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

File No.* SR - 2020 - * 075
Amendment No. (req. for Amendments *) 1

Filing by Cboe Exchange, Inc.

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

| Initial * | Amendment * | Withdrawal | Section 19(b)(2) * | Section 19(b)(3)(A) * | Section 19(b)(3)(B) * |
|---|---|---|---|---|---|
| ☐ | ☑ | ☐ | ☑ | ☐ | ☐ |

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 *).

## Contact Information

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

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

## Signature

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

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

Date 10/23/2020
By Laura G. Dickman
(Name *)

(Title *)
VP, Associate General Counsel

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

ldickman@cboe.com

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

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

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| **Form 19b-4 Information** * <br> 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** * <br> 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** * <br> 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** <br> Add Remove View <br> Exhibit Sent As Paper Document <br> ☐ | 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** <br> Add Remove View <br> Exhibit Sent As Paper Document <br> ☐ | 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** <br> 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** <br> 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** <br> Add Remove View | If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions. |

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

(a) Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend Rule 5.70 and Rule 5.72, as well as Rule 5.33, to make Qualified Contingent Cross ("QCC") Orders available for FLEX trading. The Exchange initially submitted this rule filing SR-CBOE-2020-075 to the Securities and Exchange Commission ("Commission") on August 3, 2020 (the "Initial Rule Filing"). This Amendment No. 1 supersedes the Initial Rule Filing and replaces it in its entirety. Amendment No. 1 provides additional detail and support to the Form 19b-4 regarding the execution of QCC Orders in FLEX Options and the overall purpose and resulting benefits of adopting QCC Orders for FLEX trading. 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 July 7, 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 5.70 and Rule 5.72, as well as Rule 5.33, to make QCC Orders, which includes Complex QCC Orders and QCC with Stock Orders, available for electronic FLEX trading. Currently, QCC Orders are available only for electronic non-FLEX trading.

QCC Orders facilitate the execution of option orders that are part of Qualified Contingent Trades ("QCTs"),[1] by permitting Trading Permit Holders ("TPHs") to cross options orders without exposure while effecting the trade in the equities leg in another market at a price necessary to achieve the net price. Currently, TPHs may choose to submit the options component of a QCT as a FLEX Option, yet, are currently unable to execute a FLEX Options component of a QCT on the Exchange in the same efficient, unexposed manner as they may execute a non-FLEX option component of a QCT on the Exchange. The Exchange now seeks to provide TPHs and their customers with the same QCC trading capabilities for FLEX trading that are currently available for non-FLEX trading, thus providing TPHs with the same capability to execute the options parts of QCTs that are comprised of FLEX Options.

Rule 5.6(c) currently provides for the non-FLEX definition of a QCC Order. Specifically, a QCC order is comprised of an originating order to buy or sell at least

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1 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", paragraph (1), which defines a "qualified contingent trade" as a transaction consisting of two or more component orders, executed as agent or principal, where: (A) at least one component is an NMS stock, as defined in Rule 600 of Regulation NMS under the Exchange Act; (B) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (C) the execution of one component is contingent upon the execution of all other components at or near the same time; (D) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined by the time the contingent order is placed; (E) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (F) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade.

1,000 contracts (or 10,000 mini-option contracts) that is identified as being part of a QCT coupled with a contra-side order or orders totaling an equal number of contracts. If a QCC Order has more than one option leg (a "Complex QCC Order"), each option leg must have at least 1,000 standard option contracts (or 10,000 mini-option contracts). A QCC order represents one component of a QCT, which must be paired with a stock order. When a User enters a QCC Order, the User is responsible for executing the associated stock component of the QCT at or near the same time of the QCC order execution, just as a User is ultimately responsible for complying with execution requirements for any order a User submits. Indeed, the Exchange requires TPHs to properly mark all QCC Orders as such, and has a surveillance program in place which assesses TPH compliance with the requirements applicable to QCC Orders, including the requirement that the stock leg of the transaction be executed at or near the same time as the options leg.[2] To execute the associated stock, a User may choose to either 1) separately submit an option order to the Exchange and the stock order to a stock execution venue in time to be executed at or near the same time of each other, or 2) submit a QCC with Stock Order. A QCC with Stock Order is a type of QCC Order (including a Complex QCC Order) entered with a stock component to be electronically communicated by the Exchange to a designated broker-dealer for execution on behalf of the submitting User and, as indicated, are available to Users on a voluntary basis.[3]

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2 See Securities Exchange Act Release No. 15058 (June 17, 2011), 76 FR 35491 (Order Granting Approval of Proposed Rule Change Establishing Qualified Contingent Cross Orders) ("QCC Approval Order").

3 See Rule 5.33(a), definition of "QCC with Stock Order".

The Exchange proposes to adopt Rule 5.72(e)[4] to govern FLEX QCC Orders. The proposed rule is simply making QCC Order available for FLEX, and as such, the definition of FLEX QCC Orders is substantively identical as non-FLEX QCC Orders in Rule 5.6(c) and FLEX QCC Orders will execute in substantially the same manner with few differences unique to trading in FLEX Trading. Proposed Rule 5.72(e) provides that a "FLEX QCC" order is comprised of an originating order to buy or sell at least 1,000 standard FLEX Option contracts (or 10,000 mini FLEX option contracts) that is identified as being part of a QCT (as defined in Rule 5.6(c)) coupled with a contra-side order or orders totaling an equal number of contracts. If a FLEX QCC order has more than one option leg (a "Complex FLEX QCC" order), each option leg must have at least 1,000 standard FLEX option contracts (or 10,000 mini FLEX option contracts). This is substantively identical to the non-FLEX QCC definition in Rule 5.6(c). The Exchange notes that Users will enter into the System all FLEX QCC Orders as they would any other FLEX Order pursuant to 5.72(b) (governing the order entry of FLEX Orders) and the applicable FLEX auction rules. As such, the Exchange points out that FLEX QCC Orders may only be submitted for series consistent with the FLEX Rules.[5] Like QCC Orders submitted for non-FLEX trading, [6] FLEX QCC Orders will execute automatically upon entry without exposure pursuant to proposed Rule 5.72(e)(1). The Exchange notes, as there is no FLEX Order Book, the corresponding provisions in Rule 5.6(c)[7] and 5.33(f)(2) regarding QCC Order execution requirements in connection with yielding to

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4 The Exchange also moves current paragraph (e) to paragraph (f).

