

*Required fields are shown with yellow backgrounds and asterisks.*

Filing by Cboe Exchange, Inc.  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

<b>Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010</b>	<b>Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934</b>
<b>Section 806(e)(1) *</b>	<b>Section 806(e)(2) *</b>
<input type="checkbox"/>	<input type="checkbox"/>
<b>Section 3C(b)(2) *</b>	
<input type="checkbox"/>	

<b>Exhibit 2 Sent As Paper Document</b>	<b>Exhibit 3 Sent As Paper Document</b>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

**Description**

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

The Exchange proposes to amend Rule 6.49A to eliminate the Exchange's on-floor position transfer procedure.

**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 \*  Last Name \*   
 Title \*   
 E-mail \*   
 Telephone \*  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    
 By

(Name \*)

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.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS 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

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

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 Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend Rule 6.49A to eliminate the Exchange’s on-floor position transfer procedure. 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 Chief Regulatory Officer pursuant to delegated authority approved the proposed rule change on August 14, 2018.

(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 Laura G. Dickman, (312) 786-7572, Cboe Exchange, Inc., 400 South LaSalle, Chicago, Illinois 60605.

**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 6.49A to delete the provisions related to on-floor position transfers and amend the provision regarding presidential exemptions. Rule 6.49A specifies the circumstances under which Trading Permit Holders may effect transfers of positions, both on and off the trading floor, notwithstanding the prohibition in Rule 6.49(a).<sup>1</sup> Rule 6.49A(a)(2) permits certain position transfers to occur on the floor of the exchange or on another options exchange. The procedures for such on-floor position

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<sup>1</sup> Rule 6.49 generally requires transactions of option contracts listed on the Exchange for a premium in excess of \$1.00 to be effected on the floor of the Exchange or on another exchange.

transfers are set forth in Rule 6.49A(b) and (c), as well as Interpretations and Policies .01 through .03. The Exchange no longer wants to make available on-floor transfers of positions, so the proposed rule change deletes paragraphs (a)(2), (b), and (c), and Interpretations and Policies .01 through .03<sup>2</sup> from Rule 6.49A.<sup>3</sup> The on-floor position transfer procedure is administratively burdensome on the Exchange, and is currently used by Trading Permit Holders on a limited basis. As the Exchange noted when the rule was adopted, the Exchange's "on-floor" procedure was intended to help ensure that Trading Permit Holders with a need to transfer positions in bulk as part of a sale or disposition of all or substantially all of a Trading Permit Holder's assets or options positions were able to get the best possible price for the positions while also ensuring that other Trading Permit Holders have an adequate opportunity to make bids and offers on the positions that are being transferred.<sup>4</sup> In addition, the Exchange noted the "on-floor" position transfer procedure could be used by Market-Makers that, for reasons other than a forced liquidation, such as an

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<sup>2</sup> The Exchange proposes to move the provision in Interpretation and Policy .03 that states the on-floor transfer procedure is not to be used repeatedly or routinely in circumvention of the normal auction market process to proposed paragraph (g), as that provision applies to both the current on-floor and off-floor position transfer procedures.

<sup>3</sup> The proposed rule change makes conforming changes to the paragraph lettering and numbering in current subparagraph (a)(1) (proposed subparagraph (a)). Because, as proposed, Rule 6.49A will only relate to off-floor transfers, the proposed rule change renames Rule 6.49A and adds a heading to proposed paragraph (a).

