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

File No.* SR - 2021 - * 006
Amendment No. (req. for Amendments *)

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) *
☑	☐	☐	☐	☑	☐

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

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)

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 *).

The Exchange proposes a rule change to amend the definition of "current market value" for purposes of calculating margin requirements for ETF options designated by the Exchange, including SPY.

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 *	Laura	Last Name *	Dickman
Title *	VP, Associate General Counsel		
E-mail *	ldickman@cboe.com		
Telephone *	(312) 786-7572	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 01/14/2021

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. <u>Text of the Proposed Rule Change</u>

(a) Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend the definition of "current market value" for purposes of calculating margin requirements for certain options. The text of the proposed rule change is provided below and in Exhibit 1.

(additions are <u>underlined</u>; deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 10.3. Margin Requirements

(a) *Definitions.* For purposes of this Rule, the following terms shall have the meanings specified below.

(1) No change.

(2) The term "current market value" is as defined in Section 220.[3]<u>2</u> of Regulation T of the Board of Governors of the Federal Reserve System. At any other time, in the case of options, stock index warrants, currency index warrants and currency warrants, it shall mean the closing price of that series of options or warrants on the Exchange on any day with respect to which a determination of current market value is made, except in the case of certain index <u>and ETF</u> options determined by the Exchange, it shall be based on quotes for that series of options on the Exchange 15 minutes prior to the close of trading on any day with respect to which a determination of current market value is made. In the case of other securities, it shall mean the preceding business day's closing price as shown by any regularly published reporting or quotation service. If there is no closing price or quotes, as applicable, on the option or on another security, a TPH organization may use a reasonable estimate of the current market value of the security as of the close of business or as of 15 minutes prior to the closing of trading, respectively, on the preceding business day.

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(b) The proposed definition of "current market value" will be applicable in all Rules in Chapter 10 of the Exchange's Rulebook that use that term with respect to the ETF options specified by the Exchange.

(c) The Exchange has submitted numerous rule filings with respect to the Rules regarding margin requirements currently located in Chapter 10 of the Exchange's Rulebook, which would be challenging to list in this filing.

Item 2. Procedures of the Self-Regulatory Organization

(a) The Exchange's Chief Regulatory Officer pursuant to delegated authority approved the proposed rule change on December 21, 2020. The Exchange will provide Trading Permit Holders with sufficient advanced notice of the implementation date of the proposed rule change (including notice of the ETF options to which the proposed rule change will apply as designated by the Exchange) in accordance with Rule 1.5.

(b) Please refer questions and comments on the proposed rule change to Pat Sexton, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7467, or Laura G. Dickman, (312) 786-7572, Cboe Exchange, Inc., 400 South LaSalle, Chicago, Illinois 60605.

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

(a) Purpose

The Exchange proposes to amend the definition of "current market value" with respect to certain ETF options for purposes of calculating margin requirements. Rule 10.3(a)(2) currently defines the term "current market value" as follows:

> The term "current market value" is as defined in Section 220.3 of Regulation T of the Board of Governors of the Federal Reserve System. At any other time, in the case of options, stock index warrants, currency index warrants and currency warrants, it shall mean the closing price of that series of options or warrants on the Exchange on any day with respect to which a determination of current market value is made, except in the case of certain index options determined by the Exchange, it shall be based on quotes for that series of options on the Exchange 15 minutes prior to the close of trading on any day with respect to which a determination of current market value is made. In the case of other securities, it shall mean the preceding

> business day's closing price as shown by any regularly published reporting or quotation service. If there is no closing price or quotes, as applicable, on the option or on another security, a TPH organization may use a reasonable estimate of the current market value of the security as of the close of business or as of 15 minutes prior to the closing of trading, respectively, on the preceding business day.[1]

Rule 10.3 and other Rules in Chapter 10 of the Exchange's Rulebook describe how margin requirements are calculated for market participants' positions in options (and certain other securities), including strategy-based margin and customer portfolio margin requirements, which requirements are generally based on the current market value of the option series. These requirements are determined on a daily basis for market participants' securities accounts that hold options positions.[2] Currently, 43 ETF options that are listed for trading on the Exchange close for trading at 4:15 p.m. Eastern time.[3] Therefore, daily margin

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1 Section 220.2 of Regulation T of the Board of Governors of the Federal Reserve System defines "current market value" of a security as (1) throughout the day of the purchase or sale of a security, the security's total cost of purchase or the net proceeds of its sale including any commissions charged; or (2) at any other time, the closing sale price of the security on the preceding business day, as shown by any regularly published reporting or quotation service. If there is no closing sale price, the creditor may use any reasonable estimate of the market value of the security as of the close of business on the preceding business day." See 12 CFR § 220.2. The term "marking" value is often used to refer to the current market value for capital and margin purposes. The proposed rule change corrects the reference to Section 220.3 in the definition of current market value in Rule 10.3(a)(2) to be Section 220.2.

