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

File No.* SR - 2020 - * 014
Amendment No. (req. for Amendments *) 1

Filing by Cboe 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) * ☐

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Pilot ☐ Extension of Time Period for Commission Action * ☐ Date Expires *

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

Section 806(e)(1) * ☐ Section 806(e)(2) * ☐

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

Section 3C(b)(2) * ☐

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 *).

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 * Rebecca Last Name * Tenuta
Title * Counsel
E-mail * rtenuta@cboe.com
Telephone * (312) 786-7068 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.

Date 05/12/2020
By Laura G. Dickman
(Name *)

(Title *)
VP, Associate 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.

ldickman@cboe.com

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View	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 * Add Remove View	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 * Add Remove View	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 Add Remove View 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 Add Remove View 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 Add Remove View	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 Add Remove View	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 Add Remove View	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 adopt a Delta-Adjusted at Close ("DAC") order instruction that a User may apply to an order when entering it into the System[1] for execution in a FLEX electronic or open outcry auction. The Exchange initially submitted this rule filing SR-CBOE-2020-014 to the Securities and Exchange Commission ("Commission") on February 18, 2020 (the "Initial Rule Filing"). This Amendment No. 1 supersedes the Initial Rule Filing and replaces it in its entirety. Amendment No. 1 amends the Initial Rule Filing to make DAC orders available only for options on exchange-traded products ("ETPs") and indexes and available only for entry into FLEX auctions by removing the proposal to make DAC orders available for entry into non-FLEX auctions and in options on equities.[2] 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 February 10, 2020.

(b) Please refer questions and comments on the proposed rule change to Pat Sexton, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-

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1 See Rule 1.1, which defines the System as the Exchange's hybrid trading platform that integrates electronic and open outcry trading of option contracts on the Exchange, and includes any connectivity to the foregoing trading platform that is administered by or on behalf of the Exchange, such as a communications hub.

2 To the extent the Exchange wants to make DAC orders available for non-FLEX auctions, it will submit a separate rule filing.

7467, or Rebecca Tenuta, (312) 786-7068, 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 adopt a Delta-Adjusted at Close or DAC order instruction that a User may apply to an order for an option on an ETP or index when entering it into the System for execution in a FLEX electronic or open outcry auction. In particular, if a DAC order executes during the trading day, upon receipt of the official closing price or value for the underlying from the primary listing exchange or index provider, respectively, the System will adjust the original execution price of a DAC order based on a delta value applied to the change in the underlying reference price between the time of execution and the market close. As proposed, DAC orders will allow Users the opportunity to incorporate into the pricing of their FLEX Options the closing price or value of the underlying on the transaction date based on how much the price or value changed during the trading day.

Near the market close, the Exchange has observed that significant numbers of market participants interact in the equity markets, which may substantially impact the price or value, as applicable, of the underlying at the market close. For example, shares of exchange-traded funds ("ETFs") that track indexes, which are increasingly popular, often trade at or near the market close in order to better align with the indexes they track and attempt to align the market price of shares of the ETF as close to the net asset value

("NAV")[3] per share as possible. Further, the Exchange understands that market makers and other liquidity providers seek to balance their books before the market close and contribute to increased price discovery surrounding the market close. The Exchange also believes it is common for other market participants to seek to offset intraday positions and mitigate exposure risks based on their predictions of the closing underlying prices or underlying indexes (which represent the settlement prices of options on those underlyings). The Exchange understands this substantial activity near the market close may create wider spreads and increased price volatility, which may attract further trading activity from those participants seeking arbitrage opportunities and further drive prices. In light of the significant liquidity and price/value movements in equity shares that can occur near the market close, option closing and settlement prices may deviate significantly from option execution prices earlier that trading day.

The proposed DAC order instruction is designed to allow investors to incorporate any upside market moves that may occur following execution of the order up to the market close while limiting downside risk. Additionally, the Exchange has noted that there have been a number of managed funds that recognize the benefits to their investors in employing certain strategies that allow for their investors to mitigate risk at the market close while also participating in beneficial market moves at the close. The proposed DAC order would provide such funds with an additional method to attempt to meet their objectives through FLEX options strategies, thereby benefitting their investors. The

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3 The NAV is an ETF's total assets minus its total liabilities. ETFs generally must calculate their NAV at least once every business day, and typically do so after market close. See 17 C.F.R. 270.2a-4.

Exchange understands that, for example, defined-outcome ETF issuers[4] often times use multi-leg strategy orders when seeding their funds.[5] The goal of these strategies is to price the execution of these orders at the close of the underlying; however, there is operational execution risk in attempting to fill an order late in the day to capture the underlying closing price. As such, a DAC complex order would allow the User to execute the order prior to the close and have its price adjusted at the close. Because multi-leg strategies themselves have delta offsets, the User is hedged, meaning that the User may realize a negative movement versus the initial execution on some legs, which is offset by a positive move in other legs. The Exchange notes that the strategies may or may not define an exact delta offset ("delta neutrality" occurs where the strategy defines an exact delta offset). Given the delta neutral nature of an order with exact offset, a User would be indifferent to any movement in the underlying from the time of execution to the close. Whether or not a User defines an exact delta offset, a User would anticipate a given amount of market exposure, either partial or none, depending on the strategy and combinations of buy/sell, call/put and quantity. A DAC complex order allows the order to be executed anytime, eliminating the execution risk, while realizing the objective of pricing based on the exact underlying close for those strategies that require pricing at the close or a defined amount of market exposure through the close.

As stated, the System will adjust the original execution price of a DAC order based on a delta value applied to the change in the price of the underlying from the time

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4 The Exchange notes that defined outcome ETF issuers do not buy stocks directly, but instead, use options contracts to deliver the price gain or loss of an index (such as the S&P 500) over the course of a year, up to a preset cap.

5 Amendment No. 1 provides additional description regarding DAC complex order strategies and the purpose of such orders.

of order execution to the market close. Delta is the measure of the change in the option price as it relates to a change in the price of the underlying security or value of the underlying index, as applicable. For example, an option with a 50 delta (which is generally represented as 0.50) would result in the option moving $0.50 per $1.00 move in the underlying (i.e., price move in the underlying x delta value = anticipated price move in the option). Delta changes as the price or value of the underlying stock or index changes and as time changes, thus giving a User an estimate of how an option will behave if the price of the underlying moves in either direction. Call option deltas are positive (ranging from 0 to 1), because as the underlying increases in price so does a call option. Conversely, put option deltas are negative (ranging from -1 to 0), because as the underlying increases in price the put option decreases in price. The Exchange understands that investors use delta as an important hedging and risk management tool in options trading. For example, by trading an option with a lower delta, an investor's underlying position will be exposed to more downside risk if price or value of the underlying fall. Therefore, the Exchange believes the proposed DAC order instruction will allow a market participant to maintain a full hedge of its position taken upon intraday execution of a DAC order throughout the remainder of the trading day, which ultimately reduces the market participant's portfolio risk.

The Exchange proposes to make the DAC pricing instruction available for orders submitted in FLEX ETP and index options in Rule 5.70(a)(2).[6] As proposed, Rule 5.6(c)

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6 Amendment No. 1 amends the Initial Rule Filing to provide that DAC orders are available only for ETP and index options and amends the Initial Rule Filing to remove the proposed availability of DAC orders for entry into non-FLEX auctions (electronic and open outcry). Thus, Amendment No. 1 removes from the proposed DAC definitions in Rule 5.6(c) and 5.33(b)(5) that DAC may trade in an

(Order Types, Order Instructions, and Times-in-Force) provides that a DAC order is an order for which the System delta-adjusts its execution price after the market close. Specifically, the delta-adjusted execution price equals the original execution price plus the delta value times the difference between the official closing price or value of the underlying on the transaction date and the reference price or index value of the underlying ("reference price"). Upon order entry for electronic execution, a User must designate a delta value and may designate a reference price. If no reference price is designated, the System will include the price or value, as applicable, of the underlying at the time of order entry as the reference price. Upon order entry for open outcry execution, a User may designate a delta value and/or a reference price. During the open outcry auction, in-crowd market participants will determine the final delta value and/or reference price, which may differ from any delta value or reference price designated by the submitting User. The final delta value and reference price would be reflected in the final terms of the execution.

Likewise, the proposed definition in Rule 5.33(b)(5) (Types of Complex Orders) provides for essentially the same definition, differing only in that: it applies to complex orders; upon order entry for electronic execution a User must designate a delta value per leg, and for open outcry execution may designate a delta value for one or more legs; a DAC complex order may only be submitted for execution in a FLEX complex electronic auction or open outcry auction on the Exchange's trading floor pursuant to Rule 5.72.

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electronic auction or in open outcry trading pursuant to specific non-FLEX auction Rules, as well as the provision that a DAC order is not eligible to rest in the Book (as there is no electronic book for resting FLEX Orders), and the provision regarding bulk messages (as bulk messages are not applicable to trading in FLEX Options). The Exchange intends to submit a proposal at a later date to permit the entry of DAC orders into non-FLEX auctions.

Users will enter into the System all DAC orders as they would any other FLEX Order pursuant to 5.72(b) (governing the order entry of FLEX orders) and the applicable FLEX auction rules. As such, the Exchange points out that FLEX DAC orders may only be submitted for series consistent with the FLEX rules.[7] As defined above, a User may designate the reference price of the underlying upon submitting a DAC order. Proposed Rule 5.34(c)(12) (Order and Quote Price Protection Mechanisms and Risk Controls) provides that a User-designated reference price will be subject to a reasonability check. Specifically, if a User submits a DAC order to the System with a reference price more than an Exchange-determined amount away from the underlying price or value at the time of submission of the DAC order, the System cancels or rejects the order.[8] Moreover, if a User chooses to submit a DAC order without a reference price, the System will automatically input the price or value of the underlying at the time of order entry as the reference price.

