rule which provides transparency and operational certainty to the Exchange's give up process as well as helps clearing firms manage risk while continuing to allow market participants choice in broker execution services. Ultimately, the result of the proposed rule change is that the give up mechanism utilized by the Exchange would align with the rules of other Exchanges, including Cboe Options.<sup>54</sup> While the Exchange notes that paragraph (a) of proposed Exchange Rule 21.12 slightly deviates from Cboe Options Rule 5.10, Cboe Options plans to amend paragraph (a) of Rule 5.10 to conform to the Exchange's proposed rule 21.12(a), with a slight modification as it relates to floor trading. Furthermore, the phrase of paragraph (a) at issue does not change the manner in which a Member may give up a trade, but rather clarifies the existing process available on Cboe Options, C2 Options, and EDGX Options. Accordingly, the Exchange believes that the proposed rule change is non-controversial and is therefore eligible for immediately effective treatment under the Commission's current procedures for processing rule filings.

For the foregoing reasons, the rule filing qualifies for immediate effectiveness as a "non-controversial" rule change under Rule 19b-4(f)(6). 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

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<sup>54</sup> Supra note 4.

in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. As described above, the proposed rule change does not present any novel issues and a waiver would allow Clearing Members to better manage their potential risks as soon as possible.

**Item 8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

The proposed rule change is based on Cboe Options Rule 5.10, proposed C2 Options Rule 6.30, proposed EDGX Options Rule 21.12, PHLX Rule 1037.31, NYSE Arca Rule 6.15-O and NYSE American Rule 961.<sup>55</sup>

**Item 9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

**Item 10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

**Item 11. Exhibits**

- Exhibit 1. Completed Notice of Proposed Rule Change for publication in the Federal Register.
- Exhibit 3. Clearing Member Restriction Form.  
Notification Form.
- Exhibit 5. Proposed rule text.

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Supra note 4.

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CboeBZX-2020-002]

[Insert date]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend its Rules Governing the Give Up of a Clearing Member by a User on Exchange Transactions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on [insert date], Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) 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<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 BZX Exchange, Inc. (the “Exchange” or “BZX Options”) proposes to amend its rules governing the give up of a Clearing Member by a User on Exchange transactions. The text of the proposed rule change is provided in Exhibit 5.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/equities/regulation/rule\\_filings/bzx/](http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

#### **1. Purpose**

The Exchange proposes to amend Rule 21.12, which governs the give up of a Clearing Member<sup>5</sup> by a User<sup>6</sup> on Exchange transactions, to substantially conform to Cboe Exchange, Inc. ("Cboe Options") Rule 5.10, proposed Cboe EDGX Exchange, Inc. ("EDGX Options") Rule 21.12, and proposed Cboe C2 Exchange, Inc. ("C2 Options") Rule 6.30.<sup>7</sup>

#### **Background**

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<sup>5</sup> The term "Clearing Member" means an Options Member that is self-clearing or an Options Member that clears BZX Options Transactions for other Members of BZX Options. See Exchange Rule 16.1.

<sup>6</sup> The term "User" means any Options Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3 (Access). See Exchange Rule 16.1.

<sup>7</sup> See SR-CboeEDGX-2020-001 (filed January 2, 2020) and SR-C2-2020- 001 (filed January 2, 2020) (collectively referred to as the "EDGX Options and C2 Options Proposed Give Up Rule").

Under current Exchange rules, Users entering transactions on the Exchange must either be a Clearing Member or must establish a clearing arrangement with a Clearing Member, and must have a Letter of Guarantee issued by a Clearing Member. In addition, under current Rule 21.12, a User must give up the name of the Clearing Member through which each transaction will be cleared. Every Clearing Member accepts financial responsibility for all BZX Options transactions made by the guaranteed User pursuant to Exchange Rule 22.8(b) (Terms of Letter Guarantee). The proposed amendment will result in a more structured and coherent streamlined give up process on the Exchange as it will align with the give up functionality on BZX Options with that currently available on Cboe Options, C2 Options, and EDGX Options.

Additionally, beginning in early 2018, certain Clearing Members (in conjunction with the Securities Industry and Financial Markets Association (“SIFMA”)) expressed concerns related to the process by which executing brokers on U.S. options exchanges (the “Exchanges”) are allowed to designate or ‘give up’ a clearing firm for purposes of clearing particular transactions. The SIFMA-affiliated Clearing Members have recently identified the current give up process as a significant source of risk for clearing firms. SIFMA-affiliated Clearing Members subsequently requested that the Exchanges alleviate this risk by amending Exchange rules governing the give up process.<sup>8</sup> Therefore, the

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<sup>8</sup> Cboe Options recently modified its give up procedure under rule 5.10 to allow clearing trading permit holders to “Opt In” such that the clearing trading permit holder (“TPH”) may specify which Cboe Options TPH organizations are authorized to give up that clearing trading permit holder. See Securities and Exchange Act Release No. 86401 (July 17, 2019), 84 FR 35433 (July 23, 2019) (SR-CBOE-19-036). Nasdaq PHLX LLC (“PHLX”), NYSE Arca, Inc., (“NYSE Arca”), and NYSE American LLC (“NYSE American”) also recently modified their respect give up rules to adopt an “Opt In” process; see also Securities and Exchange Act Release No. 85136 (February 14, 2019), 84 FR 5526 (February 21,

Exchange is now seeking to amend its Rule 21.17 to align with applicable rules of the Exchanges and also to substantially conform to existing Cboe Options Rule 5.10 and proposed EDGX Options Rule 22.12 and C2 Options Rule 6.30.