2 The Exchange notes the Options Clearing Corporation ("OCC") calculates the daily margin requirements for Clearing Members' options positions at OCC. The Exchange understands OCC intends to incorporate a corresponding change regarding the time at which the value of a series is determined into its procedures for calculating margin requirements.

3 See Rule 5.1(b)(2); see also closing times for ETF options, *available at* https://www.cboe.com/us/options/market_statistics/symbol_reference/?mkt=cone&underlying=1.

requirements for those options are currently based on the closing trade prices of those options series at that time.[4]

A number of options overlie exchange-traded funds ("ETFs") that track the same indexes on which the Exchange lists index options.[5] These options are complementary investment tools available to market participants. The Exchange understands that market participants generally use the same information when pricing an index option and an ETF option with an underlying ETF that tracks the same index. Additionally, market participants' investment and hedging strategies often involve index options and related products, including ETF options. For example, market participants often engage in hedging strategies that involve options on the S&P 500 Index ("SPX options"), which trade exclusively on the Exchange, and SPY options, which may trade on any options exchange.

The Exchange recently amended the definition of "current market value" to provide that, for certain index options determined by the Exchange, it would be based on quotes for a series of options on the Exchange 15 minutes prior to the close of trading rather than the closing price.[6] The purpose of that change was to maintain alignment between the times at which the current market value of index options and the daily settlement price of related

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4 The Exchange notes the daily margin requirements for all other ETF options that close at 4:00 p.m. Eastern time are based on the closing trade at that time.

5 For example, the SPDR S&P 500 ETF Trust ("SPY") tracks the S&P 500 Index. The Exchange (as well as other options exchanges) list SPY options for trading, and the Exchange lists options on the S&P 500 Index as well ("SPX"). Additional examples of ETF options (which may trade on any options exchange) with an underlying ETF that tracks an index on which the Exchange lists an option include the iShares Russell 2000 ETF ("IWM") (which tracks the Russell 2000 Index, as do RUT options) and the SPDR Dow Jones Industrial Average ETF Trust ("DIA") (which tracks the Dow Jones Industrial Average, as do DJX options).

6 See Securities Exchange Act Release No. 90195 (October 15, 2020), 85 FR 67041 (October 21, 2020) (SR-CBOE-2020-090).

futures (*i.e.*, futures that overlie the same indexes as the index options) is determined for purposes of calculating daily margin requirements.[7] Currently, the Exchange has determined to determine the current market value for margin requirements 15 minutes prior to the closing time for the following index options: DJX options, MXEA options, MXEF options, OEX options, RUT options, SPESG options, SPX options, VIX options, XEO options, and XSP options.[8]

Currently, the Exchange determines the daily settlement price for all ETF options at the time at which they close for trading, which as noted above, is at 4:15 p.m. for a number of ETF options. Several of these ETF options overlie an ETF that tracks an index on which the Exchange lists index options, including index options for which the Exchange determines the current market value for margin requirements 15 minutes prior to the closing time. The Exchange has received numerous requests from market participants to determine the current market value for such ETF options at the same time at which it determines the current market value for corresponding index options. Therefore, to permit the Exchange to align the times at which the current market value of index options and options overlying ETFs that track the same indexes is determined for purposes of calculating daily margin requirements, the Exchange proposes to amend the definition of current market value with respect to certain Exchange-designated ETF options[9] to be based on quotes of that series of

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7 See id. As described in that proposed rule change, the Chicago Mercantile Exchange ("CME"), on which index futures products trade, intended to change the daily settlement price for index futures from 4:15 p.m. Eastern time to 4:00 p.m. Eastern time.

8 See Exchange Notice C2020113000, *Schedule Update – Cboe Proprietary Index Products MXEA and MXEF to be Added to 3:00 p.m. Marking Price Files.* These index options close for trading at 4:15 p.m. Eastern time.