For a DAC order submitted into a FLEX electronic auction, a User will be required to designate a delta value upon order entry (including for each leg of a DAC complex order as set forth in proposed Rule 5.33(b)(5)).[9] A User may designate a delta value upon entry of a DAC order submitted into a FLEX open outcry auction. As noted above, delta is either between 0 and 1 for calls, and 0 and -1 for puts.[10] The Exchange

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7 See Rules 5.72(b), (c), and (d).

8 The System will use the most recent last sale (or disseminated index value) as the reference price.

9 See proposed Rule 5.72(b)(2)(A).

10 Note the Exchange will permit delta values to be input up to four decimals, as prices for the underlying securities and index values may be expressed in four decimals. However, bids and offers may only be input in accordance with Rule

notes that 1.0000 is the equivalent of a 100 delta. Pursuant to the general principles by which deltas function, the delta for a call leg(s) must be greater than zero and the delta for a put option leg(s) must be less than zero. Additionally, the delta for call (put) legs must be less (greater) than or equal to the delta for the adjacent call (put) leg (i.e. the leg with the next largest strike price) of the same expiration as the strike price increases. This is also consistent with the general manner in which deltas function, and ensures that the deltas on the same leg type within the same expiration trend away from zero as the strike value increases.

Typically, a User submits an electronic complex order (including a DAC complex order, as proposed) with a net price, and, for a FLEX complex order, a User must include a price for each leg upon electronic submission.[11] Therefore, upon electronic submission a User must also designate a delta value per leg along with the leg prices. At market close, the System will then be able to apply the delta value per each of the leg prices to properly calculate the DAC by adjusting the execution price of each leg.

A User may apply the DAC order instruction to a FLEX order submitted into an electronic FLEX auction,[12] the FLEX Automated Improvement Auction ("FLEX AIM" or FLEX AIM Auction")[13] or the FLEX Solicitation Auction Mechanism ("FLEX SAM" or "FLEX SAM Auction")[14]; or a FLEX order submitted for manual handling in an open

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5.4, which bids and offers the System will use to rank and allocate orders and auction responses.

11 See Rule 5.72(b)(2)(A).

12 See Rule 5.72(c).

13 See Rule 5.73.

14 See Rule 5.74.

outcry auction on the Exchange's trading floor.[15] A DAC order will be handled and executed in the FLEX auctions in the same manner as any other FLEX order pursuant to the applicable FLEX auction rules, including pricing, priority, and allocation rules.[16] Similarly, a FLEX DAC order submitted for open outcry trading will execute in the same manner as any other FLEX order executed in open outcry pursuant to Rule 5.72(d). The Exchange also notes that DAC orders submitted to the Exchange will have unique message characteristics, indicative that the order is a DAC order. Therefore, contra-side interest will be aware of the specific order type and may then choose whether or not they wish to interact with DAC orders.[17]

Pursuant to Rules 5.72, 5.73, and 5.74, FLEX Orders (including proposed DAC orders) may only execute in a FLEX electronic or open outcry auction. The Exchange believes it is appropriate for DAC orders to only execute in auctions. The delta and reference price appended to a DAC order would be based on data regarding the underlying at the time of order entry. As those values change as the price or value of the underlying change, the reference price and delta at the time of submission would achieve the desired delta-adjusted price result only if the DAC order executes almost immediately upon submission. To allow a DAC order to potentially execute after a significant amount of time has passed since entry, underlying price and related delta at the time a DAC order would eventually execute would be different and thus not achieve the User's desired result. If a DAC orders executes in an auction, it will do so within a short time following

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15 See Rule 5.72(d).

16 See Rules 5.72(d).

17 Amendment No. 1 provides this additional detail to the Initial Regarding Filing regarding how a DAC order message will be indicative that an order is DAC.

submission. Indeed, the Exchange's electronic and open outcry FLEX auctions last for a brief, defined period, the length of which is currently between three seconds to five minutes as designated by the Submitting/Initiating FLEX Trader.[18] As such, the Exchange believes that the execution of DAC orders in FLEX auctions is consistent with the intended purpose of a DAC order.

In addition to this, the Exchange also believes that making DAC orders available only for options on ETPs and indexes is consistent with the intended purpose of a DAC order. As stated above, DAC orders are intended to allow investors to incorporate any market moves that may occur following execution of the order up to the market close while limiting risk and to allow funds to employ certain strategies that would enable their investors to mitigate risk at the market close while also participating in beneficial market moves at the close. That is, a DAC order may assist investors that participate in defined-outcome investment strategies, including defined-outcome ETFs, other managed funds, unit investment trusts ("UITs"), index funds, structured annuities, and other such funds or instruments that are indexed. Therefore, the Exchange believes it is appropriate to, at present, limit the use of DAC orders to options on ETPs and indexes.[19]

Pursuant to the proposed definitions in Rules 5.6(c), 5.33(b)(5), and Rule 5.72(b)(2)(B), for DAC orders submitted for execution in a FLEX open outcry auction, a User has the option to designate a delta value (per one or more legs for DAC complex orders) and/or a reference price. In-crowd market participants then determine the final

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18 See Rules 5.72(c), 5.73(c)(3) and 5.74(c)(3).

19 The Exchange notes that if, at a later date, User demand warrants the availability of DAC orders for equity options and non-FLEX options, the Exchange could submit a proposal to make DAC orders available for equity options.

delta value(s)[20] and/or reference price during the open outcry auction. That is, they would negotiate the delta value(s)/reference price as terms of the order (in conjunction with their negotiation of the price of the order) and reflect the ultimately agreed upon delta value(s)/reference price in the final terms of the DAC order. This is consistent with the manner that the terms (including execution price) of any other FLEX Order are currently negotiated and ultimately reflected for open outcry executions. For similar reasons why the Exchange believes execution of DAC orders in FLEX auctions is appropriate, the proposed rule change does not require a User to include a delta value or reference price when submitting a DAC order for open outcry execution. A floor broker may be unable to execute an order until well after it received the order for manual handling. Given that the delta and reference price may move during that time, the proposed rule provides the ability of market participants to agree to appropriate terms given the then-current underlying price or value at the time of execution. Unlike in the electronic market, in-crowd market participants are able to negotiate and agree to these terms as part of open outcry trading. As a result, the delta-adjusted price may achieve the desired result of the broker's customer.

For any DAC order that executes during a trading day, upon receipt of the official closing price for the underlying from the primary listing exchange or index provider, the System will adjust the original execution price based on the delta applied to the absolute change in the underlying between the time of execution and the market close. The Exchange notes that, like the execution price of any option, a delta-adjusted price may

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[20] The Exchange notes that in-crowd participants currently have delta values built into their own analytics and pricing tools and that generally such values only slightly differ across participants.

never be zero or negative. If this occurs as a result of the DAC calculation, the System will set the delta-adjusted price to the minimum permissible increment.

The delta adjustment formula that will be applied at the close will be as follows:[21]

The delta-adjusted price = the original execution price + (the change in the underlying price x delta) or P2 = P1 + (U – R) * D, where:

- P1 = Original execution price
- P2 = Delta-adjusted price calculated at the close
- R = Reference price
- U = price of the underlying at the market close
- D = Delta

Example 1: A DAC call order is submitted for execution in an electronic auction or PAR and the price of the underlying increases from the time of execution to the market close.

- P1 = $1.00
- R = $100.00
- U = $101.00
- D = .4000

Therefore, P2 = ($1.00 + (($101 - $100) * .4000) = $1.40

Example 2: A DAC put order in a penny increment is submitted for execution in an electronic auction or PAR and the price of the underlying increases from the time of execution to the market close.

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[21] Amendment No. 1 adds Example 3 and Example 4 below in order to provide additional detail and clarity regarding the execution and adjustment process in connection with complex strategies.

- P1 = $1.00
- R = $100.00
- U = $103.00
- D = - .4000

Therefore, P2 = ($1.00 + ((103 - $100) * -.4000) = -$0.20. However, because an execution price, including a delta-adjusted execution price, may not be negative, the System would adjust P2 = $0.01 (the minimum permissible increment).

Example 3: A DAC complex order has two legs, where leg 1 is buy call and leg 2 is buy put (straddle).[22]

Leg 1

- P1 = $18.00
- R = $2875.00
- U = $2878.00
- D = .5000

Therefore, P2 = ($18.00 + (($2878 - $2875) * .5000) = $19.50

Leg 2

P1 = $42.00

R = $2875.00

U = $2878.00

D = -.5000

Therefore, P2 = ($42.00 + (($2878 - $2875) * -.5000) = $40.50

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[22] The Exchange notes that the data in Example 3 is based on actual market data pulled for SPX with: an April 30, 2020 expiration; an initial SPX index value of 2875; a closing SPX index value of 2878; 2900 call at $18; and a 2900 put at $42.

As described above, the User would be indifferent to the move in the underlying due to the offsetting nature of the two legs. The initial execution price for the DAC complex order (P1) would be $18.00 + $42.00 = $60.00, and the adjusted price calculated at the close (P2) for the DAC complex order would be $19.50 + $40.50 = $60.00. As a result, the User in this Example 3 would be able to execute a hedged strategy earlier in the trading day and have it priced exactly in line with the underlying close without incurring any market risk or operational risk of trying to time the execution exactly at the close.

Example 4: A defined outcome ETF uses a simple buffer protect strategy in connection with a seed trade. The User buys the at the money put and sells the 10% out of the money put while selling the 5% out of the money call.