### Proposed Rule

The Exchange proposes to amend Rule 21.12 by replacing the current rule text with details regarding the give up procedure for a User executing transactions on the Exchange. As amended, Rule 21.12 would provide that a User may indicate, at the time of the trade or through post trade allocation, any Options Clearing Corporation (“OCC”) number of the Clearing Member through which the transaction will be cleared (“give up”) to either a “Designated Give Up”<sup>9</sup> or a “Guarantor”,<sup>10</sup> as those roles would be defined in the Rule and discussed in further detail below.<sup>11</sup> Further, Rule 21.12 would provide that Clearing Members may elect to “Opt In” and restrict one or more of its OCC number(s) (“Restricted OCC Number”), as defined in the Rule and described in further

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2019) (SR-PHLX-2018-72), Securities and Exchange Act Release No. 85871 (May 16, 2019), 84 FR 23613 (May 22, 2019) (SR-NYSEArca 2019-32) and Securities and Exchange Act Release 85875 (May 16, 2019), 84 FR 23591 (May 22, 2019) (SR-NYSEAMER-2019-17). The Exchange’s proposal leads to the same result of providing its Clearing Member’s the ability to control risk and includes PHLX’s, NYSE Arca’s and NYSE American’s “Opt In” process, but it otherwise differs slightly in process from their give up rules. For example, the Exchange intends to maintain its provisions relating to Designated Give Ups and eliminate its provisions relating to the rejection of a trade. The Exchange’s proposal is substantially the same as the current give up process on Cboe Options.

<sup>9</sup> See proposed Exchange Rule 21.12(b)(1).

<sup>10</sup> See proposed Exchange Rule 21.12(b)(2).

<sup>11</sup> See proposed Exchange Rule 21.12(a); see also paragraph (a) of the EDGX Options and C2 Options Proposed Give Up Rule. The Exchange notes that paragraph (a) of Cboe Options 5.10 slightly differs from the proposed paragraph (a) on the Exchange, EDGX Options, and C2 Options; however, Cboe Options plans to amend its paragraph (a) of Rule 5.10 to conform to proposed Exchange, EDGX Options, and C2 Options rules with slight differences as it relates to floor trading.



detail below.<sup>12</sup>

Amended Rule 21.12(b)(1) would define the term “Designated Give Up” as a Clearing Member that a User (other than a Market-Maker)<sup>13</sup> identifies to the Exchange, in writing, as a Clearing Member the User requests the ability to give up.<sup>14</sup> To designate a Designated Give Up, a User must submit written notification to the Exchange, in a form and manner prescribed by the Exchange (“Notification Form”).<sup>15</sup> A copy of the proposed Notification Form is included with this filing in Exhibit 3. Similarly, should a User no longer want the ability to give up a particular Designated Give Up, the User would have to submit written notification to the Exchange, in a form and manner prescribed by the Exchange.<sup>16</sup>

The Exchange notes that, as proposed, a User may designate any Clearing Member as a Designated Give Up, provided that the Designated Give Up has not Opted In, or provided that the User is an Authorized User<sup>17</sup> of that Designated Give Up. Further, there would be no maximum number of Designated Give Ups that a User can identify. The Exchange would notify a Clearing Member, in writing and as soon as practicable, of each User that has identified it as a Designated Give Up.<sup>18</sup>

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<sup>12</sup> Id.

<sup>13</sup> For purposes of this rule, references to “Market-Maker” shall refer to a Member acting in the capacity of a Market-Maker and shall include all Market-Maker capacities.

<sup>14</sup> See proposed Exchange Rule 21.12(b)(1); see also Cboe Options 5.10(b)(1).

<sup>15</sup> See proposed Exchange Rule 21.12(b)(3); see also Cboe Options Rule 5.10(b)(3).

<sup>16</sup> See proposed Exchange Rule 21.12(b)(7); see also Cboe Options Rule 5.10(b)(7).

<sup>17</sup> An “Authorized User” refers to a User that has written authorization as described in proposed Rule 21.12(c)(2) to give up a Restricted OCC Number. See proposed Exchange Rule 21.12(a).

<sup>18</sup> Supra note 14.

