

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="23"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2020"/> - * <input type="text" value="053"/>	Amendment No. (req. for Amendments *) <input type="text"/>
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Filing by Cboe Exchange, Inc.
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

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

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

The Exchange proposes to amend Rule 6.1 in order to provide for a consistent documentation of open outcry execution information in the event of an Exchange system malfunction or disruption.

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 * <input type="text" value="Rebecca"/>	Last Name * <input type="text" value="Tenuta"/>
Title * <input type="text" value="Counsel"/>	
E-mail * <input type="text" value="rtenuta@cboe.com"/>	
Telephone * <input type="text" value="(312) 786-7068"/>	Fax <input type="text"/>

Signature

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

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

(Title *)

Date <input type="text" value="06/10/2020"/>	VP, Associate General Counsel
By <input type="text" value="Laura G. Dickman"/>	<input type="text"/>
(Name *)	

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

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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

Exhibit 1 - Notice of Proposed Rule Change *

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

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

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

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

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Exhibit Sent As Paper Document

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

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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

Partial Amendment

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

Item 1. Text of the Proposed Rule Change

(a) Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend Rule 6.1 in order to provide for a consistent documentation of open outcry execution information in the event of an Exchange system malfunction or disruption. 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 May 28, 2020.

(b) Please refer questions and comments on the proposed rule change to Pat Sexton, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7467, 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 amend Rule 6.1 in order to provide for a consistent documentation of open outcry execution information in the event of an Exchange system malfunction or disruption.

Specifically, Rule 6.1(a) requires that a Trading Permit Holder (“TPH”) in each transaction to be designated by the Exchange must report or ensure the transaction is reported to the Exchange within 90 seconds of the execution in a form and manner prescribed by the Exchange so that the trade information may be reported to time and sales

reports.¹ Pursuant to Rule 6.1(c)(1), the seller (or buyer if designated by the Exchange) must submit the transaction report through an electronic data transmission link approved by the Exchange in order to fulfill the Rule 6.1(a) reporting requirement. Additionally, Rule 6.1(c) provides that participants (both the buyer and the seller) must immediately record on a card or ticket or enter in an electronic data storage medium acceptable to the Exchange certain requisite transaction information. Such transaction information includes, among other things, the time of the transaction obtained from a source designated by the Exchange,² and must be included in the transaction report. Currently, TPHs submit transaction reports through Public Automated Routing System (“PAR”)³ workstations. In practice, generally, when an order is executed in open outcry, a participant nearly contemporaneously with the execution enters the requisite trade information into a PAR workstation, including the transaction time and presses a “trade” button, which both reports the trade to the Exchange and constitutes the entry of requisite trade information in an electronic data storage medium pursuant to Rule 6.1(c).

Rule 6.1(a) currently allows for designated late reporting, however, a pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with just and equitable principles of trade and subject to fines or discipline under Exchange Rules.⁴ Therefore, in the event an Exchange system experiences a

¹ The Exchange notes that for trades executed electronically through the System, trade information is immediately submitted to the Exchange so that it may be reported to the tape.

² The Exchange notes that there are universal clocks on the trading floor which brokers may use when recording outage reports.

³ See Rule 5.82.

⁴ See also Rule 6.1(j)(2), which provides that in the event a Clearing Trading Permit Holder attempts to send trade information by electronic transmission but is unable to get through to the Exchange computer system, the Clearing Trading

malfunction or disruption so that a participant is unable to electronically submit the requisite transaction information and report open outcry transaction information within the 90 second window (i.e. an “outage”), a late reporting designation is considered acceptable and the participant is able to electronically submit the trade information and simultaneously report the transaction upon resolution of the malfunction or disruption and resumption of the impacted Exchange system. Although pursuant to Rule 6.1(c), a participant is able to record the transaction information on a card or ticket, and may currently do so in the case of an outage (and following the outage is then able to electronically enter the trade information and submit the transaction report), the Exchange Rules do not currently provide for a specific manner and form in which a participant should report transaction information, including the transaction time, in the event that an outage impedes a participant’s ability to submit an electronic transaction record within the required time period.⁵ As such, the Exchange now proposes to amend Rule 6.1(a) to provide additional clarity and consistency regarding the documentation and submission of transaction reports for open outcry executions that occur during an outage.

Specifically, the proposed change adopts subparagraph (a)(2)⁶ to Rule 6.1, which provides that in the event of an Exchange system malfunction or disruption such that a

Permit Holder may contact the Exchange’s Trade Desk Department to inquire if the Exchange’s system is ready to receive such Clearing Trading Permit Holder’s transmission.

⁵ In connection with past outages, participants have reported this information to the Exchange, but have done so in different manners. The proposed rule change will require participants to report this information to the Exchange in the same manner as designated by the Exchange.