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

6 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", paragraph (2).

7 See id.

prices at which Priority Customer Orders may be resting in the Simple Book[8] and Complex Order Book ("COB"),[9] and in Rule 5.6(c)[10] in connection with pricing QCC Orders at or between the NBBO[11] would not be applicable to QCC Orders submitted to FLEX.[12] Proposed Rule 5.72(e)(1) also provides that a FLEX QCC Order is cancelled if it cannot execute, and that Rule 5.9 (related to exposure of orders on the Exchange) does not apply to FLEX QCC orders, both of which are consistent with the current non-FLEX QCC Rules.[13] Like QCC Orders submitted in non-FLEX classes,[14] QCC orders submitted in FLEX classes must be entered in the standard increment for the class.[15] Therefore, the proposed rule change adds in proposed Rule 5.72(e)(2) that FLEX QCC may only be entered in the increments applicable to FLEX Orders under Rule 5.4(c)(4).

Proposed Rule 5.72(e)(1) also provides that a FLEX QCC with Stock order executes pursuant to Rule 5.33(l). The proposed rule change amends Rule 5.33(1) to specify that the provisions governing QCC with Stock include FLEX QCC with Stock. As such, pursuant to Rule 5.33(l), for a FLEX QCC with Stock Order, a User must include the same requisite information as they must include when submitting such orders

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8 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", subparagraph (2)(A)(i).

9 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", subparagraph (2)(B)(i) and (iii).

10 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", subparagraph (2).

11 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", subparagraph (2)(A)(ii) and (B)(ii).

12 This is true for any FLEX Order.

13 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", subparagraph (2)(C) and (2)(C), respectively.

14 See 5.6(c), definition of "Qualified Contingent Cross or QCC", paragraph (3).

15 See Rule 5.4(c)(4) (which sets forth minimum increments for FLEX options).

for non-FLEX trading pursuant to Rule 5.33(l)(3)(A),[16] and the System will process the option and stock components of such orders in the same manner as it does for non-FLEX QCC orders pursuant to Rule 5.33(l)(3)(B) and (C).[17]

The Exchange seeks to make QCC Orders available for FLEX trading due to the growing customer demand it has received for QCC functionality for FLEX trading. The Exchange notes that a number of TPHs have expressed to the Exchange that use of QCC for FLEX options would increase the efficiency of their executions of the options component of a QCT if the options component consists of a FLEX Option. An investor may seek to use a FLEX Option as an appropriate hedge for a stock order but is currently unable to execute a FLEX Option that is part of a QCT on the Exchange in the same unexposed manner as it may execute a non-FLEX option on the Exchange. Currently, if a TPH wants to execute a FLEX Option that is intended to be part of a QCT, it would have to enter the FLEX Option as a FLEX Order separate from the stock portion or as a stock-option order, which must be exposed for at least three seconds prior to execution.[18]

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16 Rule 5.33(l)(3)(A) requires a User to include a net price for the stock and option components in accordance with the minimum increments for stock-option orders and (ii) identify the designated broker-dealer as set forth in Rule 5.33 (l)(2).

17 Rule 5.33(l)(3)(B) provides that the System executes the option component in accordance with Rule 5.6(c), but does not immediately send the User a trade execution report, and automatically communicates the stock component to the designated broker-dealer for execution at a stock trading venue. If the option component(s) of a QCC with Stock Order cannot execute, the System cancels the QCC with Stock Order, including both the stock and option components. Rule 5.33(l)(3)(C) provides that, if the System receives an execution report for the stock component of a QCC with Stock Order from the designated broker-dealer, the Exchange sends the User the trade execution report for the QCC with Stock order, including execution information for both the stock and option components. If the System receives a report from the designated broker-dealer that the stock component of a QCC with Stock Order cannot execute, the Exchange nullifies the option component trade and notifies the User of the reason for the nullification.

18 See Rule 5.72(c)(1)(F); Rule 5.73(c)(3); and Rule 5.74(c)(3).

Indeed, a clean cross of the FLEX Option component of a stock-option QCT would provide assurance to the parties to the QCT that their hedge will be maintained.[19] This is particularly significant for a variety of managed funds that recognize the benefits to their investors in employing certain hedging strategies through FLEX Options that allow for their investors to mitigate risk and meet their objectives. For example, a strategy may have an investment goal of protecting potential losses down to a certain amount with the ability to participate in return up to a certain cap in a reference asset (e.g., underlying index or ETF) over a target outcome period that is usually a year or more out. Such a strategy may utilize a combination of FLEX call and put options in which expiration corresponds to the target outcome period overlaid on an exposure to the reference asset. On the seed day (or, the day in which the strategy is created and funded), the options package would reflect customized strikes, necessary to target the strategy's trading objectives a year or more in advance and for which existing standard strikes are typically unavailable. The customized FLEX strikes are used for the duration of the life of the strategy and it is key that the appropriate combination of options is guaranteed to maintain the hedge.

Additionally, the Exchange notes that the Rules currently permit Compression orders, which execute without exposure against another Compression order(s) totaling an equal number of options contracts, for trading in FLEX SPX options.[20] That is, like the

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19 Amendment No. 1 adds additional explanation and detail in support the use of QCC Orders in FLEX trading.

20 Amendment No. 1 adds explanation regarding another order type that may already execute without exposure in FLEX Options in support of FLEX QCC Orders.

proposed FLEX QCC Orders, FLEX Compression orders are not exposed in a FLEX Auction pursuant to Rule 5.72.[21]

As noted above, to qualify as a QCT, the execution of one component is contingent upon the execution of all other components at or near the same time. The Exchange conducts surveillance of TPHs to ensure that TPHs execute the options component of a QCT at or near the same time as the stock component, in accordance with the QCT exemption.[22] Therefore, there is compliance risk for TPHs if they do not execute the options component at or near the same time of execution of the stock component. Providing TPHs with QCC Order functionality for FLEX Options will reduce the compliance burden on TPHs by providing a more efficient means of executing the options component of a QCT if the options component consists of a FLEX Option, as QCC Orders did for non-FLEX options.