9 Pursuant to Rule 1.5, the Exchange announces to Trading Permit Holders all determinations it makes pursuant to the Rules (which would include the

options on the Exchange 15 minutes prior to the close of trading on any day with respect to which a determination of current market value is made.[10] The Exchange intends to apply an indicator to the quotes disseminated to the Options Price Reporting Authority ("OPRA") that will be the daily mark for a series on the applicable trading day. The Exchange anticipates initially applying this proposed definition to SPY options. The proposed flexibility will permit the Exchange to respond in a timely manner to any requests from industry participants and maintain alignment between those times as appropriate.

(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.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[12] 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,

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determination of ETF options subject to the proposed rule change) via specifications, notices, or regulatory circulars with appropriate advanced notice, which are posted on the Exchange's website, or as otherwise provided in the Rules (among other methods).

10 Fifteen minutes prior to the close of trading will generally equate to 4:00 p.m. Eastern time. The Exchange notes the proposed rule change does not change the time at which trading in the applicable ETF options will close. In other words, on a regular trading day, while the current market value for these ETF options will be determined at 4:00 p.m. Eastern time, those ETF options will continue to trade until 4:15 p.m. Eastern time (any options trades that occur between 4:00 and 4:15 on that trading day would use the 4:00 current market value for margin calculation purposes).

11 15 U.S.C. 78f(b).

12 15 U.S.C. 78f(b)(5).

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)[13] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change furthers the objectives of Section 6(c)(3) of the Act,[14] which authorizes the Exchange to, among other things, prescribe standards of financial responsibility or operational capability and standards of training, experience and competence for its Trading Permit Holders and person associated with Trading Permit Holders.

In particular, the Exchange believes alignment between the times at which related options prices are used to calculate daily margin requirements will protect investors. In fact, the Exchange has received numerous requests from market participants to make this change. Among other things, the Exchange believes this alignment will prevent increased risk to market participants that hold positions across related options products due to potential disparities that could occur in relation to factors such as margin requirements, pay-collect obligations, the synchronization of existing hedges, and the level of end-of-day risk. Differing daily valuation times for these products may cause offset relationships between options positions to be lost, which may distort the true status of risk within a market participant's portfolio. Use of the same determination time for margin calculations reduces risk of a disconnect between the values used in a market

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13 Id.

14 15 U.S.C. 78f(c)(3).

participant's securities account for related securities. For example, if the Exchange continues to use the closing prices of ETF options as the current market value of those options while the marking time of related index options uses prices 15 minutes prior to the close, there could be a significant misalignment between these values, particularly if there were to be a large price move in the equity markets during that 15-minute time period.[15]

The Exchange believes the proposed rule change will also promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market by permitting alignment of daily marks for related products that market participants often use in a complementary manner as part of their investment and hedging strategies. The Act authorizes the Exchange to prescribe standards of financial responsibility for Trading Permit Holders, and the proposed rule change regarding the daily value to be used for calculation of daily margin requirements for options positions is consistent with that authority.

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 primary purpose of the proposed rule change is to align margin calculations for related products in the securities industries. The Exchange does not believe 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 the

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15 The Exchange is unaware of market participants who have been significantly negatively impacted by this lack of alignment since the marking time for index options changed in October. However, the proposed rule change would eliminate the potential risk associated with misalignment going forward.

proposed change related to margin requirements for the designated options will apply in the same manner to all market participants that hold positions in those options. The Exchange does not believe 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 relates to margin requirements the Exchange imposes on its Trading Permit Holders. As noted above, the Exchange recently made a similar rule change to permit it to align the time at which it determines current market value for index options with the time at which a futures exchange determined the daily settlement value for related futures products for substantially similar purposes. Other options exchanges may choose to similarly change the time at which current market value will be determined for purposes of their margin rules.

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 Act[16] and Rule 19b-4(f)(6)[17] thereunder.

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16 15 U.S.C. 78s(b)(3)(A).

17 17 CFR 240.19b-4(f)(6).

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

In particular, the Exchange believes the proposed rule change will not significantly affect the protection of investors or the public interest, as it will align the times at which related options are established to calculate daily margin requirements. Among other things, the Exchange believes this alignment will prevent increased risk to market participants that hold positions across related options due to potential disparities that could occur in relation to factors such as margin requirements, pay-collect obligations, the synchronization of existing hedges, and the level of end-of-day risk. Differing daily valuation times for these products may cause offset relationships between options positions to be lost, which may distort the true status of risk within a market participant's portfolio. Use of the same determination time for margin calculations reduces risk of a disconnect between the values used in a market participant's securities account for related securities.