As amended, Rule 21.12(b)(2) would define the term Guarantor as a Clearing Member that has issued a Letter of Guarantee for the executing User, pursuant to the Rules of the Exchange<sup>19</sup> that are in effect at the time of the execution of the applicable trade.<sup>20</sup> An executing User may give up its Guarantor without such Guarantor being a Designated Give Up. The Exchange's Rule 22.8 provides that a Letter of Guarantee is required to be issued and filed by each Clearing Member through which a User clears transactions. Accordingly, a Market-Maker would only be enabled to give up a Guarantor that had executed a Letter of Guarantee on its behalf pursuant to Rule 22.8. Thus, Market-Makers would not identify any Designated Give Ups.

Proposed Rule 21.12(c) would provide that Clearing Members may request the Exchange restrict one or more of their OCC numbers ("Opt In") from being given up unless otherwise authorized.<sup>21</sup> If a Clearing Member Opts In, the Exchange will require written authorization from the Clearing Member permitting a User to give up a Clearing Member's Restricted OCC number.<sup>22</sup> An Opt In would remain in effect until the Clearing Member terminates the Opt In as described in proposed subparagraph (c)(3).<sup>23</sup> If a Clearing Member does not Opt In, that Clearing Member's OCC number may be subject to being given up by any User that has designated it as a Designated Give Up.<sup>24</sup> Proposed Rule 21.12(c)(1) will set forth the process by which a Clearing Member may Opt In.<sup>25</sup>

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<sup>19</sup> See Exchange Rule 22.8 (Letters of Guarantee).

<sup>20</sup> See proposed Exchange Rule 21.12(b)(2); see also Cboe Options Rule 5.10(b)(2).

<sup>21</sup> See proposed Exchange Rule 21.12(c); see also Cboe Options Rule 5.10(c).

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> See proposed Exchange Rule 21.12(c)(1); see also Cboe Options Rule 5.10(c)(1).

Specifically, a Clearing Member may Opt In by sending a completed “Clearing Member Restriction Form” listing all Restricted OCC Numbers and Authorized Users.<sup>26</sup> A copy of the proposed form is included in Exhibit 3. A Clearing Member may elect to restrict one or more OCC clearing numbers that are registered in its name at the OCC.<sup>27</sup> The Clearing Member would be required to submit the Clearing Member Restriction Form to the Exchange’s MSD as described on the form. Once submitted, the Exchange requires ninety days before a Restricted OCC Number is effective within the System.<sup>28</sup> This time period is to provide adequate time for the Users of that Restricted OCC Number who are not initially specified by the Clearing Member as Authorized Users to obtain the required written authorization from the Clearing Member for that Restricted OCC Number. Such Users would still be able to give up that Restricted OCC Number during this ninety day period (i.e., until the number becomes restricted within the System).

Proposed Rule 21.12(c)(2) will set forth the process for Users to give up a Clearing Member’s Restricted OCC Number.<sup>29</sup> Specifically, a User desiring to give up a Restricted OCC Number must become an Authorized User.<sup>30</sup> The Clearing Member will be required to authorize a User as described in subparagraph (1) or (3) of Rule 21.12(c) (i.e., through a Clearing Member Restriction Form), unless the Restricted OCC Number

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<sup>26</sup> This form will be available on the Exchange’s website. The Exchange will also maintain, on its web site, a list of the Restricted OCC Numbers, which will be updated on a regular basis, and the Clearing Member’s contact information to assist Users (to the extent they are not already Authorized Users) with requesting authorization for a Restricted OCC Number. The Exchange may utilize additional means to inform its Members of such updates on a periodic basis.

<sup>27</sup> Supra note 29.

<sup>28</sup> Supra note 29.

<sup>29</sup> See proposed Exchange Rule 21.12(c)(2); see also Cboe Options Rule 5.10(c)(2).

<sup>30</sup> Id.

is already subject to a Letter of Guarantee that the User is a party to, as set forth in Rule 21.12(b)(6).<sup>31</sup> Pursuant to proposed Rule 21.12(c)(3), a Clearing Member may amend the list of its Authorized Users or Restricted OCC Numbers by submitting a new Clearing Member Restriction Form to the Exchange's MSD indicating the amendment as described on the form.<sup>32</sup> Once a Restricted OCC Number is effective within the System pursuant to Rule 21.12(c)(1), the Exchange may permit the Clearing Member to authorize, or remove authorization for, a User to give up the Restricted OCC Number intra-day only in unusual circumstances, and on the next business day in all regular circumstances.<sup>33</sup> The Exchange will promptly notify Users if they are no longer authorized to give up a Clearing Member's Restricted OCC Number.<sup>34</sup> If a Clearing Member removes a Restricted OCC Number, any User may give up that OCC clearing number once the removal has become effective on or before the next business day, provided that Clearing Member has been designated as a Designated Give Up.<sup>35</sup>

As noted above, amended Rule 21.12 would provide that a User may only give up (A) a Clearing Member that has previously been identified and processed by the Exchange as a Designated Give Up for that User, provided that the Designated Give Up has not Opted In, or provided that the User is an Authorized User of that Designated Give Up, or (B) a Guarantor for that user.<sup>36</sup> This proposed requirement would be enforced by

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<sup>31</sup> Id.