<sup>4</sup> See Exchange Act Release No. 36647 (December 28, 1995), 61 FR 566 (January 8, 1996) (Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendments No. 1 and 2 to a Proposed Rule Change Relating to the Transfer of Positions on the Floor of the Exchange in Cases of Dissolution and other Situations) (SR-CBOE-95-36).

extended vacation, wished to liquidate their entire, or nearly their entire, open positions in a single set of transactions, subject to certain restrictions.<sup>5</sup>

For example, the Exchange's on-floor transfer of positions rule was also intended to address the common situation in which a Designated Primary Market-Maker ("DPM") sold its business or in which a Market-Maker, for reasons other than a forced liquidation, such as an extended vacation, wished to liquidate its entire, or nearly entire, position in a single set of transactions.<sup>6</sup> Currently, because DPMs have been largely consolidated in the hands of firms rather than individuals, such transfers are, for the most part unnecessary; if an individual takes an extended vacation, another member of the firm handles the firm's book. Accordingly, the Exchange believes that the on-floor transfer of positions procedure no longer serves the uses for which it was originally adopted. The Exchange also notes that at least one other options exchange with a trading floor and a transfer of positions rule does not offer an on-floor transfer procedure.<sup>7</sup>

Current paragraph (d) (proposed paragraph (b)) contains exemptions to Rule 6.49A(a) that are approved by the Exchange's president.<sup>8</sup> The proposed rule change permits the President or a designee to grant an exemption to the Rule 6.49(a) prohibition if, in his or her judgment, allowing the off-floor transfer is necessary or appropriate for the maintenance of a fair and orderly market and the protection of investors and is in the public interest, including due to unusual or extraordinary circumstances such as the market value of the

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<sup>5</sup> Id. Among other restrictions, repeated and frequent use of the on-floor procedure in Rule 6.49A by a TPH is not permitted.

<sup>6</sup> Id.

<sup>7</sup> See, e.g., Nasdaq OMX PHLX LLC ("Phlx") 1058.

<sup>8</sup> Similar to the rules of other exchanges, the proposed rule change also lets a designee of the Exchange president grant an exemption. See, e.g., Arca Rule 6.78-O(f).

Person's positions will be comprised by having to comply with the requirement to trade on the Exchange pursuant to the normal auction process or, when in the judgment of President or his or her designee, market conditions make trading on the Exchange impractical. The proposed rule change updates language consistent with the change to only permit off-floor transfers. Additionally, the additional circumstances in which the President or a designee may grant an exemption are similar to those that the President or a designee may consider when taking action under emergency conditions pursuant to Rule 6.17.

The proposed rule change makes no changes to permissible off-floor position transfers.

(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>9</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</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 facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>11</sup> requirement that the rules of

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> Id.

an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change to eliminate the on-floor position transfer procedure promotes just and equitable principles of trade, helps remove impediments to and perfect the mechanism of a free and open market and a national market system, and promotes efficient administration of the Exchange, as it eliminates a complex procedure that is of limited use to Trading Permit Holders today but still imposes an administrative burden on the Exchange. The proposed rule change removes impediments to and perfects the mechanism of a free and open market, because it is similar to rules of other options exchanges. The Exchange also notes that at least one other options exchange with a trading floor and a transfer of positions rule does not offer an on-floor transfer procedure,<sup>12</sup> and at least one other options exchange lets a designee of the Exchange president grant an exemption.<sup>13</sup> Additionally, the additional circumstances in which the President or a designee may grant an exemption are similar to those that the President or a designee may consider when taking action under emergency conditions pursuant to Rule 6.17, and thus the proposed rule change does not significantly expand the Exchange's President's authority to take action when necessary or appropriate for the maintenance of a fair and orderly market and to protect investors.

**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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any

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<sup>12</sup> See, e.g., Nasdaq OMX PHLX LLC ("Phlx") 1058.

<sup>13</sup> See, e.g., NYSE Arca, Inc. ("Arca") Rule 6.78-O(f).

burden on intramarket competition, as the current on-floor position transfer procedure is of limited use to Trading Permit Holders today but still imposes an administrative burden on the Exchange. The proposed elimination of the on-floor position transfer promotes efficient administration of the Exchange, as it eliminates this complex procedure that is limited in application. Market participants will still be able to effect transactions on the Exchange pursuant to the normal auction process if an off-floor transfer is not permissible.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition. As discussed above, at least one other options exchange with a trading floor and a transfer of positions rule does not offer an on-floor transfer procedure,<sup>14</sup> and at least one other options exchange lets a designee of the Exchange president grant an exemption.<sup>15</sup> Additionally, the additional circumstances in which the President or a designee may grant an exemption are similar to those that the President or a designee may consider when taking action under emergency conditions pursuant to Rule 6.17, and thus the proposed rule change does not significantly expand the Exchange's President's authority to take action when necessary or appropriate for the maintenance of a fair and orderly market and to protect investors.