(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.[23] Specifically, the Exchange believes the proposed rule change is consistent with the

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21 See Securities Exchange Release Nos. 89707 (August 28, 2020), 85 FR 55040 (September 3, 2020) (SR-CBOE-2020-074) (Notice of Filing of a Proposed Rule Change Relating To Adopt Compression Orders); and 90179 (October 14, 2020), 85 FR 66590 (October 20, 2020) (SR-CBOE-2020-074) (Order Granting Approval of a Proposed Rule Change To Adopt Position Compression Cross ("PCC") Orders for SPX). As is the case with the proposed FLEX QCC orders, there would be no NBBO or protection of customer orders for the recently approved compression orders for FLEX Options.

22 See supra note 1; see also infra note 30.

23 15 U.S.C. 78f(b).

Section 6(b)(5)[24] 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)[25] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposal to make the QCC Order type available for electronic FLEX trading will facilitate TPHs' execution of the options component of QCTs that are comprised of FLEX Options in the same manner that TPHs may currently execute the options component of QCTs that are comprised of non-FLEX options, thereby removing impediments to and perfecting the mechanism of a free and open market and national market system and, in general, protecting investors. QCC Orders for FLEX Options will execute in the same manner as QCC Orders for non-FLEX options; the proposed rule change merely expands the classes in which the Exchange may make QCC Orders available and provides a specific definition of FLEX QCC Orders for clarity. Moreover, the Exchange notes that stock-option orders (which, by definition, must also be a QCT)[26] are already permitted under the Rules for FLEX Options, and thus, the FLEX Options components of QCTs submitted as stock-option orders may currently execute at any price

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[24] 15 U.S.C. 78f(b)(5).

[25] Id.

[26] See Interpretation and Policy .03 to Rule 5.33.

in FLEX (i.e., are not subject to an NBBO or yielding to Customer orders). The proposed rule change merely provides an alternative, more efficient manner of execution for the option component of larger-sized QCTs.

The Exchange believes the availability of QCC Orders for FLEX Options will allow for a more efficient execution of the options component of a QCT on the Exchange. As noted above, to qualify as a QCT, the execution of one component is contingent upon the execution of all other components at or near the same time. The Exchange conducts surveillance to ensure a TPH executes the stock and option components of a QCT at or near the same time.[27] As a result, if the option component does not execute when initially submitted to the Exchange, a TPH may be subject to compliance risk if it does not execute the option component at or near the same time of the execution of the stock component. Indeed, the Exchange notes that the compliance risk of not being able to execute a FLEX Options portion of a QCT at or near the same time of the execution of the stock component is greater in a FLEX auction, where it must be exposed for at least three seconds prior to execution, than for non-FLEX option orders that must be exposed for at least one second[28] unless submitted into an auction with a shorter exposure period. The Exchange believes the proposed rule change will reduce this compliance risk for TPHs executing FLEX Options that are components of QCTs, which will protect investors and the public interest. Since the purpose of a QCT order is for all components to trade at or near the same time, the Exchange believes it is appropriate to provide TPHs with a mechanism to facilitate immediate execution of FLEX Options that comprise the

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27 See QCC Approval Order.

28 See Rule 5.9.

options component of a QCT to reduce the compliance burden on TPHs when effecting QCTs with a FLEX Option component.

The Exchange believes that proposed Rule 5.72(e), while substantially the same in almost all aspects to Rule 5.6(c) governing non-FLEX QCC, will provide clarity to TPHs regarding the submission of their QCC FLEX Options. The only difference between the FLEX and non-FLEX QCC Orders is that FLEX QCC Orders are not subject to the NBBO or prices of customers in the book. The Exchange notes this difference exists for any order type in non-FLEX trading versus FLEX trading.[29] The Exchange notes that the proposed rule changes do not alter any of the current increments applicable to FLEX Options but merely provide additional detail within the specific provision covering QCC Orders regarding the standard increments already permissible for FLEX Options that will also apply to QCC FLEX Orders.

As the Commission has previously found,[30] the execution of QCTs is beneficial to the market as a whole as it contributes to the efficient functioning of the securities markets and the price discovery process. Pursuant to the QCT Release, the options portion of a QCT may consist of non-FLEX or FLEX Options. However, as noted above, without the availability of QCC Orders for FLEX Options, TPHs are subject to higher compliance risk with respect to QCTs with a FLEX Option component than TPHs who execute QCTs with a non-FLEX option component. The Exchange submits this proposed

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[29] The Exchange also notes that the requirement that a QCC order execute at a price at or better than the NBBO is not a unique execution requirement – every option order type approved by the Commission must execute at a price at or better than the NBBO in accordance with the linkage plan. See Rule 5.66.

[30] See Securities Exchange Act Release No. 57620 (April 4, 2008), 73 FR 19271 (April 9, 2008) ("QCT Release"); and see QCC Approval Order.

rule change in response to demand from TPHs and their institutional customers[31] to be able to execute the options components of QCTs comprised of a FLEX Option in the same manner that they are currently able to execute the options components of QCTs comprised of non-FLEX options. Therefore, the proposed rule change will provide TPHs whose hedging strategies involve FLEX Options with the same functionality currently available to TPHs whose hedging strategies involve non-FLEX Options. The Exchange believes this will provide investors with additional flexibility regarding execution of their hedging strategies related to stock positions, which flexibility ultimately benefits investors.

Moreover, the Commission has stated that, while it believes that order exposure is generally beneficial to options markets, it recognizes that contingent trades can be useful trading tools for investors and other market participants, particularly those who trade the securities of issuers involved in mergers, different classes of shares of the same issuers, convertible securities, and equity derivatives such as options and that those who engage in contingent trades can benefit the market as a whole by studying the relationships between prices of such securities and executing contingent trades when they believe such relationships are out of line with what they believe to be fair value.[32]

The requirement that a non-FLEX QCC must execute at a price at or between the NBBO merely incorporates an execution requirement applicable to all option order types, as all options must execute at price at or better than the NBBO in accordance with

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[31] Amendment No. 1 specifies the customer base for FLEX trading.