The Exchange also believes the proposed rule change will not impose any significant burden on competition, as the primary purpose of the proposed rule change is to permit the Exchange to align margin calculations for related options products. The proposed change to margin requirements for the designated options will apply in the same manner to all market participants that hold positions in those options. Additionally, the proposed rule change relates solely to margin requirements the Exchange imposes on its Trading Permit Holders and is intended to align the daily valuation time of index options with the daily valuation time of related options products that trade on the Exchange. Other options exchanges may choose to similarly change the time at which current market value will be determined for purposes of their margin rules.

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. Waiver of the operative delay will protect investors by permitting the Exchange to align the times at which the current market value of ETF options with the times at which the current market value of related index options in securities accounts are determined as soon as practicable. The Exchange believes this will benefit market participants by preventing potential price distortions between related options and reduce pricing risks to market participants that hold positions in ETF options and related index options that may occur if the time at which the current market value of options was determined differed from the time at which the daily settlement value of related futures was determined. The proposed rule change is not novel, because, as noted above, the Exchange recently made a similar rule change to permit it to align the time at which it determines current market value for index options with the time at which a futures exchange determined the daily settlement value for related futures products for substantially similar purposes. Waiver of the operative delay will permit the Exchange to eliminate the potential pricing disparities that may occur as a result of continued misalignment (as described above) as soon as possible. The Exchange will announce to Trading Permit Holders the date on which the change will be implemented in accordance with Rule 1.5 (i.e., the date will be announced via specifications, notices, or regulatory circulars with appropriate advanced notice, which are posted on the Exchange's website, or as otherwise provided in the Rules (among other methods)).

(c) Not applicable.

(d) Not applicable.

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

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

Item 9. <u>Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act</u>

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 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-CBOE-2020-006]

[Insert date]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend the Definition of "Current Market Value" for Purposes of Calculating Margin Requirements for Certain Options

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 Act[3] 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

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend the definition of "current market value" for purposes of calculating margin requirements for certain options. The text of the proposed rule change is provided below.

(additions are underlined; deletions are [bracketed])

* * * * *

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).

Rules of Cboe Exchange, Inc.

* * * * *

Rule 10.3. Margin Requirements

(a) *Definitions.* For purposes of this Rule, the following terms shall have the meanings specified below.

(1) No change.

(2) The term "current market value" is as defined in Section 220.[3]2 of Regulation T of the Board of Governors of the Federal Reserve System. At any other time, in the case of options, stock index warrants, currency index warrants and currency warrants, it shall mean the closing price of that series of options or warrants on the Exchange on any day with respect to which a determination of current market value is made, except in the case of certain index and ETF options determined by the Exchange, it shall be based on quotes for that series of options on the Exchange 15 minutes prior to the close of trading on any day with respect to which a determination of current market value is made. In the case of other securities, it shall mean the preceding business day's closing price as shown by any regularly published reporting or quotation service. If there is no closing price or quotes, as applicable, on the option or on another security, a TPH organization may use a reasonable estimate of the current market value of the security as of the close of business or as of 15 minutes prior to the closing of trading, respectively, on the preceding business day.

* * * * *

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 the definition of "current market value" with respect to certain ETF options for purposes of calculating margin requirements. Rule 10.3(a)(2) currently defines the term "current market value" as follows:

> The term "current market value" is as defined in Section 220.3 of Regulation T of the Board of Governors of the Federal Reserve System. At any other time, in the case of options, stock index warrants, currency index warrants and currency warrants, it shall mean the closing price of that series of options or warrants on the Exchange on any day with respect to which a determination of current market value is made, except in the case of certain index options determined by the Exchange, it shall be based on quotes for that series of options on the Exchange 15 minutes prior to the close of trading on any day with respect to which a determination of current market value is made. In the case of other securities, it shall mean the preceding business day's closing price as shown by any regularly published reporting or quotation service. If there is no closing price or quotes, as applicable, on the option or on another security, a TPH organization may use a reasonable estimate of the current market value of the security as of the close of business or as of 15 minutes prior to the closing of trading, respectively, on the preceding business day.[5]

Rule 10.3 and other Rules in Chapter 10 of the Exchange's Rulebook describe how margin requirements are calculated for market participants' positions in options (and certain other securities), including strategy-based margin and customer portfolio margin requirements,