⁶ The proposed change also separates the late reporting provisions in current Rule 6.1(a) into subparagraph (a)(1) (and titles the proposed subparagraph “Late Reports”) for formatting consistency and ease of reading and following Rule 6.1(a) generally.

participant is unable to electronically report trade information pursuant to subparagraph (c) of Rule 6.1 for orders executed in open outcry (an “outage”), a participant will record execution information, including the transaction time, for orders executed in open outcry in a manner and form determined by the Exchange. Upon the resolution of the outage, a participant must resume electronic submission of transaction reports within the 90 second time frame and must use best efforts to input electronically into the Exchange’s system the execution information required by subparagraph (c) of Rule 6.1 for the order(s) executed in open outcry during the outage not later than the close of business on the day that the malfunction or disruption ceases.

By providing that the Exchange determines the manner and form that participants must report transaction information for executions that occur during an outage,⁷ the proposed rule change will provide for consistency among all participants with respect to their electronic submission of transaction reports to the Exchange after the system malfunction or disruption is resolved. The proposed rule will also provide additional clarity in the Rules regarding the procedure participants must use to submit transaction information to the Exchange following the resolution of an outage. A uniform approach will also provide for more consistency of information in the Exchange’s audit trail.

The Exchange also notes that a similar process is currently in place pursuant to the Exchange Rules in the event of a malfunction or disruption of the Exchange’s systems such that a Trading Permit Holder is unable to systematize an order, wherein each order

⁷ Pursuant to Rule 1.5, the Exchange will announce its determination of the manner and form via: (1) specifications, Notices, or Regulatory Circulars with appropriate advanced notice, which are posted on the Exchange’s website, or as otherwise provided in the Rules; (2) electronic message; or (3) other communication method as provided in the Rules.

transmitted to the Exchange during a malfunction or disruption of the Exchange's systems must be recorded legibly in a written form that has been approved by the Exchange,⁸ and the Trading Permit Holder receiving such order must record the time of its receipt on the floor and legibly record the terms of the order, in written form.⁹ Such rules also permit the retroactive entry of order receipt information following the cessation of the malfunction or disruption.

(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.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹²

⁸ The Exchange notes that a legible record is a manner in which it intends to determine that a participant will be required to record execution information upon an outage, as proposed.

⁹ See Rule 5.7(f)(2)(C)(i).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² Id.

requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, by requiring participants to report open outcry transaction information for orders executed during an outage in a specific manner and form determined by the Exchange, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and national market system and help to ensure the maintenance of a fair and orderly market, thereby protecting investors, as it provides for consistency and additional clarity regarding the documentation and form of submission of transaction information for open outcry executions that occur during an outage, and the form of the reports of that information to the Exchange following resolution of the outage. The Exchange further believes the proposed rule change may prevent fraudulent and manipulative acts and otherwise promote just and equitable principles of trade. Particularly, the proposed rule change will require a uniform approach to the documentation and reporting procedures of transaction information for orders executed during an outage, which will provide for consistency in the Exchange's audit trail.

The Exchange does not believe that documentation of certain trade information in a manner and form determined by the Exchange and the procedure regarding retroactive submission of certain trade information in the event of a system malfunction or disruption would present any new or novel issues or reporting policies for participants, as similar procedures are already in place under the Exchange Rules in the event a system malfunction or disruption results in participants' inability to systematize their orders upon receipt.

Item 4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes

of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it would apply equally to all participants. In addition, the Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change is not competitive in nature nor does it relate to trading on the Exchange. Rather, it relates solely to the manner and form of reporting transaction information to the Exchange in outage scenarios.

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

Not applicable.

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

(a) The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A) of Act¹³ and Rule 19b-4(f)(6)¹⁴ thereunder.

(b) The Exchange designates that the proposed rule change effects a change that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

interest. Additionally, the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

The Exchange does not believe that the proposed rule change will significantly affect the protection of investors or the public interest. Rather, the proposed rule change is designed to protect investors and the public interest by providing for consistency and additional clarity regarding the documentation and submission of open outcry transaction information for orders executing during an outage. The Exchange also does not believe that the proposed rule change would significantly affect the protection of investors or the public interest because, as described above, participants are subject to similar requirements regarding the submission of order-related information in the event a system malfunction or disruption results in participants' inability to systematize their orders upon receipt.

In addition to this, the Exchange does not believe that the proposed rule change will impose any significant burden on competition because the proposed rule would apply equally to all reporting participants. Moreover, the Exchange notes that the proposed rule change is not competitive in nature nor does it relate to trading on the Exchange. It relates solely to the form in which participants must report transaction information to the Exchange in outage scenarios.