[32] See QCC Approval Order.

linkage rules.[33] Therefore, this execution requirement is not a heightened execution requirement for an unexposed option order. The additional requirement that a QCC order not execute at the same price as a Priority Customer incorporates the general principle of customer protection in the options markets.[34] If the market model for a class does not include customer priority, this is a heightened execution requirement for execution of an unexposed order.[35] Even without this additional protection, the Exchange believes the proposed FLEX QCC order will protect investors, as it will provide Users of FLEX Options with the same functionality as Users of non-FLEX options. While the Exchange again notes that there is no FLEX book in which Customer orders (or any FLEX orders) may rest, and therefore the principles of customer priority are not currently applicable to FLEX trading, the Exchange observed the top of Book orders in non-FLEX symbols as a comparison point.[36] In a random sample of data drawn from orders resting at the top of

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33 See Rule 5.66. In other words, if the definition of a QCC order did not include the provision that it must execute at a price at or better than the NBBO, QCC orders would still be required to execute at a price at or better than the NBBO. The Exchange believes inclusion of this explicit requirement for QCC orders was intended to highlight the difference between execution of the options component and the stock component, which may execute at any price, but was not a unique price requirement necessary for execution of an unexposed order. Every order type on the Exchange approved for non-FLEX trading and FLEX trading has this same distinction.

34 If there was not a customer order resting at the top of the book, then the second pricing requirement for QCC orders is simply ignored. As there is no book in the FLEX market, the proposed FLEX QCC order is equivalent to a non-FLEX QCC order submitted when there is no customer order resting at the top of the book.

35 The Exchange has enabled customer priority for all equity option classes that trade on the Exchange (and thus for all classes in which TPHs may submit QCC orders). Therefore, all QCC orders submitted on the Exchange are subject to the same execution pricing requirements as non-QCC orders.

36 Amendment No. 1 adds a description of the top of Book data sample and the Exchange's observations in connection with the data sample in support of QCC

the Book,[37] the Exchange observed that, on average, only 0.34% of all orders resting at the top of the Book were Customer orders. As such, the Exchange believes that, even if there was a book for FLEX Options, there would be minimal risk of executing a FLEX QCC at the same price as a Customer order in the Book. Additionally, primarily broker-dealers and institutional investors engage in FLEX trading. Indeed, executions in FLEX Options are generally larger and held long-term for strategies utilized by broker-dealers and institutional investors, as opposed to the smaller, more frequent trades with shorter expiration durations typically executed by retail investors. The Exchange also understands that many large retail brokerage firms do not accept FLEX Options or otherwise have high minimums which may discourage retail trading in FLEX Options.[38] Therefore, there are minimal retail customer orders submitted into the FLEX market and thus it would be unlikely any would be resting at the top of a FLEX book if one existed for a de minimis (if any) amount of time that would require additional protection. As discussed above, the Exchange believes the benefits of exposure on an order on the Exchange are outweighed by the benefits offered by immediate execution of these contingent order types. The Exchange does not believe market participants that engage in hedging strategies involving FLEX Options should not have access to the same functionality as market participants with hedging strategies involving non-FLEX options.

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for FLEX trading and that, as proposed, FLEX QCC orders are consistent with the protection of investors.

37 The random sample was drawn over three days (September 25, September 30, and October 1, 2020) from a different Match Engine each sample day (one of which includes SPY). The sampling of data across different Match Engines is representative of the symbols that trade on the Exchange.

38 Amendment No. 1 adds additional detail regarding the de minimis amount of retail customer orders submitted into the FLEX market that would require additional protection.

The Exchange does not believe the propose rule change raises price protection concerns that market participants may submit FLEX QCC Orders for a FLEX series with slightly different terms than a non-FLEX series in order to get better pricing. Such risk, if any, exists today with respect to all FLEX trading. The Exchange again points out that the linkage rules and customer priority are currently not applicable to any orders submitted to FLEX, wherein there is no order book. The Exchange has observed no trends of TPHs submitting FLEX orders in order to avoid trading in the non-FLEX market. The Exchange believes the risk (if any) of a market participant trading a FLEX Option rather than a non-FLEX option with slightly different terms to use the FLEX market as a substitute for the non-FLEX market and achieve such a result is minimal. This possibility exists today with respect to all options the Exchange lists for FLEX and non-FLEX trading. The Exchange has not observed market participants attempting to trade in the FLEX market rather than the non-FLEX market for this purpose in classes in which this is possible today and believes there would be minimal, if any, benefit to do so. The Exchange compiled a dataset of all FLEX series listed on the Exchange in the last year[39] that matched non-FLEX series on the underlying, expiration date, put/call and exercise-style, but had different strikes. From the dataset, the Exchange was able to observe the differences in strike prices between FLEX series and listed series.[40] The Exchange found that 99.90% of all SPX and SPXW FLEX series created were over $1.00 away from the matching SPX/SPXW listed series strikes, and that 90.10% of these were

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39 From October 14, 2019 through October 9, 2020.

40 Amendment No. 1 provides additional data in support of QCC Orders for FLEX trading, particularly demonstrating that there is minimal risk of trading in the FLEX market as a substitute for trading an economically equivalent option in the non-FLEX market.

over $100.00 away from the matching listed series strikes. It also found that 97.61% of all equity and ETP FLEX series created were over $1.00 away from the matching listed series strikes, and that 83% of these were over $10.00 away from the matching listed series strikes and 44.97% of these were over $100.00 away from the matching listed series strikes. As a result, the Exchange believes that there is minimal (if any) risk that market participants desire or attempt to use the FLEX market as a substitute to avoid trading in the non-FLEX market.

The Exchange believes attempting to execute an order in the FLEX market as a substitute for the non-FLEX market would minimize execution opportunities for that order. Such trading would be inefficient for market participants and could introduce price and execution risk to market participants' trading strategies given the reduced liquidity, participation, and price discovery in the FLEX market compared to the non-FLEX market.[41] Additionally, series with different terms have different prices and serve different investment purposes, so trading a "similar" FLEX series may not achieve the same investment objective as the non-FLEX series a TPH initially sought to trade. The Exchange notes if a FLEX QCC Orders execute at a price through the book of the "similar" non-FLEX series, while that would be a better price for one transaction participant, it would be a worse price for the participant on the opposite side, and thus it may be more difficult for the TPH to find sufficient contra party interest. For example, suppose the market for Aug ABC 800 call with a multiplier of 100 is 10.20 – 11.00. If a market participant sought interest from counterparties to execute a FLEX QCC Order to buy an Aug ABC 795 call with at 10.00, it is unlikely another market participant would

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41 See Sections VII and X of the ODD regarding risks associated with FLEX Options.

sell at that price if they were looking to sell the Aug ABC 800 call, given that participant could sell the "similar" non-FLEX option series at 10.20, which would be a better price for that seller. Given the likely difficulties (such as reduced liquidity and potentially longer timeframe to receive execution) of trading in the FLEX market as a substitute for trading an economically equivalent option in the non-FLEX market (such as to obtain a better execution price), the Exchange believes the risk of this occurring is de minimis. The Exchange believes that any such risk is even lower for FLEX QCC Orders given the additional requirements that apply to FLEX QCC Orders, even without the heightened execution price requirement that a QCC Order cannot execute at the same price as a Priority Customer. The benefits of QCC Orders apply to FLEX options in the same manner as they do for non-FLEX options, which benefits the Exchange believes significantly outweigh any price protection risk that may exist in the FLEX market.