**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.

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<sup>14</sup> See, e.g., Nasdaq OMX PHLX LLC ("Phlx") 1058.

<sup>15</sup> See, e.g., NYSE Arca, Inc. ("Arca") Rule 6.78-O(f).

**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)**

(a) The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A) of Act<sup>16</sup> and Rule 19b-4(f)(6)<sup>17</sup> thereunder.

(b) The Exchange designates that the proposed rule change effects a change that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Additionally, the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

The proposed rule change does not significantly affect the protection of investors or the public interest, as it eliminates a complex procedure that is of limited use to Trading Permit Holders today but still imposes an administrative burden on the Exchange. The proposed elimination of the on-floor position transfer promotes efficient administration of the Exchange, as it eliminates this complex procedure that is limited in application. Market participants will still be able to effect off-floor transfers as are

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<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

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

currently permitted, and will still be able to effect transactions on the Exchange pursuant to the normal auction process if an off-floor transfer is not permissible.

The proposed rule change does not impose any significant burden on competition. The current on-floor position transfer procedure is of limited use to Trading Permit Holders today but still imposes an administrative burden on the Exchange. Additionally, as discussed above, at least one other options exchange with a trading floor and a transfer of positions rule does not offer an on-floor transfer procedure,<sup>18</sup> and at least one other options exchange lets a designee of the Exchange president grant an exemption.<sup>19</sup> Additionally, the additional circumstances in which the President or a designee may grant an exemption are similar to those that the President or a designee may consider when taking action under emergency conditions pursuant to Rule 6.17, and thus the proposed rule change does not significantly expand the Exchange's President's authority to take action when necessary or appropriate for the maintenance of a fair and orderly market and to protect investors.

For the foregoing reasons, this rule filing qualifies as a "non-controversial" rule change under Rule 19b-4(f)(6), which renders the proposed rule change effective upon filing with the Commission. At any time within 60 days of the filing of this 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.

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<sup>18</sup> See, e.g., Nasdaq OMX PHLX LLC ("Phlx") 1058.

<sup>19</sup> See, e.g., NYSE Arca, Inc. ("Arca") Rule 6.78-O(f).

(c) Not applicable.

(d) Not applicable.

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

As discussed above, the proposed rule change is substantially similar to Phlx Rule 1058 and Arca Rule 6.78-O. The proposed rule change differs as follows, but the Exchange does not believe these differences are material:

- Arca Rule 6.78-O(e) offers an on-floor transfer procedure, which the proposed rule change deletes from Rule 6.49A.
- Phlx Rule 1058 does not permit for presidential exemptions. Current Rule 6.49A permits such exemptions, and the proposed changes to permit exemptions in the interest of a fair and orderly market, to protect investors, and in the public interest are consistent with the Exchange Act requirements with respect to rules of self-regulatory organizations.

**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 5. Proposed rule text.

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CBOE-2019-024]

[Insert date]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend Rule 6.49A to Eliminate the Exchange's On-Floor Position Transfer Procedure

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 Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<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 Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend Rule 6.49A to eliminate the Exchange's on-floor position transfer procedure. 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://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

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

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

#### **1. Purpose**

The Exchange proposes to amend Rule 6.49A to delete the provisions related to on-floor position transfers and amend the provision regarding presidential exemptions. Rule 6.49A specifies the circumstances under which Trading Permit Holders may effect transfers of positions, both on and off the trading floor, notwithstanding the prohibition in Rule 6.49(a).<sup>5</sup> Rule 6.49A(a)(2) permits certain position transfers to occur on the floor of the exchange or on another options exchange. The procedures for such on-floor position transfers are set forth in Rule 6.49A(b) and (c), as well as Interpretations and Policies .01 through .03. The Exchange no longer wants to make available on-floor transfers of positions, so the proposed rule change deletes paragraphs (a)(2), (b), and (c), and

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<sup>5</sup> Rule 6.49 generally requires transactions of option contracts listed on the Exchange for a premium in excess of \$1.00 to be effected on the floor of the Exchange or on another exchange.