<sup>32</sup> See proposed Exchange Rule 21.12(c)(3) and (e); see also Cboe Options Rule 5.10(c)(3) and (e).

<sup>33</sup> Id.

<sup>34</sup> Id.

<sup>35</sup> Id.

<sup>36</sup> See proposed Exchange Rule 21.12(b)(3); see also Cboe Options Rule 5.10(b)(3).

the Exchange's trading systems.<sup>37</sup> Specifically, the Exchange has configured its trading systems to only accept orders from a User that identifies a Designated Give Up or Guarantor for that User. For any Restricted OCC Number, the Exchange's trading systems will only accept orders for that number from an Authorized User that has also designated that Clearing Member as a Designated Give Up. The System would reject any order entered by a User not meeting the aforementioned criteria. The Exchange notes that it would notify a User in writing when an identified Designated Give Up becomes effective (i.e., when a Clearing Member has been identified by the User as a Designated Give Up, has been enabled by the Exchange's trading systems to be given up).<sup>38</sup> A Guarantor for a User, by virtue of having an effective Letter of Guarantee on file with the Exchange, would be enabled to be given up for that User without any further action by the User.<sup>39</sup> The Exchange notes that this configuration (i.e., the trading systems accepting only orders that identify a Designated Give Up or a Guarantor) is intended to help reduce keypunch errors (errors involving erroneous data entry), and prevent the User from mistakenly giving up the name of a Clearing Member that it does not have the ability to give up a trade. However, in light of Clearing Members having the ability to restrict their OCC numbers from being given up by unauthorized Users, the Exchange does not propose to adopt a process for Clearing Members to "reject" trades.<sup>40</sup>

The Exchange also proposes in Rule 21.12(f) three scenarios in which a give up

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<sup>37</sup> See proposed Exchange Rule 21.12(d); see also Cboe Options Rule 5.10(d).

<sup>38</sup> See proposed Exchange Rule 21.12(e); see also Cboe Options Rule 5.10(e).

<sup>39</sup> See proposed Exchange Rule 21.12(b)(6); see also Cboe Options Rule 5.10(b)(6).

<sup>40</sup> See paragraph (f) of existing EDGX Options Rule 21.12 and C2 Options Rule 6.30(f). The Exchange notes, that the EDGX Options and C2 Options Proposed Give Up Rule seeks to eliminate existing paragraph (f). Further, Cboe Options Rule 5.10 does not have a process for Clearing Members to "reject" trades.

on a transaction may be changed without Exchange involvement.<sup>41</sup> First, if an executing User has the ability through an Exchange system to do so, it could change the give up on a trade to another Designated Give Up, provided it's an Authorized User for any Restricted OCC Number, or its Guarantor.<sup>42</sup> The Exchange notes that Users often make these changes when, for example, there is a keypunch error. The ability of the executing User to make any such change would end at the "Trade Date Cutoff Time".<sup>43</sup> Next, the modified rule would provide that, if a Designated Give Up has the ability to do so, it may change the give up on a transaction for which it was given up to (A) another Clearing Member affiliated with the Designated Give Up or (B) a Clearing Member for which the Designated Give Up is a back office agent.<sup>44</sup> The ability to make such a change would end at the Trade Date Cutoff Time.<sup>45</sup> The Exchange notes that often Clearing Members themselves have the ability to change a give up on a trade for which it was given up to another Clearing Member affiliate or Clearing Member for which the Designated Give Up is a back office agent. Therefore, Exchange involvement in these instances is not necessary. In addition, the proposed rule provides that if both a Designated Give Up or Guarantor and a Clearing Member have the ability through an Exchange system to do so, the Designated Give Up or Guarantor and Clearing Member may each enter trade records into the Exchange's systems on the next trading day ("T+1") that would effect a transfer

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<sup>41</sup> See proposed Exchange Rule 21.12(f); see also Cboe Options Rule 5.10(f).

<sup>42</sup> See proposed Exchange Rule 21.12(f)(1); see also Cboe Options Rule 5.10(f)(1).

<sup>43</sup> The "Trade Date Cutoff Time" is established by the Clearing Corporation (or 15 minutes thereafter if the Exchange receives and is able to process a request to extend its time of final trade submission to the Clearing Corporation). Id.

<sup>44</sup> See proposed Exchange Rule 21.12(f)(2); see also Cboe Options Rule 5.10(f)(2).

<sup>45</sup> Id.

of the trade in a non-expired option series from that Designated Give Up (or Guarantor) to that Clearing Member.<sup>46</sup> The Designated Give Up or Guarantor could not make any such change after the T+1 Cutoff Time.<sup>47</sup> The Exchange notes that a Designated Give Up or Guarantor must notify, in writing, the Exchange and all the parties to the trade, of any such change made pursuant to this provision.<sup>48</sup> This notification alerts the parties and the Exchange that a change to the give up has been made. Finally, the Designated Give Up or Guarantor would be responsible for monitoring the trade and ensuring that the other Clearing Member has entered its side of the transaction timely and correctly. If either a Designated Give Up (or Guarantor) or Clearing Member cannot themselves enter trade records into the Exchange's systems to effect a transfer of the trade from one to the other, the Designated Give Up (or Guarantor) may request the ability from the Exchange to enter both sides of the transaction in accordance with amended Rule 21.12(f)(3).