Leg 1: Buy SPX May 2875 put at $69.00 with 50 delta

- P1 = $69.00
- R = $2875.00
- U = $2878.00
- D = -.5000

Therefore, P2 = ($69.00 + (($2878 - $2875) * -.5000) = $67.50

Leg 2: Sell SPX May 2590 put at $15.00 with 12 delta

- P1 = $15.00
- R = $2875.00
- U = $2878.00
- D = -.1200

Therefore, P2 = ($15.00 + (($2878 - $2875) * -.1200) = $14.64

Leg 3: Sell SPX May 3020 call at $11.50 with 16 Delta

- P1 = $11.50
- R = $2875.00
- U = $2878.00
- D = -.1600

Therefore, P2 = ($11.50 + (($2878 - $2875) * -.1600) = $11.98

The initial execution price for the order would be $69.00 - $15.00 - $11.50 = $42.50. The adjusted execution price would be $67.50 - $14.64 - $11.98 = $40.88. The strategy would have an overall delta of -.54 (-.5000 + .1200 -.16). As a result, the fund would be seeded exactly at the closing price with exactly the delta exposure defined by the strategy, without incurring any operational execution risk. The User would be able to execute a hedged strategy earlier in the trading day and have it priced exactly in line with the underlying close without incurring any unanticipated market risk or operational risk of trying to time the execution exactly at the close.

The Exchange notes a User may only apply the DAC order instruction to a FLEX Order for a FLEX Option series with an exercise price expressed as a fixed price in dollars and decimals. The proposed change to Rule 5.70(a)(2) specifies that a User may not apply the DAC order instruction to a FLEX Order for a FLEX Option series with an exercise price formatted as a percentage of the closing value of the underlying on the trade date, as this functionality is not compatible with the DAC order instruction.[23] The

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[23] See Rule 4.21(b)(6)(A). The Exchange notes that the proposed language in connection with FLEX Option exercise prices as a percentage of the closing value and Asian-/Cliquet-settled series was originally proposed in Rules 5.83(a)(2) and (b)(2), however, the Exchange believes that moving the proposed language to Rule 5.70(a)(2), as well as the definition of complex orders, provides better clarity

System will need a fixed execution price at the time of order execution that will be delta-adjusted (which delta value is based on dollar price movements in the underlying) following the market close. However, a FLEX Order for a series with an exercise price formatted as a percentage of the closing value will execute at a percentage rather than a fixed price, which would not be determined until the market close. Therefore, execution price of such a FLEX Order will incorporate the closing price or value of the underlying in a different manner, and the System would not have an execution price to adjust. Similarly, the proposed change to Rule 5.70(a)(2) specifies a User will not be able to designate a FLEX Order in a FLEX Option series that is Asian- or Cliquet-settled. The settlement prices for these options are determined by averaging a pre-set number of closing index values or summing the monthly returns, respectively, on specified monthly observation dates.[24] The transaction prices for these options reflect these terms, and delta-adjustment of those transaction prices would be based on the movement of the underlying on only the transaction date. These settlement types are, as a result, inconsistent with the DAC order instruction.

The proposed definition of DAC orders in Rule 5.6(c) also states that a DAC order submitted through PAR has a Time-in-Force of Day.[25] A Time-in-force of Day for an order so designated means that the order, if not executed, expires at RTH market close.

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regarding the application of this proposed limitation on proposed DAC orders submitted to FLEX auctions.

24 See Rule 4.21(b)(5)(B). See also id.

25 The Exchange again notes that electronically submitted DAC orders will be submitted through the electronic auctions, and either executed or cancelled upon the conclusion of an auction, making an instruction regarding the time the System will hold an order unnecessary. Therefore, a requirement to apply a Time-in-Force of Day is not necessary for electronic DAC orders.

Thus, this proposed Time-in-Force for DAC orders submitted for execution in open outcry ensures that such orders will execute in line with their intended purpose - intraday and as close in time as possible to the time in which it was submitted to achieve the desired result of the broker's customer. Moreover, the proposed DAC definition provides that a User may not designate a DAC order as All Sessions (i.e. eligible for Regular Trading Hours ("RTH") and Global Trading Hours ("GTH")),[26] as the adjustment calculation for DAC orders is linked to the RTH market close for the underlying securities and indexes. Additionally, equities are not traded during the entire GTH session, and not all indexes have values disseminated during GTH, so there would not be a then-current reference price for DAC orders outside of RTH.

The reference price and delta value, as well as the execution price, will be provided to all transaction parties on all fill reports at the time of the execution of a DAC order (i.e. an "unadjusted DAC trade"). Unadjusted DAC trade information will also be sent to the Options Clearing Corporation ("OCC") and disseminated to Options Price Reporting Agency ("OPRA"). Specifically for FLEX DAC orders, like for all FLEX Orders, trade information will be reported via a text message to OPRA. The Exchange notes that text messages for FLEX DAC orders will contain an indicator that the order was executed as DAC, as well as the delta and the reference price.[27] The Exchange also notes that individual legs of a FLEX DAC complex order will be reported with an identifier that they are part of a complex order just like any complex order legs are

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[26] See Rule 1.1.

[27] Amendment No. 1 adds detail regarding the specific information that will be included in the FLEX text message report to OPRA in connection with the proposed DAC orders.

reported today.[28] Upon conclusion of the delta-adjustment of the execution price following the market close, fill restatements will be sent to all transaction parties. Matched trades will be sent to the OCC and OPRA once the restatement process is complete with the delta-adjusted price. The prior unadjusted trade reported to the OCC and disseminated to OPRA will be cancelled and replaced with a trade report with all of the same information, except the original execution price will be replaced with the delta-adjusted price.[29] A new FLEX DAC order text message will be disseminated to OPRA with the same information included in the original text plus the closing price. The Exchange has discussed with both the OCC and OPRA of its plans to adopt DAC orders and confirmed that adopting the proposed restatement process is acceptable.

The Exchange has analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle additional any additional order traffic, and the associated restatements, that may result from the adoption of DAC orders. Further, the Exchange represents it has an adequate surveillance program in place to monitor orders with DAC pricing and that the proposed pricing instruction will not have an adverse impact on surveillance capacity. Finally, the Exchange does not believe the proposed order instruction will have any impact on pricing or price discovery at or near the market close. A DAC order will execute intraday in the same manner as any other order, and its price will merely be automatically adjusted following determination of the final closing price or value of the underlying security or index, respectively.

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28 See id.

29 The Exchange notes that this restatement process is the same for an order that has been adjusted or nullified and subsequently restated pursuant to the Exchange's obvious error rules. See Rule 6.5.

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[30] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[31] 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)[32] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed DAC order will promote just and equitable principles of trade and will remove impediments to and perfect the mechanism of a free and open market and national market system, as it will allow market participants to incorporate into the pricing of their options the closing price of the underlying on the transaction date based on the amount in which the price or value of the underlying change intraday, thus, allowing investors to incorporate potential upside market moves that may occur following the execution of an order up to the market close while limiting downside

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30 15 U.S.C. 78f(b).

31 15 U.S.C. 78f(b)(5).

32 Id.

risk. As described above, the market close is a time in which maximum significant numbers of participants interact on the equity markets. This activity may contribute to substantially increased liquidity and significant price volatility near the close of the equity markets, which can potentially cause the closing prices of the underlyings and, therefore, the settlement prices of options on those underlyings to greatly deviate from the average option execution prices traded earlier that trading day. The Exchange believes DAC orders will serve to protect investors by allowing them, through use of the underlying reference prices and delta, to fully hedge their options positions taken during the trading day through the market close and potentially benefit from price movements at the close. Also, as managed funds have recently begun utilizing strategies at the close in order to mitigate risk at the close and participate in beneficial market moves at the same time, the Exchange believes that DAC orders will offer an additional method by which these funds will be able meet these objectives through the execution of FLEX options strategies, thereby benefiting investors that hold shares of these funds.

The Exchange further believes that the adoption of DAC orders on the Exchange will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system because DAC orders will be entered, priced, prioritized, allocated and execute as any other FLEX Order would when submitted into any FLEX electronic or open outcry auction. Like any FLEX Order, a FLEX DAC order may only be submitted into FLEX Options series eligible for trading pursuant to the FLEX Rules. As such, market participants would not be subject to any new or novel order entry, pricing, allocation, and execution processes in relation to their DAC orders as such orders will be handled pursuant to the Exchange Rules governing the applicable FLEX electronic and open outcry auction processes, which have been previously approved by the Commission.

The Exchange believes the proposed differences regarding the requirements to enter DAC-specific pricing information for electronic and open outcry trading reflect the differences in those types of trading, and as a result, may assist investors in achieving the goals of DAC orders. The general delta value requirements are in line with just and equitable principles or trading and with the protection of investors because they are consistent with the manner in which a delta is commonly known to function and generally used in options trading. Further, the Exchange believes that proposed Rule 5.34(c)(12) provides a System control in connection with DAC orders that is designed to protect investors. The Exchange believes the proposed reference price reasonability check will mitigate risks associated submitting a DAC order with a reference price unintended by the User as a likely result of human or operational error. The Exchange also notes that similar mechanisms and controls are currently in place on the Exchange for various types of orders.[33]

In addition to this, the Exchange believes that permitting a DAC order to execute only in a FLEX electronic or open outcry auction will protect investors and serve to remove impediments to and perfect the mechanism of a free and open market and national market system, because it is consistent with the intended purpose of DAC orders. This would ensure that DAC orders that can execute would do so within a short time following submission and therefore in a manner that achieves a User's desired delta-

[33] See generally Rule 5.34, which provides for additional order and quote price protection mechanisms and risk controls for simple and complex orders, including similar reasonability checks set at Exchange-determined amounts.

adjusted price. As described above, the goal of a DAC order is to adjust the execution price based on a delta value applied to the change in the underlying price between the market close and the time of the trade. Therefore, a DAC order must be able to execute as close in time as possible to the time of order submission (i.e. the point in time a User designates a reference price and delta) so as to allow the reference price and related delta to remain in line with the underlying price information at the time of submission and achieve the User's desired result. As such, a DAC order submitted to a FLEX auction, like an order submitted in a FLEX auction, will be executed within a short time following submission. Thus, the Exchange believes that the proposed limitation to FLEX auctions would protect investors by allowing DAC orders to execute in line with Users' expectations and a DAC order's intended purpose.