Interpretations and Policies .01 through .03<sup>6</sup> from Rule 6.49A.<sup>7</sup> The on-floor position transfer procedure is administratively burdensome on the Exchange, and is currently used by Trading Permit Holders on a limited basis. As the Exchange noted when the rule was adopted, the Exchange's "on-floor" procedure was intended to help ensure that Trading Permit Holders with a need to transfer positions in bulk as part of a sale or disposition of all or substantially all of a Trading Permit Holder's assets or options positions were able to get the best possible price for the positions while also ensuring that other Trading Permit Holders have an adequate opportunity to make bids and offers on the positions that are being transferred.<sup>8</sup> In addition, the Exchange noted the "on-floor" position transfer procedure could be used by Market-Makers that, for reasons other than a forced liquidation, such as an extended vacation, wished to liquidate their entire, or nearly their entire, open positions in a single set of transactions, subject to certain restrictions.<sup>9</sup>

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<sup>6</sup> The Exchange proposes to move the provision in Interpretation and Policy .03 that states the on-floor transfer procedure is not to be used repeatedly or routinely in circumvention of the normal auction market process to proposed paragraph (g), as that provision applies to both the current on-floor and off-floor position transfer procedures.

<sup>7</sup> The proposed rule change makes conforming changes to the paragraph lettering and numbering in current subparagraph (a)(1) (proposed subparagraph (a)). Because, as proposed, Rule 6.49A will only relate to off-floor transfers, the proposed rule change renames Rule 6.49A and adds a heading to proposed paragraph (a).

<sup>8</sup> See Exchange Act Release No. 36647 (December 28, 1995), 61 FR 566 (January 8, 1996) (Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendments No. 1 and 2 to a Proposed Rule Change Relating to the Transfer of Positions on the Floor of the Exchange in Cases of Dissolution and other Situations) (SR-CBOE-95-36).

<sup>9</sup> Id. Among other restrictions, repeated and frequent use of the on-floor procedure in Rule 6.49A by a TPH is not permitted.

For example, the Exchange's on-floor transfer of positions rule was also intended to address the common situation in which a Designated Primary Market-Maker ("DPM") sold its business or in which a Market-Maker, for reasons other than a forced liquidation, such as an extended vacation, wished to liquidate its entire, or nearly entire, position in a single set of transactions.<sup>10</sup> Currently, because DPMs have been largely consolidated in the hands of firms rather than individuals, such transfers are, for the most part unnecessary; if an individual takes an extended vacation, another member of the firm handles the firm's book. Accordingly, the Exchange believes that the on-floor transfer of positions procedure no longer serves the uses for which it was originally adopted. The Exchange also notes that at least one other options exchange with a trading floor and a transfer of positions rule does not offer an on-floor transfer procedure.<sup>11</sup>

Current paragraph (d) (proposed paragraph (b)) contains exemptions to Rule 6.49A(a) that are approved by the Exchange's president.<sup>12</sup> The proposed rule change permits the President or a designee to grant an exemption to the Rule 6.49(a) prohibition if, in his or her judgment, allowing the off-floor transfer is necessary or appropriate for the maintenance of a fair and orderly market and the protection of investors and is in the public interest, including due to unusual or extraordinary circumstances such as the market value of the Person's positions will be comprised by having to comply with the requirement to trade on the Exchange pursuant to the normal auction process or, when in the judgment of President or his or her designee, market conditions make trading on the Exchange

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<sup>10</sup> Id.

<sup>11</sup> See, e.g., Nasdaq OMX PHLX LLC ("Phlx") 1058.