Ultimately, as noted above, QCC Orders in FLEX Options will execute in a substantially similar manner as QCC Orders in non-FLEX options. In addition to this, the Exchange notes that the Rules currently permit Compression orders in FLEX SPX options which, like QCC Orders for FLEX trading, may execute immediately without exposure as opposed to being submitted to a FLEX Auction despite there being no NBBO or customer priority in the FLEX market. Finally, the Exchange notes that QCC functionality is a widely adopted industry order type wherein multiple other options exchanges currently have QCC functionality in place.[42]

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[42] See e.g. Nasdaq Phlx Rules Options 3, Section 12 (electronic QCC orders), and Options 8, Section 32(e) (open outcry QCC orders); Nasdaq ISE Options 3, Section 12; BOX Options Rule 7110(c)(6); MIAX Options Rule 516(j); and NYSE Arca Options Rule 6.90-O.

**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 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 QCC functionality is already available for non-FLEX options. The Exchange is simply proposing to make QCC Orders available for additional classes (FLEX Option classes). The Exchange notes that the proposed order type will be available to all Users on a voluntary basis, and Users are not required to use QCC Orders when executing QCTs. Users may continue to execute the options component of QCTs that are comprised of FLEX Options in the same manner as they do today. The proposed rule change will provide FLEX Traders with the same functionality that is currently available to non-FLEX Traders with respect to execution of option components of QCTs. The Exchange believes all TPHs should have access to this functionality so they can all execute option components of QCTs in the same manner, regardless of whether they choose to hedge the stock portions of QCTs with FLEX or non-FLEX 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 is merely making functionality currently available on the Exchange to additional option classes. As noted above, QCC Order functionality is currently available at other options exchanges, which may determine make QCC functionality available to additional option classes as well, including flexible options. To the extent the proposed rule change makes the Exchange a more attractive trading venue for market participants on other exchanges, those market participants may elect to become Exchange market participants.

Overall, the Exchange believes the proposed rule change is appropriate for the protection of investors and the maintenance of fair and orderly markets to assure, among other things, the economically efficient execution of securities transactions.

**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) Not applicable.

(b) Not applicable.

(c) Not applicable.

(d) The Exchange requests accelerated approval of Amendment No. 1. Amendment No. 1 does not change the substance of the Initial Rule Filing with respect to the purpose or justification of QCC Orders for FLEX trading but merely adds detail and specificity to the Form 19b-4 regarding the execution of QCC Orders in FLEX Options, and the overall purpose and resulting benefits of adopting QCC Orders for FLEX trading. As such, the Exchange does not believe that Amendment No. 1 makes any material changes to the substance or framework of the proposed rule change as set forth in this Amendment No. 1, and therefore, does not believe that a full notice and comment period is necessary. The Exchange also notes that the Initial Rule Filing was filed for accelerated effectiveness pursuant to Section 19(b)(2) of the Act so that it may be operative as soon as practicable. The Exchange believes that approval of the proposed rule change on an accelerated basis will serve in the interests of investors and the public interest as it will reduce the compliance risk of potentially being unable to execute the FLEX Options component at or near the same time as the other QCT components, thus, providing a more efficient means of executing the options component of a QCT, as soon as practicable.

While FLEX QCCs will not be subject to the requirement that they may not execute at the same price as a Priority Customer (as noted above, the requirement that a QCC execute at a price at or better than the NBBO is not a heightened requirement of QCC orders compared to other option orders), the benefits of QCC orders would be realized by users of FLEX options in the same manner as users of non-FLEX options. The purpose of a FLEX QCC Order that may execute without exposure is the same as the purpose of the QCC order that may execute without exposure, as previously approved by the Commission, which is to facilitate efficient execution of the options component of a QCT. The Exchange does not believe FLEX Traders should not have access to these benefits because there happens to be no electronic book. As discussed above, even without this requirement, the Exchange believes the risk of TPHs submitting FLEX QCC orders as a substitute for non-FLEX QCC orders by changing the terms of a series are minimal, and even lower than such risk, if any, that exists in the FLEX market today given the other QCC requirements. The Exchange notes that market participants may currently, and currently do, execute orders like the ones being proposed in the unregulated OTC market, where neither the Exchange nor the Commission has oversight over market participants that may be purposely trading at prices through the listed market. As discussed below, the proposed rule change may encourage these orders to be submitted to the Exchange, which could bring these orders into a regulated market and be subject to surveillance and oversight to which they are currently not subject with respect to execution of these option orders.

The Exchange generally encourages exposure of orders on the Exchange; however, as discussed above, contingent orders provide market participants with valuable investment tools, and FLEX QCC orders, like QCC orders, will provide investors with a mechanism to facilitate the "economically efficient execution of securities transaction."[43] The Exchange notes that QCC Orders are already available for non-FLEX options, thus the proposed rule change does not raise any new or novel issues for, nor will it significantly affect, investors and the public interest as it is merely proposing to make an existing functionality available for additional classes (FLEX Option classes). As such, the Exchange believes it is appropriate for the Commission to approve the proposed rule change on an accelerated basis.

**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. As stated above, QCC Orders are currently available for electronic non-FLEX trading on the Exchange, and QCC Orders in FLEX Options will execute in substantially the same manner as QCC Orders currently execute in non-FLEX options.

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43 <u>See</u> QCC Approval Order.