Likewise, the Exchange believes that limiting the scope of options to which the DAC order will be available will foster cooperation and coordination with persons engaged in facilitating transactions in securities and will generally benefit investors because it tailors use of DAC orders to of the Exchange's understanding of current market demand for these orders. Particularly, it will permit Users to submit DAC orders in the types of options used in defined outcome investment strategies, for which the DAC order is designed to mitigate risk and facilitate an intended result, thereby benefiting investors.

The Exchange believes that by providing that a User may not apply the DAC order instruction to a FLEX Order for a FLEX Option series with an exercise price formatted as a percentage of the closing value of the underlying on the trade date or in options that are Asian-or Cliquet-settled will remove impediments to and perfect the mechanism of a free and open market and national market system and generally protect investors because these FLEX terms are inconsistent with the DAC order instruction and would conflict with the manner in which the System calculates the delta-adjusted price upon the market close. Similarly, the Exchange believes that the proposed rule designating DAC orders submitted for execution in open outcry with a Time-in-Force of Day, as well as not permitting a User to designate a DAC order as All Sessions will also protect investors because, execution on the following trading day, or during the GTH session would prevent achievement of the desired result of a DAC order. As discussed above, such executions would be inconsistent with the intended purpose of a DAC order.

The Exchange notes that it has discussed with the OCC and OPRA its plan to adopt DAC orders and to apply the restatement process described above to FLEX DAC orders. Moreover, the Exchange represents that the Exchange itself and OPRA have the necessary systems capacity to handle any additional order traffic and the related restatements that may result from the adoption of DAC orders, thereby ensuring the protection of investors. The Exchange also believes the additional restatements and adjustments for DAC orders would be manageable and that its existing surveillances are adequate to monitor trading of DAC orders thereby helping to ensure the maintenance of a fair and orderly market.

Item 4. <u>Self-Regulatory Organization's Statement on Burden on Competition</u>

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 proposed rule change will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because use of the DAC order instruction will be optional and available to all Users. Any

User may determine whether to apply a DAC order instruction to the FLEX Orders it submits to the Exchange and the System will handle all DAC orders submitted by all Users to the Exchange in the same manner according to the proposed rule change. Additionally, it is appropriate to limit the availability of DAC orders to options on ETPs and indexes as the Exchange believes that DAC orders are consistent with current demand by market participants participating in defined outcome investing, which generally relate to ETP and index options. The Exchange believes the proposed DAC order may facilitate Users' ability to achieve these intended outcomes.[34] Users will not be required to apply a DAC order instruction to any orders, and may continue to apply any other currently available order instructions to their orders.

The proposed rule change will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as it is intended to provide market participants with an additional means to manage risks in connection with potential volatility and downside price swings that may occur near the market close, while allowing them to receive potential benefits associated with any upside market moves near the market close. The Exchange believes the proposed rule change may foster competition, as other options exchanges in their discretion may pursue the adoption of orders with similar purposes, which will result in additional choices for investors. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also,

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34 See supra note 19.

recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[35]

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 comments on the proposed rule change.

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

The Exchange does not consent to an extension of the time period for Securities and Exchange Commission (the "Commission") action on the proposed rule change specified in Section 19(b)(2) of the Act.[36]

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) Not applicable.

(b) Not applicable.

(c) Not applicable.

(d) The Exchange requests accelerated approval of Amendment No. 1. Amendment No. 1 does not change the substance of the Initial Rule Filing with respect to the purpose, functionality, or justification of a DAC order as applicable to FLEX trading (which remains in the proposed rule change), but merely reduces the scope of the proposed rule change to FLEX trading only and to options on ETPs and indexes only. To the extent the Exchange

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35 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

36 15 U.S.C. 78s(b)(2).

wants to make DAC orders available for non-FLEX trading and/or equity options (as proposed in the Initial Rule filing but deleted in in this Amendment No. 1), the Exchange will submit a separate rule filing. Amendment No. 1 also adds detail and specificity to the Form 19b-4 regarding the manner in which the contra will be able to identify orders as DAC, the manner in which DAC complex orders will be executed and adjusted, as well as further detail regarding the purpose and use of DAC complex orders, and the manner in which the Exchange will indicate DAC order information in its reports to OPRA (and makes other nonsubstantive edits), as well as makes a nonsubstantive, clarifying edit in the Exhibit 5 by moving language originally proposed in the Initial Rule Filing to a better-suited provision in order to facilitate increased clarity in and understanding of the proposed rule. As such, the Exchange does not believe that Amendment No. 1 makes any material changes to the substance or framework of the proposed rule change as set forth in this Amendment No. 1, and therefore, does not believe that a full notice and comment period is necessary.

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

The proposed rule change is not based on a rule either of another self-regulatory organization or of the Commission.

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 4 Marked copy of changes to the rule text proposed in an amendment compared against the version of the rule text that was initially filed.

Exhibit 5. Proposed rule text.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-CBOE-2020-014]

[Insert date]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to adopt a Delta-Adjusted at Close ("DAC") Order Instruction that a User may Apply to an Order when Entering it into the System for Execution in a FLEX Electronic or Open Outcry Auction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on [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 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 adopt a Delta-Adjusted at Close ("DAC") order instruction that a User may apply to an order when entering it into the System[3] for execution in a FLEX electronic or open outcry auction. The text of the proposed rule change is provided in Exhibit 5.

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

2 17 CFR 240.19b-4.

3 See Rule 1.1, which defines the System as the Exchange's hybrid trading platform that integrates electronic and open outcry trading of option contracts on the Exchange, and includes any connectivity to the foregoing trading platform that is administered by or on behalf of the Exchange, such as a communications hub.

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 adopt a Delta-Adjusted at Close or DAC order instruction that a User may apply to an order for an option on an ETP or index when entering it into the System for execution in a FLEX electronic or open outcry auction. In particular, if a DAC order executes during the trading day, upon receipt of the official closing price or value for the underlying from the primary listing exchange or index provider, respectively, the System will adjust the original execution price of a DAC order based on a delta value applied to the change in the underlying reference price between the time of execution and the market close. As proposed, DAC orders will allow Users the opportunity to incorporate into the pricing of their FLEX Options the closing price or value of the underlying on the transaction date based on how much the price or value changed during the trading day.

Near the market close, the Exchange has observed that significant numbers of market participants interact in the equity markets, which may substantially impact the price or value, as applicable, of the underlying at the market close. For example, shares of exchange-traded funds ("ETFs") that track indexes, which are increasingly popular, often trade at or near the market close in order to better align with the indexes they track and attempt to align the market price of shares of the ETF as close to the net asset value ("NAV")[4] per share as possible. Further, the Exchange understands that market makers and other liquidity providers seek to balance their books before the market close and contribute to increased price discovery surrounding the market close. The Exchange also believes it is common for other market participants to seek to offset intraday positions and mitigate exposure risks based on their predictions of the closing underlying prices or underlying indexes (which represent the settlement prices of options on those underlyings). The Exchange understands this substantial activity near the market close may create wider spreads and increased price volatility, which may attract further trading activity from those participants seeking arbitrage opportunities and further drive prices. In light of the significant liquidity and price/value movements in equity shares that can occur near the market close, option closing and settlement prices may deviate significantly from option execution prices earlier that trading day.

The proposed DAC order instruction is designed to allow investors to incorporate any upside market moves that may occur following execution of the order up to the market close while limiting downside risk. Additionally, the Exchange has noted that

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[4] The NAV is an ETF's total assets minus its total liabilities. ETFs generally must calculate their NAV at least once every business day, and typically do so after market close. See 17 C.F.R. 270.2a-4.

there have been a number of managed funds that recognize the benefits to their investors in employing certain strategies that allow for their investors to mitigate risk at the market close while also participating in beneficial market moves at the close. The proposed DAC order would provide such funds with an additional method to attempt to meet their objectives through FLEX options strategies, thereby benefitting their investors. The Exchange understands that, for example, defined-outcome ETF issuers[5] often times use multi-leg strategy orders when seeding their funds.[6] The goal of these strategies is to price the execution of these orders at the close of the underlying; however, there is operational execution risk in attempting to fill an order late in the day to capture the underlying closing price. As such, a DAC complex order would allow the User to execute the order prior to the close and have its price adjusted at the close. Because multi-leg strategies themselves have delta offsets, the User is hedged, meaning that the User may realize a negative movement versus the initial execution on some legs, which is offset by a positive move in other legs. The Exchange notes that the strategies may or may not define an exact delta offset ("delta neutrality" occurs where the strategy defines an exact delta offset). Given the delta neutral nature of an order with exact offset, a User would be indifferent to any movement in the underlying from the time of execution to the close. Whether or not a User defines an exact delta offset, a User would anticipate a given amount of market exposure, either partial or none, depending on the strategy and combinations of buy/sell, call/put and quantity. A DAC complex order allows the order to

5 The Exchange notes that defined outcome ETF issuers do not buy stocks directly, but instead, use options contracts to deliver the price gain or loss of an index (such as the S&P 500) over the course of a year, up to a preset cap.

6 Amendment No. 1 provides additional description regarding DAC complex order strategies and the purpose of such orders.

be executed anytime, eliminating the execution risk, while realizing the objective of pricing based on the exact underlying close for those strategies that require pricing at the close or a defined amount of market exposure through the close.