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

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

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. As noted above, the proposed rule is not novel, as it is substantially similar to the procedure participants use when systemization is unavailable due to an outage. Participants currently report transaction information to the Exchange with respect to orders executed during an outage, and the proposed rule change merely requires participants to continue to do so in a uniform manner. The proposed rule change does not modify the information that participants must report, nor does it change how open outcry trading will occur. The Exchange believes the proposed rule change will provide consistency and clarity in the Rules regarding how to report transaction information to the Exchange in the event of an outage, which will benefit investors. Waiver of the operative delay will permit the Exchange to implement the proposed rule change in connection with the current proposed reopening of its trading floor on June 15, 2020.

(c) Not applicable.

(d) Not applicable.

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 5. Proposed rule text.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-CBOE-2020-053]

[Insert date]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 6.1 in Order to Provide for a Consistent Documentation of Open Outcry Execution Information in the Event of an Exchange System Malfunction or Disruption

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 Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.1 in order to provide for a consistent documentation of open outcry execution information in the event of an Exchange system malfunction or disruption.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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

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

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

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

1. Purpose

The Exchange proposes to amend Rule 6.1 in order to provide for a consistent documentation of open outcry execution information in the event of an Exchange system malfunction or disruption.

Specifically, Rule 6.1(a) requires that a Trading Permit Holder ("TPH") in each transaction to be designated by the Exchange must report or ensure the transaction is reported to the Exchange within 90 seconds of the execution in a form and manner prescribed by the Exchange so that the trade information may be reported to time and sales reports.⁵ Pursuant to Rule 6.1(c)(1), the seller (or buyer if designated by the Exchange) must submit the transaction report through an electronic data transmission link approved

⁵ The Exchange notes that for trades executed electronically through the System, trade information is immediately submitted to the Exchange so that it may be reported to the tape.

by the Exchange in order to fulfill the Rule 6.1(a) reporting requirement. Additionally, Rule 6.1(c) provides that participants (both the buyer and the seller) must immediately record on a card or ticket or enter in an electronic data storage medium acceptable to the Exchange certain requisite transaction information. Such transaction information includes, among other things, the time of the transaction obtained from a source designated by the Exchange,⁶ and must be included in the transaction report. Currently, TPHs submit transaction reports through Public Automated Routing System (“PAR”)⁷ workstations. In practice, generally, when an order is executed in open outcry, a participant nearly contemporaneously with the execution enters the requisite trade information into a PAR workstation, including the transaction time and presses a “trade” button, which both reports the trade to the Exchange and constitutes the entry of requisite trade information in an electronic data storage medium pursuant to Rule 6.1(c).

Rule 6.1(a) currently allows for designated late reporting, however, a pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with just and equitable principles of trade and subject to fines or discipline under Exchange Rules.⁸ Therefore, in the event an Exchange system experiences a malfunction or disruption so that a participant is unable to electronically submit the requisite transaction information and report open outcry transaction information within the

⁶ The Exchange notes that there are universal clocks on the trading floor which brokers may use when recording outage reports.

⁷ See Rule 5.82.

⁸ See also Rule 6.1(j)(2), which provides that in the event a Clearing Trading Permit Holder attempts to send trade information by electronic transmission but is unable to get through to the Exchange computer system, the Clearing Trading Permit Holder may contact the Exchange’s Trade Desk Department to inquire if the Exchange’s system is ready to receive such Clearing Trading Permit Holder’s transmission.

90 second window (i.e. an “outage”), a late reporting designation is considered acceptable and the participant is able to electronically submit the trade information and simultaneously report the transaction upon resolution of the malfunction or disruption and resumption of the impacted Exchange system. Although pursuant to Rule 6.1(c), a participant is able to record the transaction information on a card or ticket, and may currently do so in the case of an outage (and following the outage is then able to electronically enter the trade information and submit the transaction report), the Exchange Rules do not currently provide for a specific manner and form in which a participant should report transaction information, including the transaction time, in the event that an outage impedes a participant’s ability to submit an electronic transaction record within the required time period.⁹ As such, the Exchange now proposes to amend Rule 6.1(a) to provide additional clarity and consistency regarding the documentation and submission of transaction reports for open outcry executions that occur during an outage.

Specifically, the proposed change adopts subparagraph (a)(2)¹⁰ to Rule 6.1, which provides that in the event of an Exchange system malfunction or disruption such that a participant is unable to electronically report trade information pursuant to subparagraph (c) of Rule 6.1 for orders executed in open outcry (an “outage”), a participant will record execution information, including the transaction time, for orders executed in open outcry

⁹ In connection with past outages, participants have reported this information to the Exchange, but have done so in different manners. The proposed rule change will require participants to report this information to the Exchange in the same manner as designated by the Exchange.