The Exchange proposes Rule 21.12(g) to state that a Clearing Member would be financially responsible for all trades for which it is the give up at the Applicable Cutoff Time (for purposes of the proposed rule, the "Applicable Cutoff Time" shall refer to the T+1 Cutoff Time for non-expiring option series and to the Trade Date Cutoff Time for expiring option series).<sup>49</sup> The Exchange notes, however, that nothing in the proposed rule shall preclude a different party from being responsible for the trade outside of the Rules of the Exchange pursuant to OCC Rules, any agreement between the applicable parties,

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<sup>46</sup> See proposed Exchange Rule 21.12(f)(3); see also Cboe Options Rule 5.10(f)(3).

<sup>47</sup> The "T+1 Cutoff Time" is 1:00 p.m. Eastern Time on T+1; see proposed Exchange Rule 21.12(f)(3); see also Cboe Options Rule 5.10(f)(3) (which provides a cutoff time of 12:00 p.m. Central Time).

<sup>48</sup> Id.

<sup>49</sup> See proposed Exchange Rule 21.12(g); see also Cboe Options Rule 5.10(g).

other applicable rules and regulations, arbitration, court proceedings or otherwise.<sup>50</sup>

Additionally, the proposed Rule does not preclude these factors from being considered in a different forum (e.g., court or arbitration), nor does it preclude any Clearing Member that violates any provision of amended Rule 21.12 from being subject to disciplinary actions in accordance with Exchange rules.

The Exchange also proposes to adopt subparagraph (h) of Rule 21.12 to provide that an intentional misuse of this Rule is impermissible, and may be treated as a violation of Rule 3.1, titled “Business Conduct of Members”.<sup>51</sup> This language will make clear that the Exchange will regulate an intentional misuse of this Rule, and that such behavior would be a violation of Exchange rules. The proposed language is similar to corresponding provisions in other exchanges’ give up rules.<sup>52</sup>

Lastly, the Exchange proposes to amend its current Member Notification of Designated Give ups Form (“Designated Give ups Form”). As of October 7, 2019 the Cboe affiliated Options Exchanges are on the same technology platform. To provide further harmonization across the Cboe affiliated Options Exchanges and provide more seamless administration of the Give Up rule, the Exchange proposes to adopt the forms currently applicable to the Cboe Exchange, Inc., which will be applicable to all Cboe

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<sup>50</sup> See proposed Interpretation and Policy .01 to Exchange Rule 21.12 (“Nothing herein will be deemed to preclude the clearance of Exchange transactions by a non-User pursuant to the By-Laws of the Options Clearing Corporation so long as a Clearing Member who is a User is also designated as having responsibility under these Rules for the clearance of such transactions.”); see also Interpretation and Policy .01 to Cboe Options Rule 5.10.

<sup>51</sup> See Cboe Options Rule 5.10(h), which states that intentional misuse of Rule 5.10 may be treated as a violation of Rule 8.1 (Just and Equitable Principles of Trade).

<sup>52</sup> See e.g., Cboe Options Rule 5.10(h).



affiliated Options Exchanges. The proposed Designated Give Up forms are included in Exhibit 3.

#### Implementation Date

The Exchange proposes to announce the implementation date of the proposed rule change in an Exchange Notice, to be published no later than thirty (30) days following the operative date. The implementation date will be no later than sixty (60) days following the operative date.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>53</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>54</sup> 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 facilitation 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)<sup>55</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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<sup>53</sup> 15 U.S.C. 78f(b).

<sup>54</sup> 15 U.S.C. 78f(b)(5).

<sup>55</sup> Id.

Detailing in the rules how Users would give up Clearing Members provides transparency and operational certainty. The Exchange believes additional transparency removes a potential impediment to, and would contribute to perfecting, the mechanism of a free and open market and a national market system, and, in general, would protect investors and the public interest. Moreover, the Exchange notes that amended Rule 21.12 requires Users to adhere to a standardized process to ensure a seamless administration of the Rule. For example, all notifications relating to a change in give up must be made in writing. The Exchange believes that these requirements will aid the Exchange's efforts to monitor and regulate Users and Clearing Members as they relate to amended Rule 21.12 and changes in give ups, thereby protecting investors and the public interest.