As stated, the System will adjust the original execution price of a DAC order based on a delta value applied to the change in the price of the underlying from the time of order execution to the market close. Delta is the measure of the change in the option price as it relates to a change in the price of the underlying security or value of the underlying index, as applicable. For example, an option with a 50 delta (which is generally represented as 0.50) would result in the option moving \$0.50 per \$1.00 move in the underlying (i.e., price move in the underlying x delta value = anticipated price move in the option). Delta changes as the price or value of the underlying stock or index changes and as time changes, thus giving a User an estimate of how an option will behave if the price of the underlying moves in either direction. Call option deltas are positive (ranging from 0 to 1), because as the underlying increases in price so does a call option. Conversely, put option deltas are negative (ranging from -1 to 0), because as the underlying increases in price the put option decreases in price. The Exchange understands that investors use delta as an important hedging and risk management tool in options trading. For example, by trading an option with a lower delta, an investor’s underlying position will be exposed to more downside risk if price or value of the underlying fall. Therefore, the Exchange believes the proposed DAC order instruction will allow a market participant to maintain a full hedge of its position taken upon intraday execution of a DAC order throughout the remainder of the trading day, which ultimately reduces the market participant’s portfolio risk.

The Exchange proposes to make the DAC pricing instruction available for orders submitted in FLEX ETP and index options in Rule 5.70(a)(2).[7] As proposed, Rule 5.6(c) (Order Types, Order Instructions, and Times-in-Force) provides that a DAC order is an order for which the System delta-adjusts its execution price after the market close. Specifically, the delta-adjusted execution price equals the original execution price plus the delta value times the difference between the official closing price or value of the underlying on the transaction date and the reference price or index value of the underlying ("reference price"). Upon order entry for electronic execution, a User must designate a delta value and may designate a reference price. If no reference price is designated, the System will include the price or value, as applicable, of the underlying at the time of order entry as the reference price. Upon order entry for open outcry execution, a User may designate a delta value and/or a reference price. During the open outcry auction, in-crowd market participants will determine the final delta value and/or reference price, which may differ from any delta value or reference price designated by the submitting User. The final delta value and reference price would be reflected in the final terms of the execution.

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7 Amendment No. 1 amends the Initial Rule Filing to provide that DAC orders are available only for ETP and index options and amends the Initial Rule Filing to remove the proposed availability of DAC orders for entry into non-FLEX auctions (electronic and open outcry). Thus, Amendment No. 1 removes from the proposed DAC definitions in Rule 5.6(c) and 5.33(b)(5) that DAC may trade in an electronic auction or in open outcry trading pursuant to specific non-FLEX auction Rules, as well as the provision that a DAC order is not eligible to rest in the Book (as there is no electronic book for resting FLEX Orders), and the provision regarding bulk messages (as bulk messages are not applicable to trading in FLEX Options). The Exchange intends to submit a proposal at a later date to permit the entry of DAC orders into non-FLEX auctions.

Likewise, the proposed definition in Rule 5.33(b)(5) (Types of Complex Orders) provides for essentially the same definition, differing only in that: it applies to complex orders; upon order entry for electronic execution a User must designate a delta value per leg, and for open outcry execution may designate a delta value for one or more legs; a DAC complex order may only be submitted for execution in a FLEX complex electronic auction or open outcry auction on the Exchange's trading floor pursuant to Rule 5.72.

Users will enter into the System all DAC orders as they would any other FLEX Order pursuant to 5.72(b) (governing the order entry of FLEX orders) and the applicable FLEX auction rules. As such, the Exchange points out that FLEX DAC orders may only be submitted for series consistent with the FLEX rules.[8] As defined above, a User may designate the reference price of the underlying upon submitting a DAC order. Proposed Rule 5.34(c)(12) (Order and Quote Price Protection Mechanisms and Risk Controls) provides that a User-designated reference price will be subject to a reasonability check. Specifically, if a User submits a DAC order to the System with a reference price more than an Exchange-determined amount away from the underlying price or value at the time of submission of the DAC order, the System cancels or rejects the order.[9] Moreover, if a User chooses to submit a DAC order without a reference price, the System will automatically input the price or value of the underlying at the time of order entry as the reference price.

For a DAC order submitted into a FLEX electronic auction, a User will be required to designate a delta value upon order entry (including for each leg of a DAC

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8 See Rules 5.72(b), (c), and (d).

9 The System will use the most recent last sale (or disseminated index value) as the reference price.

complex order as set forth in proposed Rule 5.33(b)(5)).[10] A User may designate a delta value upon entry of a DAC order submitted into a FLEX open outcry auction. As noted above, delta is either between 0 and 1 for calls, and 0 and -1 for puts.[11] The Exchange notes that 1.0000 is the equivalent of a 100 delta. Pursuant to the general principles by which deltas function, the delta for a call leg(s) must be greater than zero and the delta for a put option leg(s) must be less than zero. Additionally, the delta for call (put) legs must be less (greater) than or equal to the delta for the adjacent call (put) leg (i.e. the leg with the next largest strike price) of the same expiration as the strike price increases. This is also consistent with the general manner in which deltas function, and ensures that the deltas on the same leg type within the same expiration trend away from zero as the strike value increases.

Typically, a User submits an electronic complex order (including a DAC complex order, as proposed) with a net price, and, for a FLEX complex order, a User must include a price for each leg upon electronic submission.[12] Therefore, upon electronic submission a User must also designate a delta value per leg along with the leg prices. At market close, the System will then be able to apply the delta value per each of the leg prices to properly calculate the DAC by adjusting the execution price of each leg.

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10 See proposed Rule 5.72(b)(2)(A).

11 Note the Exchange will permit delta values to be input up to four decimals, as prices for the underlying securities and index values may be expressed in four decimals. However, bids and offers may only be input in accordance with Rule 5.4, which bids and offers the System will use to rank and allocate orders and auction responses.

12 See Rule 5.72(b)(2)(A).

A User may apply the DAC order instruction to a FLEX order submitted into an electronic FLEX auction,[13] the FLEX Automated Improvement Auction ("FLEX AIM" or FLEX AIM Auction")[14] or the FLEX Solicitation Auction Mechanism ("FLEX SAM" or "FLEX SAM Auction")[15]; or a FLEX order submitted for manual handling in an open outcry auction on the Exchange's trading floor.[16] A DAC order will be handled and executed in the FLEX auctions in the same manner as any other FLEX order pursuant to the applicable FLEX auction rules, including pricing, priority, and allocation rules.[17] Similarly, a FLEX DAC order submitted for open outcry trading will execute in the same manner as any other FLEX order executed in open outcry pursuant to Rule 5.72(d). The Exchange also notes that DAC orders submitted to the Exchange will have unique message characteristics, indicative that the order is a DAC order. Therefore, contra-side interest will be aware of the specific order type and may then choose whether or not they wish to interact with DAC orders.[18]

Pursuant to Rules 5.72, 5.73, and 5.74, FLEX Orders (including proposed DAC orders) may only execute in a FLEX electronic or open outcry auction. The Exchange believes it is appropriate for DAC orders to only execute in auctions. The delta and reference price appended to a DAC order would be based on data regarding the underlying at the time of order entry. As those values change as the price or value of the

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13 See Rule 5.72(c).

14 See Rule 5.73.

15 See Rule 5.74.

16 See Rule 5.72(d).

17 See Rules 5.72(d).

18 Amendment No. 1 provides this additional detail to the Initial Regarding Filing regarding how a DAC order message will be indicative that an order is DAC.

underlying change, the reference price and delta at the time of submission would achieve the desired delta-adjusted price result only if the DAC order executes almost immediately upon submission. To allow a DAC order to potentially execute after a significant amount of time has passed since entry, underlying price and related delta at the time a DAC order would eventually execute would be different and thus not achieve the User's desired result. If a DAC orders executes in an auction, it will do so within a short time following submission. Indeed, the Exchange's electronic and open outcry FLEX auctions last for a brief, defined period, the length of which is currently between three seconds to five minutes as designated by the Submitting/Initiating FLEX Trader.[19] As such, the Exchange believes that the execution of DAC orders in FLEX auctions is consistent with the intended purpose of a DAC order.

In addition to this, the Exchange also believes that making DAC orders available only for options on ETPs and indexes is consistent with the intended purpose of a DAC order. As stated above, DAC orders are intended to allow investors to incorporate any market moves that may occur following execution of the order up to the market close while limiting risk and to allow funds to employ certain strategies that would enable their investors to mitigate risk at the market close while also participating in beneficial market moves at the close. That is, a DAC order may assist investors that participate in defined-outcome investment strategies, including defined-outcome ETFs, other managed funds, unit investment trusts ("UITs"), index funds, structured annuities, and other such funds or

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[19] See Rules 5.72(c), 5.73(c)(3) and 5.74(c)(3).

instruments that are indexed. Therefore, the Exchange believes it is appropriate to, at present, limit the use of DAC orders to options on ETPs and indexes.[20]

Pursuant to the proposed definitions in Rules 5.6(c), 5.33(b)(5), and Rule 5.72(b)(2)(B), for DAC orders submitted for execution in a FLEX open outcry auction, a User has the option to designate a delta value (per one or more legs for DAC complex orders) and/or a reference price. In-crowd market participants then determine the final delta value(s)[21] and/or reference price during the open outcry auction. That is, they would negotiate the delta value(s)/reference price as terms of the order (in conjunction with their negotiation of the price of the order) and reflect the ultimately agreed upon delta value(s)/reference price in the final terms of the DAC order. This is consistent with the manner that the terms (including execution price) of any other FLEX Order are currently negotiated and ultimately reflected for open outcry executions. For similar reasons why the Exchange believes execution of DAC orders in FLEX auctions is appropriate, the proposed rule change does not require a User to include a delta value or reference price when submitting a DAC order for open outcry execution. A floor broker may be unable to execute an order until well after it received the order for manual handling. Given that the delta and reference price may move during that time, the proposed rule provides the ability of market participants to agree to appropriate terms given the then-current underlying price or value at the time of execution. Unlike in the electronic market, in-crowd market participants are able to negotiate and agree to these terms as part of open

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20 The Exchange notes that if, at a later date, User demand warrants the availability of DAC orders for equity options and non-FLEX options, the Exchange could submit a proposal to make DAC orders available for equity options.