¹⁰ The proposed change also separates the late reporting provisions in current Rule 6.1(a) into subparagraph (a)(1) (and titles the proposed subparagraph “Late Reports”) for formatting consistency and ease of reading and following Rule 6.1(a) generally.

in a manner and form determined by the Exchange. Upon the resolution of the outage, a participant must resume electronic submission of transaction reports within the 90 second time frame and must use best efforts to input electronically into the Exchange's system the execution information required by subparagraph (c) of Rule 6.1 for the order(s) executed in open outcry during the outage not later than the close of business on the day that the malfunction or disruption ceases.

By providing that the Exchange determines the manner and form that participants must report transaction information for executions that occur during an outage,¹¹ the proposed rule change will provide for consistency among all participants with respect to their electronic submission of transaction reports to the Exchange after the system malfunction or disruption is resolved. The proposed rule will also provide additional clarity in the Rules regarding the procedure participants must use to submit transaction information to the Exchange following the resolution of an outage. A uniform approach will also provide for more consistency of information in the Exchange's audit trail.

The Exchange also notes that a similar process is currently in place pursuant to the Exchange Rules in the event of a malfunction or disruption of the Exchange's systems such that a Trading Permit Holder is unable to systematize an order, wherein each order transmitted to the Exchange during a malfunction or disruption of the Exchange's systems must be recorded legibly in a written form that has been approved by the Exchange,¹² and

¹¹ Pursuant to Rule 1.5, the Exchange will announce its determination of the manner and form via: (1) specifications, Notices, or Regulatory Circulars with appropriate advanced notice, which are posted on the Exchange's website, or as otherwise provided in the Rules; (2) electronic message; or (3) other communication method as provided in the Rules.

¹² The Exchange notes that a legible record is a manner in which it intends to determine that a participant will be required to record execution information upon

the Trading Permit Holder receiving such order must record the time of its receipt on the floor and legibly record the terms of the order, in written form.¹³ Such rules also permit the retroactive entry of order receipt information following the cessation of the malfunction or disruption.

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.¹⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁵ 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)¹⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, by requiring participants to report open outcry transaction information for orders executed during an outage in a specific manner and form determined by the

an outage, as proposed.

¹³ See Rule 5.7(f)(2)(C)(i).

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ Id.

Exchange, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and national market system and help to ensure the maintenance of a fair and orderly market, thereby protecting investors, as it provides for consistency and additional clarity regarding the documentation and form of submission of transaction information for open outcry executions that occur during an outage, and the form of the reports of that information to the Exchange following resolution of the outage. The Exchange further believes the proposed rule change may prevent fraudulent and manipulative acts and otherwise promote just and equitable principles of trade. Particularly, the proposed rule change will require a uniform approach to the documentation and reporting procedures of transaction information for orders executed during an outage, which will provide for consistency in the Exchange's audit trail.

The Exchange does not believe that documentation of certain trade information in a manner and form determined by the Exchange and the procedure regarding retroactive submission of certain trade information in the event of a system malfunction or disruption would present any new or novel issues or reporting policies for participants, as similar procedures are already in place under the Exchange Rules in the event a system malfunction or disruption results in participants' inability to systematize their orders upon receipt.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it would apply equally to all participants. In addition, the Exchange does not believe that the proposed rule change will impose any burden on

intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change is not competitive in nature nor does it relate to trading on the Exchange. Rather, it relates solely to the manner and form of reporting transaction information to the Exchange in outage scenarios.

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

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

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

Because the foregoing proposed rule change does not:

- A. significantly affect the protection of investors or the public interest;
- B. impose any significant burden on competition; and
- C. become operative for 30 days from the date on which it was filed, or such

shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and Rule 19b-4(f)(6)¹⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f)(6).

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-2020-053 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-2020-053. 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-2020-053 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.¹⁹

Secretary

¹⁹ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

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Rules of Cboe Exchange, Inc.

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Rule 6.1 Report Transactions to the Exchange

(a) *Designated Trading Permit Holder Must Report Transaction.* A participant in each transaction to be designated by the Exchange must report or ensure the transaction is reported to the Exchange within 90 seconds of the execution in a form and manner prescribed by the Exchange so that the trade information may be reported to time and sales reports.

(1) *Late Reports.* Transactions not reported within 90 seconds after execution in accordance with this Rule shall be designated as late. A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with just and equitable principles of trade and subject to summary fine under Rule 13.15 or to discipline under Chapter 13 of the Rules.

(2) *Outage.* In the event of an Exchange system malfunction or disruption such that a participant is unable to electronically report trade information pursuant to subparagraph (c) below for orders executed in open outcry (an "outage"), a participant will record execution information for orders executed in open outcry during the outage in a manner and form determined by the Exchange. Upon the resolution of the outage, a participant must resume electronic submission of transaction reports within the 90 second time frame and must use best efforts to input electronically into the Exchange's system the execution information required by subparagraph (c) below for the order(s) executed in open outcry during the outage not later than the close of business on the day that the malfunction or disruption ceases.

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