**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-2020-075]

[Insert date]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to Amend Rule 5.70 and Rule 5.72, as well as Rule 5.33, to make Qualified Contingent Cross ("QCC") Orders Available for FLEX Trading

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on [insert date], Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend Rule 5.70 and Rule 5.72, as well as Rule 5.33, to make Qualified Contingent Cross ("QCC") Orders available for FLEX trading. The text of the proposed rule change is provided in Exhibit 5.

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.

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

2 17 CFR 240.19b-4.

## 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 5.70 and Rule 5.72, as well as Rule 5.33, to make QCC Orders, which includes Complex QCC Orders and QCC with Stock Orders, available for electronic FLEX trading. Currently, QCC Orders are available only for electronic non-FLEX trading.

QCC Orders facilitate the execution of option orders that are part of Qualified Contingent Trades ("QCTs"),[3] by permitting Trading Permit Holders ("TPHs") to cross

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[3] See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", paragraph (1), which defines a "qualified contingent trade" as a transaction consisting of two or more component orders, executed as agent or principal, where: (A) at least one component is an NMS stock, as defined in Rule 600 of Regulation NMS under the Exchange Act; (B) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (C) the execution of one component is contingent upon the execution of all other components at or near the same time; (D) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined by the time the contingent order is placed; (E) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (F) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade.

options orders without exposure while effecting the trade in the equities leg in another market at a price necessary to achieve the net price. Currently, TPHs may choose to submit the options component of a QCT as a FLEX Option, yet, are currently unable to execute a FLEX Options component of a QCT on the Exchange in the same efficient, unexposed manner as they may execute a non-FLEX option component of a QCT on the Exchange. The Exchange now seeks to provide TPHs and their customers with the same QCC trading capabilities for FLEX trading that are currently available for non-FLEX trading, thus providing TPHs with the same capability to execute the options parts of QCTs that are comprised of FLEX Options.

Rule 5.6(c) currently provides for the non-FLEX definition of a QCC Order. Specifically, a QCC order is comprised of an originating order to buy or sell at least 1,000 contracts (or 10,000 mini-option contracts) that is identified as being part of a QCT coupled with a contra-side order or orders totaling an equal number of contracts. If a QCC Order has more than one option leg (a "Complex QCC Order"), each option leg must have at least 1,000 standard option contracts (or 10,000 mini-option contracts). A QCC order represents one component of a QCT, which must be paired with a stock order. When a User enters a QCC Order, the User is responsible for executing the associated stock component of the QCT at or near the same time of the QCC order execution, just as a User is ultimately responsible for complying with execution requirements for any order a User submits. Indeed, the Exchange requires TPHs to properly mark all QCC Orders as such, and has a surveillance program in place which assesses TPH compliance with the requirements applicable to QCC Orders, including the requirement that the stock leg of the transaction be executed at or near the same time as the options leg.[4] To execute the associated stock, a User may choose to either 1) separately submit an option order to the Exchange and the stock order to a stock execution venue in time to be executed at or near the same time of each other, or 2) submit a QCC with Stock Order. A QCC with Stock Order is a type of QCC Order (including a Complex QCC Order) entered with a stock component to be electronically communicated by the Exchange to a designated broker-dealer for execution on behalf of the submitting User and, as indicated, are available to Users on a voluntary basis.[5]

The Exchange proposes to adopt Rule 5.72(e)[6] to govern FLEX QCC Orders. The proposed rule is simply making QCC Order available for FLEX, and as such, the definition of FLEX QCC Orders is substantively identical as non-FLEX QCC Orders in Rule 5.6(c) and FLEX QCC Orders will execute in substantially the same manner with few differences unique to trading in FLEX Trading. Proposed Rule 5.72(e) provides that a "FLEX QCC" order is comprised of an originating order to buy or sell at least 1,000 standard FLEX Option contracts (or 10,000 mini FLEX option contracts) that is identified as being part of a QCT (as defined in Rule 5.6(c)) coupled with a contra-side order or orders totaling an equal number of contracts. If a FLEX QCC order has more than one option leg (a "Complex FLEX QCC" order), each option leg must have at least 1,000 standard FLEX option contracts (or 10,000 mini FLEX option contracts). This is substantively identical to the non-FLEX QCC definition in Rule 5.6(c). The Exchange

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4 See Securities Exchange Act Release No. 15058 (June 17, 2011), 76 FR 35491 (Order Granting Approval of Proposed Rule Change Establishing Qualified Contingent Cross Orders) ("QCC Approval Order").

5 See Rule 5.33(a), definition of "QCC with Stock Order".

6 The Exchange also moves current paragraph (e) to paragraph (f).

notes that Users will enter into the System all FLEX QCC Orders as they would any other FLEX Order pursuant to 5.72(b) (governing the order entry of FLEX Orders) and the applicable FLEX auction rules. As such, the Exchange points out that FLEX QCC Orders may only be submitted for series consistent with the FLEX Rules.[7] Like QCC Orders submitted for non-FLEX trading, [8] FLEX QCC Orders will execute automatically upon entry without exposure pursuant to proposed Rule 5.72(e)(1). The Exchange notes, as there is no FLEX Order Book, the corresponding provisions in Rule 5.6(c)[9] and 5.33(f)(2) regarding QCC Order execution requirements in connection with yielding to prices at which Priority Customer Orders may be resting in the Simple Book[10] and Complex Order Book ("COB"),[11] and in Rule 5.6(c)[12] in connection with pricing QCC Orders at or between the NBBO[13] would not be applicable to QCC Orders submitted to FLEX.[14] Proposed Rule 5.72(e)(1) also provides that a FLEX QCC Order is cancelled if it cannot execute, and that Rule 5.9 (related to exposure of orders on the Exchange) does not apply to FLEX QCC orders, both of which are consistent with the current non-FLEX

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

8 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", paragraph (2).

9 See id.

10 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", subparagraph (2)(A)(i).

11 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", subparagraph (2)(B)(i) and (iii).

12 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", subparagraph (2).

13 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", subparagraph (2)(A)(ii) and (B)(ii).

14 This is true for any FLEX Order.

QCC Rules.[15] Like QCC Orders submitted in non-FLEX classes,[16] QCC orders submitted in FLEX classes must be entered in the standard increment for the class.[17] Therefore, the proposed rule change adds in proposed Rule 5.72(e)(2) that FLEX QCC may only be entered in the increments applicable to FLEX Orders under Rule 5.4(c)(4).