21 The Exchange notes that in-crowd participants currently have delta values built into their own analytics and pricing tools and that generally such values only slightly differ across participants.

outcry trading. As a result, the delta-adjusted price may achieve the desired result of the broker's customer.

For any DAC order that executes during a trading day, upon receipt of the official closing price for the underlying from the primary listing exchange or index provider, the System will adjust the original execution price based on the delta applied to the absolute change in the underlying between the time of execution and the market close. The Exchange notes that, like the execution price of any option, a delta-adjusted price may never be zero or negative. If this occurs as a result of the DAC calculation, the System will set the delta-adjusted price to the minimum permissible increment.

The delta adjustment formula that will be applied at the close will be as follows:[22]

The delta-adjusted price = the original execution price + (the change in the underlying price x delta) or P2 = P1 + (U – R) * D, where:

- P1 = Original execution price
- P2 = Delta-adjusted price calculated at the close
- R = Reference price
- U = price of the underlying at the market close
- D = Delta

Example 1: A DAC call order is submitted for execution in an electronic auction or PAR and the price of the underlying increases from the time of execution to the market close.

- P1 = $1.00

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22 Amendment No. 1 adds Example 3 and Example 4 below in order to provide additional detail and clarity regarding the execution and adjustment process in connection with complex strategies.

- R = $100.00
- U = $101.00
- D = .4000

Therefore, P2 = ($1.00 + (($101 - $100) * .4000) = $1.40

Example 2: A DAC put order in a penny increment is submitted for execution in an electronic auction or PAR and the price of the underlying increases from the time of execution to the market close.

- P1 = $1.00
- R = $100.00
- U = $103.00
- D = - .4000

Therefore, P2 = ($1.00 + ((103 - $100) * -.4000) = -$0.20. However, because an execution price, including a delta-adjusted execution price, may not be negative, the System would adjust P2 = $0.01 (the minimum permissible increment).

Example 3: A DAC complex order has two legs, where leg 1 is buy call and leg 2 is buy put (straddle).[23]

Leg 1

- P1 = $18.00
- R = $2875.00
- U = $2878.00
- D = .5000

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23 The Exchange notes that the data in Example 3 is based on actual market data pulled for SPX with: an April 30, 2020 expiration; an initial SPX index value of 2875; a closing SPX index value of 2878; 2900 call at $18; and a 2900 put at $42.

Therefore, P2 = ($18.00 + (($2878 - $2875) * .5000) = $19.50

Leg 2

P1 = $42.00

R = $2875.00

U = $2878.00

D = -.5000

Therefore, P2 = ($42.00 + (($2878 - $2875) * -.5000) = $40.50

As described above, the User would be indifferent to the move in the underlying due to the offsetting nature of the two legs. The initial execution price for the DAC complex order (P1) would be $18.00 + $42.00 = $60.00, and the adjusted price calculated at the close (P2) for the DAC complex order would be $19.50 + $40.50 = $60.00. As a result, the User in this Example 3 would be able to execute a hedged strategy earlier in the trading day and have it priced exactly in line with the underlying close without incurring any market risk or operational risk of trying to time the execution exactly at the close.

Example 4: A defined outcome ETF uses a simple buffer protect strategy in connection with a seed trade. The User buys the at the money put and sells the 10% out of the money put while selling the 5% out of the money call.

Leg 1: Buy SPX May 2875 put at $69.00 with 50 delta

- P1 = $69.00
- R = $2875.00
- U = $2878.00
- D = -.5000

Therefore, P2 = ($69.00 + (($2878 - $2875) * -.5000) = $67.50

Leg 2: Sell SPX May 2590 put at $15.00 with 12 delta

- P1 = $15.00
- R = $2875.00
- U = $2878.00
- D = -.1200

Therefore, P2 = ($15.00 + (($2878 - $2875) * -.1200) = $14.64

Leg 3: Sell SPX May 3020 call at $11.50 with 16 Delta

- P1 = $11.50
- R = $2875.00
- U = $2878.00
- D = -.1600

Therefore, P2 = ($11.50 + (($2878 - $2875) * -.1600) = $11.98

The initial execution price for the order would be $69.00 - $15.00 - $11.50 = $42.50. The adjusted execution price would be $67.50 - $14.64 - $11.98 = $40.88. The strategy would have an overall delta of -.54 (-.5000 + .1200 -.16). As a result, the fund would be seeded exactly at the closing price with exactly the delta exposure defined by the strategy, without incurring any operational execution risk. The User would be able to execute a hedged strategy earlier in the trading day and have it priced exactly in line with the underlying close without incurring any unanticipated market risk or operational risk of trying to time the execution exactly at the close.

The Exchange notes a User may only apply the DAC order instruction to a FLEX Order for a FLEX Option series with an exercise price expressed as a fixed price in dollars and decimals. The proposed change to Rule 5.70(a)(2) specifies that a User may not apply the DAC order instruction to a FLEX Order for a FLEX Option series with an exercise price formatted as a percentage of the closing value of the underlying on the trade date, as this functionality is not compatible with the DAC order instruction.[24] The System will need a fixed execution price at the time of order execution that will be delta-adjusted (which delta value is based on dollar price movements in the underlying) following the market close. However, a FLEX Order for a series with an exercise price formatted as a percentage of the closing value will execute at a percentage rather than a fixed price, which would not be determined until the market close. Therefore, execution price of such a FLEX Order will incorporate the closing price or value of the underlying in a different manner, and the System would not have an execution price to adjust. Similarly, the proposed change to Rule 5.70(a)(2) specifies a User will not be able to designate a FLEX Order in a FLEX Option series that is Asian- or Cliquet-settled. The settlement prices for these options are determined by averaging a pre-set number of closing index values or summing the monthly returns, respectively, on specified monthly observation dates.[25] The transaction prices for these options reflect these terms, and delta-adjustment of those transaction prices would be based on the movement of the underlying on only the transaction date. These settlement types are, as a result, inconsistent with the DAC order instruction.

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24 See Rule 4.21(b)(6)(A). The Exchange notes that the proposed language in connection with FLEX Option exercise prices as a percentage of the closing value and Asian-/Cliquet-settled series was originally proposed in Rules 5.83(a)(2) and (b)(2), however, the Exchange believes that moving the proposed language to Rule 5.70(a)(2), as well as the definition of complex orders, provides better clarity regarding the application of this proposed limitation on proposed DAC orders submitted to FLEX auctions.

25 See Rule 4.21(b)(5)(B). See also id.

The proposed definition of DAC orders in Rule 5.6(c) also states that a DAC order submitted through PAR has a Time-in-Force of Day.[26] A Time-in-force of Day for an order so designated means that the order, if not executed, expires at RTH market close. Thus, this proposed Time-in-Force for DAC orders submitted for execution in open outcry ensures that such orders will execute in line with their intended purpose - intraday and as close in time as possible to the time in which it was submitted to achieve the desired result of the broker's customer. Moreover, the proposed DAC definition provides that a User may not designate a DAC order as All Sessions (i.e. eligible for Regular Trading Hours ("RTH") and Global Trading Hours ("GTH")),[27] as the adjustment calculation for DAC orders is linked to the RTH market close for the underlying securities and indexes. Additionally, equities are not traded during the entire GTH session, and not all indexes have values disseminated during GTH, so there would not be a then-current reference price for DAC orders outside of RTH.

The reference price and delta value, as well as the execution price, will be provided to all transaction parties on all fill reports at the time of the execution of a DAC order (i.e. an "unadjusted DAC trade"). Unadjusted DAC trade information will also be sent to the Options Clearing Corporation ("OCC") and disseminated to Options Price Reporting Agency ("OPRA"). Specifically for FLEX DAC orders, like for all FLEX Orders, trade information will be reported via a text message to OPRA. The Exchange notes that text messages for FLEX DAC orders will contain an indicator that the order

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[26] The Exchange again notes that electronically submitted DAC orders will be submitted through the electronic auctions, and either executed or cancelled upon the conclusion of an auction, making an instruction regarding the time the System will hold an order unnecessary. Therefore, a requirement to apply a Time-in-Force of Day is not necessary for electronic DAC orders.

[27] <u>See</u> Rule 1.1.

was executed as DAC, as well as the delta and the reference price.[28] The Exchange also notes that individual legs of a FLEX DAC complex order will be reported with an identifier that they are part of a complex order just like any complex order legs are reported today.[29] Upon conclusion of the delta-adjustment of the execution price following the market close, fill restatements will be sent to all transaction parties. Matched trades will be sent to the OCC and OPRA once the restatement process is complete with the delta-adjusted price. The prior unadjusted trade reported to the OCC and disseminated to OPRA will be cancelled and replaced with a trade report with all of the same information, except the original execution price will be replaced with the delta-adjusted price.[30] A new FLEX DAC order text message will be disseminated to OPRA with the same information included in the original text plus the closing price. The Exchange has discussed with both the OCC and OPRA of its plans to adopt DAC orders and confirmed that adopting the proposed restatement process is acceptable.

The Exchange has analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle additional any additional order traffic, and the associated restatements, that may result from the adoption of DAC orders. Further, the Exchange represents it has an adequate surveillance program in place to monitor orders with DAC pricing and that the proposed pricing instruction will not have an adverse impact on surveillance capacity. Finally, the Exchange does not

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[28] Amendment No. 1 adds detail regarding the specific information that will be included in the FLEX text message report to OPRA in connection with the proposed DAC orders.