<sup>12</sup> Similar to the rules of other exchanges, the proposed rule change also lets a designee of the Exchange president grant an exemption. See, e.g., Arca Rule 6.78-O(f).

impractical. The proposed rule change updates language consistent with the change to only permit off-floor transfers. Additionally, the additional circumstances in which the President or a designee may grant an exemption are similar to those that the President or a designee may consider when taking action under emergency conditions pursuant to Rule 6.17.

The proposed rule change makes no changes to permissible off-floor position transfers.

## 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>13</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>14</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 facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>15</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>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> Id.

The Exchange believes that the proposed rule change to eliminate the on-floor position transfer procedure promotes just and equitable principles of trade, helps remove impediments to and perfect the mechanism of a free and open market and a national market system, and promotes efficient administration of the Exchange, as it eliminates a complex procedure that is of limited use to Trading Permit Holders today but still imposes an administrative burden on the Exchange. The proposed rule change removes impediments to and perfects the mechanism of a free and open market, because it is similar to rules of other options exchanges. The Exchange also notes that at least one other options exchange with a trading floor and a transfer of positions rule does not offer an on-floor transfer procedure,<sup>16</sup> and at least one other options exchange lets a designee of the Exchange president grant an exemption.<sup>17</sup> Additionally, the additional circumstances in which the President or a designee may grant an exemption are similar to those that the President or a designee may consider when taking action under emergency conditions pursuant to Rule 6.17, and thus the proposed rule change does not significantly expand the Exchange's President's authority to take action when necessary or appropriate for the maintenance of a fair and orderly market and to protect investors.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the current on-floor position transfer procedure is

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<sup>16</sup> See, e.g., Nasdaq OMX PHLX LLC ("Phlx") 1058.

<sup>17</sup> See, e.g., NYSE Arca, Inc. ("Arca") Rule 6.78-O(f).

of limited use to Trading Permit Holders today but still imposes an administrative burden on the Exchange. The proposed elimination of the on-floor position transfer promotes efficient administration of the Exchange, as it eliminates this complex procedure that is limited in application. Market participants will still be able to effect transactions on the Exchange pursuant to the normal auction process if an off-floor transfer is not permissible.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition. As discussed above, at least one other options exchange with a trading floor and a transfer of positions rule does not offer an on-floor transfer procedure,<sup>18</sup> and at least one other options exchange lets a designee of the Exchange president grant an exemption.<sup>19</sup> Additionally, the additional circumstances in which the President or a designee may grant an exemption are similar to those that the President or a designee may consider when taking action under emergency conditions pursuant to Rule 6.17, and thus the proposed rule change does not significantly expand the Exchange's President's authority to take action when necessary or appropriate for the maintenance of a fair and orderly market and to protect investors.

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.

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<sup>18</sup> See, e.g., Nasdaq OMX PHLX LLC ("Phlx") 1058.

<sup>19</sup> See, e.g., NYSE Arca, Inc. ("Arca") Rule 6.78-O(f).

### **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>20</sup> and Rule 19b-4(f)(6)<sup>21</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

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<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 17 CFR 240.19b-4(f)(6).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2019-024 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2019-024. 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-CBOE-2019-024 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>22</sup>

Secretary

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<sup>22</sup> 17 CFR 200.30-3(a)(12).

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

\* \* \* \* \*

**Cboe Exchange, Inc.  
Rules**

\* \* \* \* \*

**Rule 6.49A. Off-Floor Transfers of Positions**

(a)[(1)] Permissible Off-Floor Transfers. Notwithstanding the prohibition set forth in Rule 6.49[(a)], the following transfers involving a Trading Permit Holder's positions may be effected off the Exchange[floor]:

[(i)](1) the dissolution of a joint account in which the remaining Trading Permit Holder assumes the positions of the joint account;

[(ii)](2) the dissolution of a corporation or partnership in which a former nominee of the corporation or partnership assumes the positions;

[(iii)](3) positions transferred as part of a Trading Permit Holder's capital contribution to a new joint account, partnership, or corporation;

[(iv)](4) the donation of positions to a not-for-profit corporation;

[(v)](5) the transfer of positions to a minor under the [“]Uniform Gifts to Minors Act[“ law]; [and/]or

[(vi)](6) a merger or acquisition where continuity of ownership or management results.