Further, as discussed above, several clearing firms affiliated with SIFMA have recently expressed concerns relating to the current give up process, which permits Users to identify any Clearing Member as a Designated Give Up for purposes of clearing particular transactions, and have identified the current give up process (i.e., a process that lacks authorization) as a significant source of risk for clearing firms. The Exchange believes that the proposed changes to Rule 21.12 help alleviate this risk by enabling Clearing Members to 'Opt In' to restrict one or more of its OCC clearing numbers (i.e., Restricted OCC Numbers), and to specify which Authorized Users may give up those Restricted OCC Numbers. As described above, all other Users would be required to receive written authorization from the Clearing Member before they can give up that Clearing Member's Restricted OCC Number. The Exchange believes that this authorization provides proper safeguards and protections for Clearing Members as it provides controls for Clearing Members to restrict access to their OCC clearing numbers,

allowing access only to those Authorized Users upon their request. The Exchange also believes that its proposed Clearing Member Restriction Form allows the Exchange to receive in a uniform fashion, written and transparent authorization from Clearing Members, which ensures seamless administration of the Rule.

The Exchange believes that the proposed Opt In process strikes the right balance between the various views and interests across the industry. For example, although the proposed rule would require Users (other than Authorized Users) to seek authorization from Clearing Members in order to have the ability to give them up, each User will still have the ability to give up a Restricted OCC Number that is subject to a Letter of Guarantee without obtaining any further authorization if that User is party to that arrangement. The Exchange also notes that to the extent the executing User has a clearing arrangement with a Clearing Members (i.e., through a Letter of Guarantee), a trade can be assigned to the executing User's Guarantor. Accordingly, the Exchange believes that the proposed rule change is reasonable and continues to provide certainty that a Clearing Members would be responsible for a trade, which protects investors and the public interest.

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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose an unnecessary burden on intramarket competition because it would apply equally to all similarly situated Members. The Exchange also notes that, should the proposed changes make the Exchange more attractive for trading, market participants trading on other exchanges can always elect to become Members on the Exchange to take advantage of

the trading opportunities. Furthermore, the proposed rule change does not address any competitive issues and ultimately, the target of the Exchange's proposal is to provide transparency and operational certainty to the Exchange's give up process, and also to reduce risk for Clearing Members. Clearing firms make financial decisions based on risk and reward, and while it is generally in their beneficial interest to clear transactions for market participants in order to generate profit, it is the Exchange's understanding from SIFMA and clearing firms that the current process can create significant risk when the clearing firm can be given up on any market participant's transaction, even where there is no prior customer relationship or authorization for that designated transaction. In the absence of a mechanism that governs a market participant's use of a Clearing Member's services, the Exchange's proposal may indirectly facilitate the ability of a Clearing Member to manage their existing customer relationships while continuing to allow market participant choice in broker execution services. While Clearing Members may compete with executing brokers for order flow, the Exchange does not believe this proposal imposes an undue burden on competition. Rather, the Exchange believes that the proposed rule change balances the need for Clearing Members to manage risks and allows them to address outlier behavior from executing brokers while still allowing freedom of choice to select an executing broker.

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 written 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:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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<sup>56</sup> and Rule 19b-4(f)(6)<sup>57</sup> thereunder. 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBZX-2020-002 on the subject line.

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<sup>56</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>57</sup> 17 CFR 240.19b-4(f)(6).

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-CboeBZX-2020-002. This file number should be included on the subject line if e-mail 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, D.C. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2020-002 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>58</sup>

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<sup>58</sup> 17 CFR 200.30-3(a)(12).

Secretary

EXHIBIT 3

Index to Forms in Exhibit 3

1. Clearing TPH Restriction Form
2. Notification Form



**CLEARING TRADING PERMIT HOLDER/MEMBER RESTRICTION FORM****Clearing TPH/Member:**

In accordance with Cboe Markets' rules, the Clearing TPH/Member listed above authorizes Cboe to restrict The Options Clearing Corporation ("OCC") number(s) listed below requiring prior authorization for use as a Give-Up on Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Cboe BZX Exchange, Inc., and/or Cboe EDGX Exchange, Inc., (collectively, "Cboe Markets"). The Clearing TPH/Member must indicate below the OCC number(s) to be restricted for each relevant Cboe Market.

**NOTE:** Once an OCC number is marked as restricted, no TPH/Member will be able to use that restricted OCC number unless they have either: (1) an executed clearing guarantee on file with Membership with that Clearing TPH/Member; or (2) the TPH/Member is authorized by the Clearing TPH/Member pursuant to the applicable Cboe Market rule.

**Instructions:** To authorize or revoke a TPH's/Member's use of a restricted OCC number, please enter the applicable information below and submit to [MembershipServices@cboe.com](mailto:MembershipServices@cboe.com). List the restricted OCC number in column 1 and provide, if applicable, each TPH/Member that is authorized or restricted on each OCC number in column 2. Check all applicable Cboe Markets in columns 5 through 8. If necessary, please attach additional sheets.

1	2	3	4	5	6	7	8
Restricted OCC Number	TPH/Member Name	Authorized	Revoked	Cboe Options	C2	Cboe BZX	Cboe EDGX
1							
2							
3							

By executing this Clearing TPH/Member Restriction Form, the Clearing TPH/Member grants Cboe permission to publish the Clearing TPH's/Member's restricted OCC number(s) on Cboe's website for purposes of providing notice to other exchange members that the Clearing TPH's/Member's OCC number(s) will not be available for Give Up.