[29] See id.

[30] The Exchange notes that this restatement process is the same for an order that has been adjusted or nullified and subsequently restated pursuant to the Exchange's obvious error rules. See Rule 6.5.

believe the proposed order instruction will have any impact on pricing or price discovery at or near the market close. A DAC order will execute intraday in the same manner as any other order, and its price will merely be automatically adjusted following determination of the final closing price or value of the underlying security or index, respectively.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[31] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[32] 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)[33] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed DAC order will promote just and equitable principles of trade and will remove impediments to and perfect the mechanism of a free and open market and national market system, as it will allow market participants

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31 15 U.S.C. 78f(b).

32 15 U.S.C. 78f(b)(5).

33 Id.

to incorporate into the pricing of their options the closing price of the underlying on the transaction date based on the amount in which the price or value of the underlying change intraday, thus, allowing investors to incorporate potential upside market moves that may occur following the execution of an order up to the market close while limiting downside risk. As described above, the market close is a time in which maximum significant numbers of participants interact on the equity markets. This activity may contribute to substantially increased liquidity and significant price volatility near the close of the equity markets, which can potentially cause the closing prices of the underlyings and, therefore, the settlement prices of options on those underlyings to greatly deviate from the average option execution prices traded earlier that trading day. The Exchange believes DAC orders will serve to protect investors by allowing them, through use of the underlying reference prices and delta, to fully hedge their options positions taken during the trading day through the market close and potentially benefit from price movements at the close. Also, as managed funds have recently begun utilizing strategies at the close in order to mitigate risk at the close and participate in beneficial market moves at the same time, the Exchange believes that DAC orders will offer an additional method by which these funds will be able meet these objectives through the execution of FLEX options strategies, thereby benefiting investors that hold shares of these funds.

The Exchange further believes that the adoption of DAC orders on the Exchange will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system because DAC orders will be entered, priced, prioritized, allocated and execute as any other FLEX Order would when submitted into any FLEX electronic or open outcry auction. Like any FLEX

Order, a FLEX DAC order may only be submitted into FLEX Options series eligible for trading pursuant to the FLEX Rules. As such, market participants would not be subject to any new or novel order entry, pricing, allocation, and execution processes in relation to their DAC orders as such orders will be handled pursuant to the Exchange Rules governing the applicable FLEX electronic and open outcry auction processes, which have been previously approved by the Commission.

The Exchange believes the proposed differences regarding the requirements to enter DAC-specific pricing information for electronic and open outcry trading reflect the differences in those types of trading, and as a result, may assist investors in achieving the goals of DAC orders. The general delta value requirements are in line with just and equitable principles or trading and with the protection of investors because they are consistent with the manner in which a delta is commonly known to function and generally used in options trading. Further, the Exchange believes that proposed Rule 5.34(c)(12) provides a System control in connection with DAC orders that is designed to protect investors. The Exchange believes the proposed reference price reasonability check will mitigate risks associated submitting a DAC order with a reference price unintended by the User as a likely result of human or operational error. The Exchange also notes that similar mechanisms and controls are currently in place on the Exchange for various types of orders.[34]

In addition to this, the Exchange believes that permitting a DAC order to execute only in a FLEX electronic or open outcry auction will protect investors and serve to

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[34] See generally Rule 5.34, which provides for additional order and quote price protection mechanisms and risk controls for simple and complex orders, including similar reasonability checks set at Exchange-determined amounts.

remove impediments to and perfect the mechanism of a free and open market and national market system, because it is consistent with the intended purpose of DAC orders. This would ensure that DAC orders that can execute would do so within a short time following submission and therefore in a manner that achieves a User's desired delta-adjusted price. As described above, the goal of a DAC order is to adjust the execution price based on a delta value applied to the change in the underlying price between the market close and the time of the trade. Therefore, a DAC order must be able to execute as close in time as possible to the time of order submission (i.e. the point in time a User designates a reference price and delta) so as to allow the reference price and related delta to remain in line with the underlying price information at the time of submission and achieve the User's desired result. As such, a DAC order submitted to a FLEX auction, like an order submitted in a FLEX auction, will be executed within a short time following submission. Thus, the Exchange believes that the proposed limitation to FLEX auctions would protect investors by allowing DAC orders to execute in line with Users' expectations and a DAC order's intended purpose.

Likewise, the Exchange believes that limiting the scope of options to which the DAC order will be available will foster cooperation and coordination with persons engaged in facilitating transactions in securities and will generally benefit investors because it tailors use of DAC orders to of the Exchange's understanding of current market demand for these orders. Particularly, it will permit Users to submit DAC orders in the types of options used in defined outcome investment strategies, for which the DAC order is designed to mitigate risk and facilitate an intended result, thereby benefiting investors.

The Exchange believes that by providing that a User may not apply the DAC order instruction to a FLEX Order for a FLEX Option series with an exercise price formatted as a percentage of the closing value of the underlying on the trade date or in options that are Asian-or Cliquet-settled will remove impediments to and perfect the mechanism of a free and open market and national market system and generally protect investors because these FLEX terms are inconsistent with the DAC order instruction and would conflict with the manner in which the System calculates the delta-adjusted price upon the market close. Similarly, the Exchange believes that the proposed rule designating DAC orders submitted for execution in open outcry with a Time-in-Force of Day, as well as not permitting a User to designate a DAC order as All Sessions will also protect investors because, execution on the following trading day, or during the GTH session would prevent achievement of the desired result of a DAC order. As discussed above, such executions would be inconsistent with the intended purpose of a DAC order.

The Exchange notes that it has discussed with the OCC and OPRA its plan to adopt DAC orders and to apply the restatement process described above to FLEX DAC orders. Moreover, the Exchange represents that the Exchange itself and OPRA have the necessary systems capacity to handle any additional order traffic and the related restatements that may result from the adoption of DAC orders, thereby ensuring the protection of investors. The Exchange also believes the additional restatements and adjustments for DAC orders would be manageable and that its existing surveillances are adequate to monitor trading of DAC orders thereby helping to ensure the maintenance of a fair and orderly market.

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 proposed rule change will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because use of the DAC order instruction will be optional and available to all Users. Any User may determine whether to apply a DAC order instruction to the FLEX Orders it submits to the Exchange and the System will handle all DAC orders submitted by all Users to the Exchange in the same manner according to the proposed rule change. Additionally, it is appropriate to limit the availability of DAC orders to options on ETPs and indexes as the Exchange believes that DAC orders are consistent with current demand by market participants participating in defined outcome investing, which generally relate to ETP and index options. The Exchange believes the proposed DAC order may facilitate Users' ability to achieve these intended outcomes.[35] Users will not be required to apply a DAC order instruction to any orders, and may continue to apply any other currently available order instructions to their orders.

The proposed rule change will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as it is intended to provide market participants with an additional means to manage risks in connection with potential volatility and downside price swings that may occur near the market close, while allowing them to receive potential benefits associated with any upside market moves near the market close. The Exchange believes the proposed rule

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35 See supra note 20.

change may foster competition, as other options exchanges in their discretion may pursue the adoption of orders with similar purposes, which will result in additional choices for investors. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[36]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

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

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

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[36] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

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. Please include File Number SR-CBOE-2020-014 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-2020-014. 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-2020-014 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.[37]

Secretary

[37] 17 CFR 200.30-3(a)(12).

EXHIBIT 4

Additions set forth in the proposed rule text of original SR-CBOE-2020-014 are underlined and deletions set forth in the proposed rule text of original SR-CBOE-2020-014 are bracketed. Additions being made pursuant to Amendment No. 1 to SR-CBOE-2020-014 are double-underlined and deletions being made pursuant to Amendment No. 1 to SR-CBOE-2020-014 are struck-through.

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Rules of Cboe Exchange, Inc.

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Rule 5.6. Order Types, Order Instructions, and Times-in-Force

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(c) Order Instructions. An "Order Instruction" is a processing instruction a User may apply to an order (multiple instructions may apply to a single order), subject to the restrictions set forth in Rule 6.8(c) with respect to orders and bulk messages submitted through bulk ports and any other restrictions set forth in the Rules, when entering it into the System for electronic or open outcry processing and includes:

* * * * *

Delta-Adjusted at Close or DAC

A "Delta-Adjusted at Close" or "DAC" order is an order for which the System delta-adjusts its execution price after the market close.

(1) The delta-adjusted execution price equals the original execution price plus the delta value times the difference between the official closing price or value of the underlying on the transaction date and the reference price or index value of the underlying ("reference price").

(2) Upon order entry for electronic execution, a User must designate a delta value and may designate a reference price. If no reference price is designated, the System will include the price or value, as applicable, of the underlying at the time of order entry as the reference price.

(3) Upon order entry for open outcry execution, a User may designate a delta value and/or a reference price. During the open outcry auction, in-crowd market participants will determine the final delta value and/or reference price, which may differ from any delta value or reference price designated by the submitting User. The final delta value and reference price would be reflected in the final terms of the execution.

A DAC order may only be submitted in options on ETPs and indexes for execution in a~~n~~ FLEX electronic auction ~~pursuant to Rules 5.37 and 5.39~~ or ~~in~~ open outcry ~~trading~~ auction on the Exchange's trading floor pursuant to Rule 5.72~~ 5.85, and is not eligible to rest in the Book~~. A DAC order submitted for execution in open outcry may only have a Time-in-Force of Day. A User may not designate a DAC order as All Sessions. ~~A User may not designate bulk messages as DAC.~~

* * * * *

Rule 5.30. Availability of Orders and Quotes for Electronic Processing

Pursuant to Rule 5.6(a), the Exchange may make order types, Order Instructions, and Times-in-Force available on a system, class, and trading session basis for electronic processing, subject to the restrictions set forth in Rule 5.5 with respect to orders and bulk messages submitted through bulk ports.