Proposed Rule 5.72(e)(1) also provides that a FLEX QCC with Stock order executes pursuant to Rule 5.33(l). The proposed rule change amends Rule 5.33(1) to specify that the provisions governing QCC with Stock include FLEX QCC with Stock. As such, pursuant to Rule 5.33(l), for a FLEX QCC with Stock Order, a User must include the same requisite information as they must include when submitting such orders for non-FLEX trading pursuant to Rule 5.33(l)(3)(A),[18] and the System will process the option and stock components of such orders in the same manner as it does for non-FLEX QCC orders pursuant to Rule 5.33(l)(3)(B) and (C).[19]

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15 See Rule 5.6(c), definition of "Qualified Contingent Cross or QCC", subparagraph (2)(C) and (2)(C), respectively.

16 See 5.6(c), definition of "Qualified Contingent Cross or QCC", paragraph (3).

17 See Rule 5.4(c)(4) (which sets forth minimum increments for FLEX options).

18 Rule 5.33(l)(3)(A) requires a User to include a net price for the stock and option components in accordance with the minimum increments for stock-option orders and (ii) identify the designated broker-dealer as set forth in Rule 5.33 (l)(2).

19 Rule 5.33(l)(3)(B) provides that the System executes the option component in accordance with Rule 5.6(c), but does not immediately send the User a trade execution report, and automatically communicates the stock component to the designated broker-dealer for execution at a stock trading venue. If the option component(s) of a QCC with Stock Order cannot execute, the System cancels the QCC with Stock Order, including both the stock and option components. Rule 5.33(l)(3)(C) provides that, if the System receives an execution report for the stock component of a QCC with Stock Order from the designated broker-dealer, the Exchange sends the User the trade execution report for the QCC with Stock order, including execution information for both the stock and option components. If the System receives a report from the designated broker-dealer that the stock component of a QCC with Stock Order cannot execute, the Exchange nullifies the option component trade and notifies the User of the reason for the nullification.

The Exchange seeks to make QCC Orders available for FLEX trading due to the growing customer demand it has received for QCC functionality for FLEX trading. The Exchange notes that a number of TPHs have expressed to the Exchange that use of QCC for FLEX options would increase the efficiency of their executions of the options component of a QCT if the options component consists of a FLEX Option. An investor may seek to use a FLEX Option as an appropriate hedge for a stock order but is currently unable to execute a FLEX Option that is part of a QCT on the Exchange in the same unexposed manner as it may execute a non-FLEX option on the Exchange. Currently, if a TPH wants to execute a FLEX Option that is intended to be part of a QCT, it would have to enter the FLEX Option as a FLEX Order separate from the stock portion or as a stock-option order, which must be exposed for at least three seconds prior to execution.[20] Indeed, a clean cross of the FLEX Option component of a stock-option QCT would provide assurance to the parties to the QCT that their hedge will be maintained.[21] This is particularly significant for a variety of managed funds that recognize the benefits to their investors in employing certain hedging strategies through FLEX Options that allow for their investors to mitigate risk and meet their objectives. For example, a strategy may have an investment goal of protecting potential losses down to a certain amount with the ability to participate in return up to a certain cap in a reference asset (e.g., underlying index or ETF) over a target outcome period that is usually a year or more out. Such a strategy may utilize a combination of FLEX call and put options in which expiration corresponds to the target outcome period overlaid on an exposure to the reference asset.

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20 See Rule 5.72(c)(1)(F); Rule 5.73(c)(3); and Rule 5.74(c)(3).

21 Amendment No. 1 adds additional explanation and detail in support the use of QCC Orders in FLEX trading.

On the seed day (or, the day in which the strategy is created and funded), the options package would reflect customized strikes, necessary to target the strategy's trading objectives a year or more in advance and for which existing standard strikes are typically unavailable. The customized FLEX strikes are used for the duration of the life of the strategy and it is key that the appropriate combination of options is guaranteed to maintain the hedge.

Additionally, the Exchange notes that the Rules currently permit Compression orders, which execute without exposure against another Compression order(s) totaling an equal number of options contracts, for trading in FLEX SPX options.[22] That is, like the proposed FLEX QCC Orders, FLEX Compression orders are not exposed in a FLEX Auction pursuant to Rule 5.72.[23]

As noted above, to qualify as a QCT, the execution of one component is contingent upon the execution of all other components at or near the same time. The Exchange conducts surveillance of TPHs to ensure that TPHs execute the options component of a QCT at or near the same time as the stock component, in accordance with the QCT exemption.[24] Therefore, there is compliance risk for TPHs if they do not execute the options component at or near the same time of execution of the stock component.

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22 Amendment No. 1 adds explanation regarding another order type that may already execute without exposure in FLEX Options in support of FLEX QCC Orders.

23 See Securities Exchange Release Nos. 89707 (August 28, 2020), 85 FR 55040 (September 3, 2020) (SR-CBOE-2020-074) (Notice of Filing of a Proposed Rule Change Relating To Adopt Compression Orders); and 90179 (October 14, 2020), 85 FR 66590 (October 20, 2020) (SR-CBOE-2020-074) (Order Granting Approval of a Proposed Rule Change To Adopt Position Compression Cross ("PCC") Orders for SPX). As is the case with the proposed FLEX QCC orders, there would be no NBBO or protection of customer orders for the recently approved compression orders for FLEX Options.

24 See supra note 1; see also infra note 30.

Providing TPHs with QCC Order functionality for FLEX Options will reduce the compliance burden on TPHs by providing a more efficient means of executing the options component of a QCT if the options component consists of a FLEX Option, as QCC Orders did for non-FLEX options.

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.[25] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[26] 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)[27] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposal to make the QCC Order type available for electronic FLEX trading will facilitate TPHs' execution of the options component of QCTs that are comprised of FLEX Options in the same manner that TPHs may currently execute the

25 15 U.S.C. 78f(b).

26 15 U.S.C. 78f(b)(5).