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[5] Section 220.2 of Regulation T of the Board of Governors of the Federal Reserve System defines "current market value" of a security as (1) throughout the day of the purchase or sale of a security, the security's total cost of purchase or the net proceeds of its sale including any commissions charged; or (2) at any other time, the closing sale price of the security on the preceding business day, as shown by any regularly published reporting or quotation service. If there is no closing sale price, the creditor may use any reasonable estimate of the market value of the security as of the close of business on the preceding business day." See 12 CFR § 220.2. The term "marking" value is often used to refer to the current market value for capital and margin purposes. The proposed rule change corrects the reference to Section 220.3 in the definition of current market value in Rule 10.3(a)(2) to be Section 220.2.

which requirements are generally based on the current market value of the option series. These requirements are determined on a daily basis for market participants' securities accounts that hold options positions.[6] Currently, 43 ETF options that are listed for trading on the Exchange close for trading at 4:15 p.m. Eastern time.[7] Therefore, daily margin requirements for those options are currently based on the closing trade prices of those options series at that time.[8]

A number of options overlie exchange-traded funds ("ETFs") that track the same indexes on which the Exchange lists index options.[9] These options are complementary investment tools available to market participants. The Exchange understands that market participants generally use the same information when pricing an index option and an ETF option with an underlying ETF that tracks the same index. Additionally, market participants' investment and hedging strategies often involve index options and related products, including ETF options. For example, market participants often engage in hedging

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6 The Exchange notes the Options Clearing Corporation ("OCC") calculates the daily margin requirements for Clearing Members' options positions at OCC. The Exchange understands OCC intends to incorporate a corresponding change regarding the time at which the value of a series is determined into its procedures for calculating margin requirements.

7 See Rule 5.1(b)(2); see also closing times for ETF options, *available at* https://www.cboe.com/us/options/market_statistics/symbol_reference/?mkt=cone&underlying=1.

8 The Exchange notes the daily margin requirements for all other ETF options that close at 4:00 p.m. Eastern time are based on the closing trade at that time.

9 For example, the SPDR S&P 500 ETF Trust ("SPY") tracks the S&P 500 Index. The Exchange (as well as other options exchanges) list SPY options for trading, and the Exchange lists options on the S&P 500 Index as well ("SPX"). Additional examples of ETF options (which may trade on any options exchange) with an underlying ETF that tracks an index on which the Exchange lists an option include the iShares Russell 2000 ETF ("IWM") (which tracks the Russell 2000 Index, as do RUT options) and the SPDR Dow Jones Industrial Average ETF Trust ("DIA") (which tracks the Dow Jones Industrial Average, as do DJX options).

strategies that involve options on the S&P 500 Index ("SPX options"), which trade exclusively on the Exchange, and SPY options, which may trade on any options exchange.

The Exchange recently amended the definition of "current market value" to provide that, for certain index options determined by the Exchange, it would be based on quotes for a series of options on the Exchange 15 minutes prior to the close of trading rather than the closing price.[10] The purpose of that change was to maintain alignment between the times at which the current market value of index options and the daily settlement price of related futures (*i.e.*, futures that overlie the same indexes as the index options) is determined for purposes of calculating daily margin requirements.[11] Currently, the Exchange has determined to determine the current market value for margin requirements 15 minutes prior to the closing time for the following index options: DJX options, MXEA options, MXEF options, OEX options, RUT options, SPESG options, SPX options, VIX options, XEO options, and XSP options.[12]

Currently, the Exchange determines the daily settlement price for all ETF options at the time at which they close for trading, which as noted above, is at 4:15 p.m. for a number of ETF options. Several of these ETF options overlie an ETF that tracks an index on which the Exchange lists index options, including index options for which the Exchange determines the current market value for margin requirements 15 minutes prior

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10 See Securities Exchange Act Release No. 90195 (October 15, 2020), 85 FR 67041 (October 21, 2020) (SR-CBOE-2020-090).

11 See id. As described in that proposed rule change, the Chicago Mercantile Exchange ("CME"), on which index futures products trade, intended to change the daily settlement price for index futures from 4:15 p.m. Eastern time to 4:00 p.m. Eastern time.