(a) *RTH Trading Session*. The Exchange may make the following order types, Order Instructions, and Times-in-Force available for electronic processing during RTH:

(1) No change.

(2) *Order Instructions*: AON, Attributable, Book Only, All Sessions, Cancel Back, ~~DAC,~~ Electronic Only, ISO, MTP Modifier, Minimum Quantity, Non-Attributable, Post Only, Price Adjust, QCC, Reserve Order, RTH Only, Stop (Stop-Loss), and Stop Limit.

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Rule 5.33. Complex Orders

Trading of complex orders (as defined in Rule 1.1) is subject to all other Rules applicable to the trading of orders, unless otherwise provided in this Rule 5.33.

(a) No change.

(b) *Types of Complex Orders.* Complex orders are available in all classes listed for trading on the Exchange. Complex orders may be market or limit orders.

(1) – (4) No change.

(5) The System also accepts the following instructions for complex orders:

* * * * *

Delta-Adjusted at Close or DAC

A "Delta-Adjusted at Close" or "DAC" complex order is a complex order for which the System delta adjusts its execution price after the market close.

(A) The delta-adjusted execution price equals the original execution price plus the delta value times the difference between the official closing price or index value of the underlying on the transaction date and the reference price or index value of the underlying ("reference price").

(B) Upon order entry for electronic execution, a User must designate a delta value per leg and may designate a reference price. If no reference price is designated, the System will include the price or value of the underlying at the time of order entry as the reference price.

(C) Upon order entry for open outcry execution, a User may designate a delta value for one or more legs and/or a reference price. During the open outcry auction, in-crowd market participants will determine the final delta value(s) and/or reference price, which may differ from any delta value or reference price designated by the submitting User. The final delta value(s) and reference price would be reflected in the final terms of the execution.

A DAC complex order may only be submitted in options on ETPs and indexes for execution in a FLEX complex electronic auction ~~pursuant to Rules 5.33(d), 5.38, and 5.40~~ or ~~in~~ open outcry ~~trading~~ auction on the Exchange's trading floor pursuant to Rule 5.72~~5.85, and is not eligible to rest in the COB~~. A DAC complex order submitted for execution in open outcry may only have a Time-in-Force of Day. A User may not designate a DAC complex order as All Sessions.

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Rule 5.34. Order and Quote Price Protection Mechanisms and Risk Controls

The System's acceptance and execution of orders, quotes, and bulk messages, as applicable, pursuant to the Rules, including Rules 5.31 through 5.33, and orders routed to PAR pursuant to Rule 5.82 are subject to the following price protection mechanisms and risk controls, as applicable.

(a)-(b) No change.

(c) *All Orders*.

(1)-(11) No change.

(12) *DAC Order Reasonability Check.* If a User submits a DAC order to the System with an underlying reference price more than an Exchange-determined amount away from the underlying price or value at the time of submission of the DAC order, the System cancels or rejects the order.

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Rule 5.70. Availability of Orders

(a) Pursuant to Rule 5.6(a), the Exchange may make order types, Order Instructions, and Times-in-Force available on a class basis. The Exchange may make the following order types, Order Instructions, and Times-in-Force available for orders submitted in FLEX Options ("FLEX Orders"):

(1) No change.

(2) *Order Instructions*: All Sessions, Attributable, DAC (except for FLEX Options with an exercise price that is a percentage of the closing value of the underlying equity security or index value, as applicable on the trade date or that is Asian or Cliquet-settled), Direct to PAR, Electronic Only, Non-Attributable, Not Held, and RTH Only.

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Rule 5.83. Availability of Orders

(a) *Simple Orders*. Pursuant to Rule 5.6(a), the Exchange may make order types, Order Instructions, and Times-in-Force available on a class basis for PAR routing for manual handling (and open outcry 328 trading). The Exchange may make the following order types, Order Instructions, and Times-in-Force available for PAR routing for manual handling (and open outcry trading):

(1) No change.

(2) *Order Instructions*: AON, Attributable, ~~DAC (for FLEX Orders only, except for FLEX Options with an exercise price that is a percentage of the closing value of the underlying equity security or index value, as applicable on the trade date or that is Asian- or Cliquet-settled),~~ Minimum Quantity, MTP Modifier, Non-Attributable, Not Held, and RTH Only.

(3) No change.

(b) *Complex Orders*. The Exchange may make complex orders, including security future-option orders, and stock-option orders available for PAR routing for manual handling. A complex order with a ratio less than one-to-three (.333) or greater than three-to-one (3.00) may only be submitted for manual handling and open outcry trading. The Exchange may make the follow complex order types available for PAR routing for manual handling (and open outcry trading):

(1) No change.

(2) *Order Instructions*: AON, Attributable, Complex Only, ~~DAC (for FLEX Orders only, except for FLEX Options with an exercise price that is a percentage of the closing value of the underlying equity security or index value, as applicable on the trade date or that is Asian- or Cliquet-settled),~~ MTP Modifier, Multi-Class Spread, Non-Attributable, Not Held, RTH Only, SPX Combo, and stock-option order.

* * * * *

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

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Rules of Cboe Exchange, Inc.

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Rule 5.6. Order Types, Order Instructions, and Times-in-Force

* * * * *

(c) Order Instructions. An "Order Instruction" is a processing instruction a User may apply to an order (multiple instructions may apply to a single order), subject to the restrictions set forth in Rule 6.8(c) with respect to orders and bulk messages submitted through bulk ports and any other restrictions set forth in the Rules, when entering it into the System for electronic or open outcry processing and includes:

* * * * *

Delta-Adjusted at Close or DAC

A "Delta-Adjusted at Close" or "DAC" order is an order for which the System delta-adjusts its execution price after the market close.

(1) The delta-adjusted execution price equals the original execution price plus the delta value times the difference between the official closing price or value of the underlying on the transaction date and the reference price or index value of the underlying ("reference price").

(2) Upon order entry for electronic execution, a User must designate a delta value and may designate a reference price. If no reference price is designated, the System will include the price or value, as applicable, of the underlying at the time of order entry as the reference price.

(3) Upon order entry for open outcry execution, a User may designate a delta value and/or a reference price. During the open outcry auction, in-crowd market participants will determine the final delta value and/or reference price, which may differ from any delta value or reference price designated by the submitting User. The final delta value and reference price would be reflected in the final terms of the execution.

A DAC order may only be submitted in options on ETPs and indexes for execution in a FLEX electronic auction or open outcry auction on the Exchange's trading floor pursuant to Rule 5.72. A DAC order submitted for execution in open outcry may only have a Time-in-Force of Day. A User may not designate a DAC order as All Sessions.

* * * * *

Rule 5.33. Complex Orders

Trading of complex orders (as defined in Rule 1.1) is subject to all other Rules applicable to the trading of orders, unless otherwise provided in this Rule 5.33.

(a) No change.

(b) *Types of Complex Orders.* Complex orders are available in all classes listed for trading on the Exchange. Complex orders may be market or limit orders.

(1) – (4) No change.

(5) The System also accepts the following instructions for complex orders:

* * * * *

<u>**Delta-Adjusted at Close or DAC**</u>

<u>A “Delta-Adjusted at Close” or “DAC” complex order is a complex order for which the System delta adjusts its execution price after the market close.</u>

<u>(A) The delta-adjusted execution price equals the original execution price plus the delta value times the difference between the official closing price or index value of the underlying on the transaction date and the reference price or index value of the underlying (“reference price”).</u>

<u>(B) Upon order entry for electronic execution, a User must designate a delta value per leg and may designate a reference price. If no reference price is designated, the System will include the price or value of the underlying at the time of order entry as the reference price.</u>

<u>(C) Upon order entry for open outcry execution, a User may designate a delta value for one or more legs and/or a reference price. During the open outcry auction, in-crowd market participants will determine the final delta value(s) and/or reference price, which may differ from any delta value or reference price designated by the submitting User. The final delta value(s) and reference price would be reflected in the final terms of the execution.</u>

<u>A DAC complex order may only be submitted in options on ETPs and indexes for execution in a FLEX complex electronic auction or open outcry auction on the Exchange’s trading floor pursuant to Rule 5.72. A DAC complex order submitted for execution in open outcry may only have a Time-in-Force of Day. A User may not designate a DAC complex order as All Sessions.</u>

* * * * *

Rule 5.34. Order and Quote Price Protection Mechanisms and Risk Controls

The System's acceptance and execution of orders, quotes, and bulk messages, as applicable, pursuant to the Rules, including Rules 5.31 through 5.33, and orders routed to PAR pursuant to Rule 5.82 are subject to the following price protection mechanisms and risk controls, as applicable.

(a)-(b) No change.

(c) *All Orders*.

(1)-(11) No change.

<u>(12) *DAC Order Reasonability Check.* If a User submits a DAC order to the System with an underlying reference price more than an Exchange-determined amount away from the underlying price or value at the time of submission of the DAC order, the System cancels or rejects the order.</u>

* * * * *

Rule 5.70. Availability of Orders

(a) Pursuant to Rule 5.6(a), the Exchange may make order types, Order Instructions, and Times-in-Force available on a class basis. The Exchange may make the following order types, Order Instructions, and Times-in-Force available for orders submitted in FLEX Options ("FLEX Orders"):

(1) No change.

(2) *Order Instructions*: All Sessions, Attributable, <u>DAC (except for FLEX Options with an exercise price that is a percentage of the closing value of the underlying equity security or index value, as applicable on the trade date or that is Asian or Cliquet-settled),</u> Direct to PAR, Electronic Only, Non-Attributable, Not Held, and RTH Only.

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