Authorized Signature:

Date:

Print Name:

Title:

Clearing TPH/Member Contact Person (to be provided to market participants seeking authorization):

Email Address:	Phone:
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**TRADING PERMIT HOLDER/MEMBER  
NOTIFICATION OF IDENTIFIED DESIGNATED GIVE-UPS**

<b>TPH/Member Organization:</b>							
<p>In accordance with Cboe Markets' rules, the TPH/Member Organization listed above identifies the following Clearing TPHs/Members as Designated Give-Ups for the TPH/Member Organization on Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Cboe BZX Exchange, Inc., and/or Cboe EDGX Exchange, Inc., (collectively, "Cboe Markets"), as applicable. Restricted OCC Numbers will not be enabled unless the TPH/Member Organization listed above is an Authorized Trading Permit Holder for such Restricted OCC Number pursuant to the applicable Cboe Market rule</p> <p><b>Instructions:</b> Please enter the applicable information below and submit to <a href="mailto:MembershipServices@cboe.com">MembershipServices@cboe.com</a>. List the Designated Clearing TPH/Member in column 1 and provide, each respective OCC number being requested in column 2. Check whether requesting to enable Give-Up or disable Give-Up in columns 3 and 4. Finally check all applicable Cboe Markets in columns 5 through 8, as applicable. If necessary, please attach additional sheets.</p>							
1	2	3	4	5	6	7	8
Clearing TPH/Member	OCC #	Enable	Disable	Cboe Options	C2	Cboe BZX	Cboe EDGX
<b>1</b>							
<b>2</b>							
<b>3</b>							
<b>4</b>							
<b>5</b>							
Authorized Representative Signature:				Date:			
Print Name:				Title:			

Email Address:	Phone:
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## EXHIBIT 5

(additions are underlined; deletions are [bracketed])

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## Rules of Cboe BZX Exchange, Inc.

\* \* \* \* \*

## Rule 21.12. Clearing Member Give Up

[A User must give up the name of the Clearing Member through which the transaction will be cleared. If there is a subsequent change in identity of the Clearing Member through whom a transaction will be cleared, the User must, as promptly as possible, report such change to BZX Options.]

(a) General. For each transaction in which a User participates, the User may indicate, at the time of the trade or through post-trade allocation, any Options Clearing Corporation (“OCC”) number of the Clearing Member through which the transaction will be cleared (“give up”). The Clearing Member that is given up must be a Designated Give Up or a Guarantor of the User as set forth in paragraph (b) below. Clearing Members may elect to Opt In, as defined and described in paragraph (c) below, and restrict one or more of its OCC number(s) (“Restricted OCC Number”). A User may give up a Restricted OCC Number provided the User has written authorization as described in paragraph (c)(2) below (“Authorized User”) and provided the Restricted OCC Number belongs to a Designated Give Up of the User.

(b) Designated Give Ups.

(1) Definition of Designated Give Up. For purposes of this Rule, a Designated Give Up of a User refers to a Clearing Member identified to the Exchange by that User as a Clearing Member the User requests the ability to give up and that has been processed by the Exchange as a Designated Give Up.

(2) Definition of Guarantor. For purposes of this Rule, a “Guarantor” of an executing User refers to a Clearing Member that has issued a Letter of Guarantee for the executing User under the Rules of the Exchange that are in effect at the time of the execution of the applicable trade.

(3) Identification of Designated Give Up. Every User (other than a Market-Maker) must identify, in a form and manner prescribed by the Exchange and in advance of giving up any Clearing Member that is not a Guarantor for the User, any Designated Give Ups. A User shall only give up (A) a Clearing Member that has previously been identified and processed by the Exchange as a Designated Give Up for that User, provided that the Designated Give Up has not Opted In, or provided that the User is an Authorized User of that Designated Give Up, or (B) a Guarantor for that User.

(4) *Non Market-Makers.* Any User (other than a Market-Maker) may designate, pursuant to subparagraph (b)(3) above, any Clearing Member other than its Guarantor, as a Designated Give Up.

(5) *Market-Makers.* For each transaction in which a Market-Maker participates, a Guarantor of the Market-Maker shall be the Clearing Member through which the transaction will be cleared.

(6) *Guarantors.* A Guarantor for a User will be enabled to be given up for that User without any further action by the Clearing Member or User.

(7) *Removal of Designated Give Up.* If a User (other than a Market-Maker) no longer wants the ability to give up a particular Designated Give Up, the User must notify the Exchange, in a form and manner prescribed by the Exchange.

(c) *Opt In.* Clearing Members may request the Exchange restrict one or more of their OCC clearing numbers (“Opt In”) as described in subparagraph (c)(1) below. If a Clearing Member Opts In, the Exchange will require written authorization from the Clearing Member permitting a User to give up a Clearing Member’s Restricted OCC Number. An Opt In would remain in effect until the Clearing Member terminates the Opt In as described in subparagraph (c)(3) below. If a Clearing Member does not Opt In, that Clearing Member’s OCC number would be subject to give up by any User.