12 See Exchange Notice C2020113000, *Schedule Update – Cboe Proprietary Index Products MXEA and MXEF to be Added to 3:00 p.m. Marking Price Files.* These index options close for trading at 4:15 p.m. Eastern time.

to the closing time. The Exchange has received numerous requests from market participants to determine the current market value for such ETF options at the same time at which it determines the current market value for corresponding index options. Therefore, to permit the Exchange to align the times at which the current market value of index options and options overlying ETFs that track the same indexes is determined for purposes of calculating daily margin requirements, the Exchange proposes to amend the definition of current market value with respect to certain Exchange-designated ETF options[13] to be based on quotes of that series of options on the Exchange 15 minutes prior to the close of trading on any day with respect to which a determination of current market value is made.[14] The Exchange intends to apply an indicator to the quotes disseminated to the Options Price Reporting Authority ("OPRA") that will be the daily mark for a series on the applicable trading day. The Exchange anticipates initially applying this proposed definition to SPY options. The proposed flexibility will permit the Exchange to respond in a timely manner to any requests from industry participants and maintain alignment between those times as appropriate.

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13 Pursuant to Rule 1.5, the Exchange announces to Trading Permit Holders all determinations it makes pursuant to the Rules (which would include the determination of ETF options subject to the proposed rule change) via specifications, notices, or regulatory circulars with appropriate advanced notice, which are posted on the Exchange's website, or as otherwise provided in the Rules (among other methods).

14 Fifteen minutes prior to the close of trading will generally equate to 4:00 p.m. Eastern time. The Exchange notes the proposed rule change does not change the time at which trading in the applicable ETF options will close. In other words, on a regular trading day, while the current market value for these ETF options will be determined at 4:00 p.m. Eastern time, those ETF options will continue to trade until 4:15 p.m. Eastern time (any options trades that occur between 4:00 and 4:15 on that trading day would use the 4:00 current market value for margin calculation purposes).

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.[15] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] 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)[17] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change furthers the objectives of Section 6(c)(3) of the Act,[18] which authorizes the Exchange to, among other things, prescribe standards of financial responsibility or operational capability and standards of training, experience and competence for its Trading Permit Holders and person associated with Trading Permit Holders.

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[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] Id.

[18] 15 U.S.C. 78f(c)(3).

In particular, the Exchange believes alignment between the times at which related options prices are used to calculate daily margin requirements will protect investors. In fact, the Exchange has received numerous requests from market participants to make this change. Among other things, the Exchange believes this alignment will prevent increased risk to market participants that hold positions across related options products due to potential disparities that could occur in relation to factors such as margin requirements, pay-collect obligations, the synchronization of existing hedges, and the level of end-of-day risk. Differing daily valuation times for these products may cause offset relationships between options positions to be lost, which may distort the true status of risk within a market participant's portfolio. Use of the same determination time for margin calculations reduces risk of a disconnect between the values used in a market participant's securities account for related securities. For example, if the Exchange continues to use the closing prices of ETF options as the current market value of those options while the marking time of related index options uses prices 15 minutes prior to the close, there could be a significant misalignment between these values, particularly if there were to be a large price move in the equity markets during that 15-minute time period.[19]

The Exchange believes the proposed rule change will also promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market by permitting alignment of daily marks for related products that market participants often use in a complementary manner as part of their investment and

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19 The Exchange is unaware of market participants who have been significantly negatively impacted by this lack of alignment since the marking time for index options changed in October. However, the proposed rule change would eliminate the potential risk associated with misalignment going forward.

hedging strategies. The Act authorizes the Exchange to prescribe standards of financial responsibility for Trading Permit Holders, and the proposed rule change regarding the daily value to be used for calculation of daily margin requirements for options positions is consistent with that authority.

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 primary purpose of the proposed rule change is to align margin calculations for related products in the securities industries. The Exchange does not believe 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 the proposed change related to margin requirements for the designated options will apply in the same manner to all market participants that hold positions in those options. The Exchange does not believe 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 relates to margin requirements the Exchange imposes on its Trading Permit Holders. As noted above, the Exchange recently made a similar rule change to permit it to align the time at which it determines current market value for index options with the time at which a futures exchange determined the daily settlement value for related futures products for substantially similar purposes. Other options exchanges may choose to similarly change the time at which current market value will be determined for purposes of their margin rules.

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 Act[20] and Rule 19b-4(f)(6)[21] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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20 15 U.S.C. 78s(b)(3)(A).

21 17 CFR 240.19b-4(f)(6).

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-2021-006 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-2021-006. 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-2021-006 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.[22]

Secretary

[22] 17 CFR 200.30-3(a)(12).