[(2) Each Trading Permit Holder seeking to transfer positions in any class of options listed on the Exchange as principal or agent may effect such transactions on (i) the Exchange pursuant to the procedure set forth in paragraph (c) of this Rule or on (ii) another exchange on which such option contracts are listed and traded, if the transfer results in a discontinuation of management or ownership of all or substantially all of the assets or options positions of the Transferor.

(b) Positions Subject to Transfer Procedure.

(1) In addition to the option positions permitted to be transferred pursuant to paragraph (a) of this Rule, the transferor may specify any other positions in any instruments that are traded on a securities exchange or instruments whose bids and offers are reported on the automated quotation system operated by the National Association of Securities Dealers, Inc. (“NASD”)(“Transfer Positions”) that the Transferor intends to transfer pursuant to the provisions of paragraph (c),

where those positions are being transferred pursuant to a discontinuation of the management or ownership of the option positions.

(2) In offering these Transfer Positions on the floor, the transferor may offer the Transfer Positions in any combination of instruments, subject to the limitations of paragraph (c)(1) below, provided that each combination has at least one option position required to be transferred pursuant to paragraph (a) that is a material part of such combination. Such offers must be made in a form and manner as prescribed by the Exchange from time to time.

(c) Transfer Procedure.

(1) A “Transfer Package” is the set of options or other financial products being offered by the Transferor as a package, to be bid upon at a net debit or credit for the entire Transfer Package. A single Transfer Package may include no more than one class of option listed on the Exchange, but may also include stock or other securities. A Transferor may offer multiple Transfer Packages on the floor at the same time or on the same day.

(2) A “Transferor” is the Trading Permit Holder or TPH organization submitting the Transfer Package(s) to the floor.

(3) Any Transfer Package consisting solely of positions in one option class, but that does not include stock or other securities, shall be offered by the Transferor at the post at which that option class is traded (“Post-Specific Transfer Packages”). Components of “Post-Specific Transfer Packages” should be individually priced and reported and are subject to the ordinary procedures for trading options, and not those set forth in this paragraph, unless a bid or offer is made for a combination of Transfer Packages pursuant to paragraph (c)(10) of this Rule.

(4) Any Transfer Package consisting of positions in an option class as well as other financial instruments must be offered at the FLEX post. In addition, notice must be given to the OBO of each post (or the DPM for the particular class, as appropriate) where a component of the Transfer Package trades.

(5) Any firm submitting a Transfer Package must designate a Trading Permit Holder or a person associated with a Trading Permit Holder (“Transferor Designee”) to represent the order on the floor of the exchange. The Transferor Designee must be available on the floor to answer questions regarding the Transfer Package during the entire Request Response Time.

(6) To the extent applicable and as modified pursuant to this paragraph, Transfer Packages offered at the FLEX post would be subject to the procedures set forth in Rule 24A.5 (FLEX Trading Procedures and Principles), sections (a)(2)(i) through (iii).

(7) Acceptance of the best bid or offer (“BBO”) creates a binding contract under Rule 6.48. The Transferor is not obligated to accept the BBO. In the event the Transferor does not accept the BBO, the Transferor may request an exemption

pursuant to paragraph (d) of this Rule, or may offer the Transfer Package(s)(or the Transfer Positions in any other allowable combination) on the floor the next day pursuant to the procedures in this Rule. In the event the Transferor decides not to accept a BBO a second day, the Transferor must request permission of the President of the Exchange to offer the Transfer Positions on any subsequent day.

(8) The “Request Response Time” for a “Request for Quotes” (“RFQ”) for Transfer Packages shall be two hours. The transferor may apply to the President of the Exchange to have a Request Response Time for a transfer procedure that is less than two hours, where the Transfer Package is not complicated, or that is greater than two hours, where the complexity of the particular Transfer Package warrants the additional time.