(1) *Clearing Member Process to Opt In.* A Clearing Member may Opt In by sending a completed “Clearing Member Restriction Form” listing all Restricted OCC Numbers and Authorized Users. A Clearing Member may elect to restrict one or more OCC clearing numbers that are registered in its name at OCC. The Clearing Member would be required to submit the Clearing Member Restriction Form to the Exchange’s Membership Department as described on the form. Once submitted, the Exchange requires ninety days before a Restricted OCC Number is effective within the System.

(2) *User Give Up Process for Restricted OCC Numbers.* A User desiring to give up a Restricted OCC Number must become an Authorized User. The Clearing Member will be required to authorize a User as described in subparagraph (1) or (3), unless the Restricted OCC Number is already subject to a Letter of Guarantee that the User is a party to.

(3) *Amendments to Authorized Users or Restricted OCC Numbers.* A Clearing Member may amend its Authorized Users or Restricted OCC Numbers by submitting a new Clearing Member Restriction Form to the Exchange’s Membership Department indicating the amendment as described on the form. Once a Restricted OCC Number is effective within the System pursuant to paragraph (1) above, the Exchange may permit the Clearing Member to authorize, or remove authorization for, a User to Give Up the Restricted OCC Number intra-day only in unusual circumstances, and on the next business day in all regular circumstances. The Exchange will promptly notify Users if they are no longer authorized to give up a Clearing Member’s Restricted OCC Number.

If a Clearing Member removes a Restricted OCC Number, any User may give up that OCC clearing number once the removal has become effective on or before the next business day, provided that the User has identified the Clearing Member as a Designated Give Up.

(d) *System.* The Exchange's trading systems shall only accept orders that identify an effective Designated Give Up or a Guarantor. For any Restricted OCC Number, the Exchange's trading systems will only accept orders for that number from an Authorized User that has also designated that Clearing Member as a Designated Give Up.

(e) *Notice.* The Exchange shall notify a Clearing Member, in writing and as soon as practicable, of each User that has identified the Clearing Member as a Designated Give Up pursuant to subparagraph (b)(3) above. The Exchange shall notify a User, in writing and as soon as practicable, of each Clearing Member that has identified the User as an Authorized User pursuant to subparagraph (c) above.

(f) *Other Give Up Changes.*

(1) *Give Up Changes Made by Executing User.* If the executing User has the ability through an Exchange system to do so, the User may change the give up on the trade to another Designated Give Up, provided it's an Authorized User for any Restricted OCC Number, or to its Guarantor. The ability of an executing User to make any give up change will end at the trade input cutoff time established by the Clearing Corporation (or fifteen minutes thereafter if the Exchange receives and is able to process a request to extend its time of final trade submission to the Clearing Corporation) ("Trade Date Cutoff Time").

(2) *Give Up Changes Made by Designated Give Up to Affiliates and Back Office Agents.* If a Designated Give Up has the ability through an Exchange system to do so, the Designated Give Up may change the give up on a trade to (A) another Clearing Member affiliated with the Designated Give Up or (B) a Clearing Member that is a back office agent for the Designated Give Up. The ability to make such a change will end at the Trade Date Cutoff Time.

(3) *Give Up Changes Made by Designated Give Ups or Guarantors and Clearing Members on T+1.* If a Designated Give Up (or Guarantor) and a Clearing Member have the ability through an Exchange system to do so, the Designated Give Up (or Guarantor) and Clearing Member may each enter trade records into the Exchange's systems on the next trading day ("T+1") that would effect a transfer of a trade in non-expired option series from that Designated Give Up (or Guarantor) to that Clearing Member. The ability to make such a change will end at 12:00 p.m. Eastern Time on T+1 ("T+1 Cutoff Time"). The Designated Give Up (or Guarantor) will notify the Exchange and all the parties to the trade, in writing, of any such change.

(g) *Responsibility.* For purposes of the Rules of the Exchange, a Clearing Member will be financially responsible for all trades for which it is the give up at the Applicable Cutoff Time. Nothing in this Rule will preclude a different party from being responsible for the trade outside of

the Rules of the Exchange pursuant to the Rules of the Options Clearing Corporation, any agreement between the applicable parties, other applicable rules and regulations, arbitration, court proceedings or otherwise. For purposes of this Rule, the “Applicable Cutoff Time” shall refer to the Cutoff Time for non-expiring option series and to the Trade Date Cutoff Time for expiring option series.

(h) *Misuse.* An intentional misuse of this Rule is impermissible, and may be treated as a violation of Rule 3.1.

*Interpretations and Policies*

.01 Nothing herein will be deemed to preclude the clearance of Exchange transactions by a non-User pursuant to the By-Laws of the Options Clearing Corporation so long as a Clearing Member who is a User is also designated as having responsibility under these Rules for the clearance of such transactions.

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