(9) Any Request for Quotes that is to be submitted later than 12:30 p.m. (or two and one half hours prior to an early scheduled close) must have the approval of the President of the Exchange to have a Request Response Time of less than two hours. In no event may a Request for Quotes be submitted to the floor later than 2:30 p.m. (or thirty minutes prior to an early scheduled close).

(10) The Transferor may accept a bid or offer for any combination of the Transfer Packages he has offered on the floor, if the accepted bid or offer for a combination of the Transfer Packages is better than (i) the aggregate of the individual BBOs for the particular Transfer Packages bid for and (ii) any bid or offer for the same combination of Transfer Packages.

(11) In the event the Transfer Package includes stock positions or other positions that must be transacted on another exchange pursuant to applicable law or regulation (“Off Floor Portions”), then any accepted quote for the Transfer Package shall give rise to a contract for the option portion of the Transfer Package the price of which is contingent upon the price at which those other portions of the transaction may be done. The price at which the option position shall be transacted is the price that is required to have the entire Transfer Package trade at the agreed upon net debit or credit, taking into consideration the prices at which the Off Floor Portions have been transacted. All transactions required to be completed in order to effectuate transfer of the Transfer Package must be completed in time that the option portion may be transacted by the end of the trading day.

(12) In the event that a transaction in a non-Cboe Options listed component of the Transfer Package cannot be completed in a timely manner due to a trading halt, some other operational problem outside the control of the parties, or the closing of the market before the transaction can be completed, the trade for the option portion of the trade may be canceled at the election of any Trading Permit Holder that is a party to that trade.

(13) In the event that equal bids or offers are received for a Transfer Package at a price accepted by the Transferor, the Transfer Package will be split equally among all Trading Permit Holders submitting such bids or offers to the extent

possible or shall be split in such other manner as may be agreed upon by the parties submitting such bids or offers. Resolution of disputes in the manner of the distribution of the Transfer Package shall be determined by two Floor Officials.]

[(d)](b) [*Other*] Presidential Exemptions. In addition to the exemptions set forth in paragraph (a)[(1)] of this Rule, the Exchange[’s] President (or senior-level designee) may grant an exemption from the requirement of [paragraph (a) of ]Rule 6.49, on his or her own motion or upon application of the Transferor, when, in the judgment of the President or his or her designee, allowing the off-floor transfer is necessary or appropriate for the maintenance of a fair and orderly market and the protection of investors and is in the public interest, including due to unusual or extraordinary circumstances, such as the possibility that the market value of the Transferor’s business will be compromised by having to comply with [this] the requirement to trade on the Exchange pursuant to the normal auction process or when, in the judgment of the President or his or her designee, market conditions make [transfer on the floor] trading on the Exchange impractical.

[ . . . *Interpretations and Policies:*

**.01** Acquisitions and dissolutions in which all or substantially all of the assets of one entity are acquired by another where there remains no continuity of ownership or management are examples of situations that normally would be required to be subjected to the transfer process set forth in the Rule. This list is not meant to be exhaustive, however, and there may be other situations in which there is a discontinuation of ownership or management of the positions that may be required to be brought to the floor. Questions about whether a transfer should be brought to the floor may be directed to the Exchange’s Department of Market Regulation.

**.02** To the extent applicable, all other rules of the Exchange, including Rule 6.9, Solicited Transactions, shall apply to the transfer procedure set forth in this Rule 6.49A. The following rules are either superseded by this Rule or do not apply to transfer procedures: 6.41, 6.44, 6.45, 6.47, 6.74, and 24.8). There may be other rules of the Exchange that do not, by their terms, apply to the transfer procedure set forth in this Rule 6.49A.

**.03** The procedure established by the Rule may also be used by market-makers who, for reasons other than a forced liquidation, such as an extended vacation, wish to liquidate their entire, or nearly their entire, position in a single set of transactions. However, this procedure is not to be used repeatedly or routinely in circumvention of the normal auction market process.]

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