27 Id.

options component of QCTs that are comprised of non-FLEX options, thereby removing impediments to and perfecting the mechanism of a free and open market and national market system and, in general, protecting investors. QCC Orders for FLEX Options will execute in the same manner as QCC Orders for non-FLEX options; the proposed rule change merely expands the classes in which the Exchange may make QCC Orders available and provides a specific definition of FLEX QCC Orders for clarity. Moreover, the Exchange notes that stock-option orders (which, by definition, must also be a QCT)[28] are already permitted under the Rules for FLEX Options, and thus, the FLEX Options components of QCTs submitted as stock-option orders may currently execute at any price in FLEX (i.e., are not subject to an NBBO or yielding to Customer orders). The proposed rule change merely provides an alternative, more efficient manner of execution for the option component of larger-sized QCTs.

The Exchange believes the availability of QCC Orders for FLEX Options will allow for a more efficient execution of the options component of a QCT on the Exchange. As noted above, to qualify as a QCT, the execution of one component is contingent upon the execution of all other components at or near the same time. The Exchange conducts surveillance to ensure a TPH executes the stock and option components of a QCT at or near the same time.[29] As a result, if the option component does not execute when initially submitted to the Exchange, a TPH may be subject to compliance risk if it does not execute the option component at or near the same time of the execution of the stock component. Indeed, the Exchange notes that the compliance risk of not being able to execute a FLEX Options portion of a QCT at or near the same time of the execution of

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[28] See Interpretation and Policy .03 to Rule 5.33.

[29] See QCC Approval Order.

the stock component is greater in a FLEX auction, where it must be exposed for at least three seconds prior to execution, than for non-FLEX option orders that must be exposed for at least one second[30] unless submitted into an auction with a shorter exposure period. The Exchange believes the proposed rule change will reduce this compliance risk for TPHs executing FLEX Options that are components of QCTs, which will protect investors and the public interest. Since the purpose of a QCT order is for all components to trade at or near the same time, the Exchange believes it is appropriate to provide TPHs with a mechanism to facilitate immediate execution of FLEX Options that comprise the options component of a QCT to reduce the compliance burden on TPHs when effecting QCTs with a FLEX Option component.

The Exchange believes that proposed Rule 5.72(e), while substantially the same in almost all aspects to Rule 5.6(c) governing non-FLEX QCC, will provide clarity to TPHs regarding the submission of their QCC FLEX Options. The only difference between the FLEX and non-FLEX QCC Orders is that FLEX QCC Orders are not subject to the NBBO or prices of customers in the book. The Exchange notes this difference exists for any order type in non-FLEX trading versus FLEX trading.[31] The Exchange notes that the proposed rule changes do not alter any of the current increments applicable to FLEX Options but merely provide additional detail within the specific provision covering QCC Orders regarding the standard increments already permissible for FLEX Options that will also apply to QCC FLEX Orders.

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30 See Rule 5.9.

31 The Exchange also notes that the requirement that a QCC order execute at a price at or better than the NBBO is not a unique execution requirement – every option order type approved by the Commission must execute at a price at or better than the NBBO in accordance with the linkage plan. See Rule 5.66.

As the Commission has previously found,[32] the execution of QCTs is beneficial to the market as a whole as it contributes to the efficient functioning of the securities markets and the price discovery process. Pursuant to the QCT Release, the options portion of a QCT may consist of non-FLEX or FLEX Options. However, as noted above, without the availability of QCC Orders for FLEX Options, TPHs are subject to higher compliance risk with respect to QCTs with a FLEX Option component than TPHs who execute QCTs with a non-FLEX option component. The Exchange submits this proposed rule change in response to demand from TPHs and their institutional customers[33] to be able to execute the options components of QCTs comprised of a FLEX Option in the same manner that they are currently able to execute the options components of QCTs comprised of non-FLEX options. Therefore, the proposed rule change will provide TPHs whose hedging strategies involve FLEX Options with the same functionality currently available to TPHs whose hedging strategies involve non-FLEX Options. The Exchange believes this will provide investors with additional flexibility regarding execution of their hedging strategies related to stock positions, which flexibility ultimately benefits investors.

Moreover, the Commission has stated that, while it believes that order exposure is generally beneficial to options markets, it recognizes that contingent trades can be useful trading tools for investors and other market participants, particularly those who trade the securities of issuers involved in mergers, different classes of shares of the same issuers, convertible securities, and equity derivatives such as options and that those who engage

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32 See Securities Exchange Act Release No. 57620 (April 4, 2008), 73 FR 19271 (April 9, 2008) ("QCT Release"); and see QCC Approval Order.

33 Amendment No. 1 specifies the customer base for FLEX trading.

in contingent trades can benefit the market as a whole by studying the relationships between prices of such securities and executing contingent trades when they believe such relationships are out of line with what they believe to be fair value.[34]

The requirement that a non-FLEX QCC must execute at a price at or between the NBBO merely incorporates an execution requirement applicable to all option order types, as all options must execute at price at or better than the NBBO in accordance with linkage rules.[35] Therefore, this execution requirement is not a heightened execution requirement for an unexposed option order. The additional requirement that a QCC order not execute at the same price as a Priority Customer incorporates the general principle of customer protection in the options markets.[36] If the market model for a class does not include customer priority, this is a heightened execution requirement for execution of an unexposed order.[37] Even without this additional protection, the Exchange believes the proposed FLEX QCC order will protect investors, as it will provide Users of FLEX

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34 See QCC Approval Order.

35 See Rule 5.66. In other words, if the definition of a QCC order did not include the provision that it must execute at a price at or better than the NBBO, QCC orders would still be required to execute at a price at or better than the NBBO. The Exchange believes inclusion of this explicit requirement for QCC orders was intended to highlight the difference between execution of the options component and the stock component, which may execute at any price, but was not a unique price requirement necessary for execution of an unexposed order. Every order type on the Exchange approved for non-FLEX trading and FLEX trading has this same distinction.

36 If there was not a customer order resting at the top of the book, then the second pricing requirement for QCC orders is simply ignored. As there is no book in the FLEX market, the proposed FLEX QCC order is equivalent to a non-FLEX QCC order submitted when there is no customer order resting at the top of the book.

37 The Exchange has enabled customer priority for all equity option classes that trade on the Exchange (and thus for all classes in which TPHs may submit QCC orders). Therefore, all QCC orders submitted on the Exchange are subject to the same execution pricing requirements as non-QCC orders.

Options with the same functionality as Users of non-FLEX options. While the Exchange again notes that there is no FLEX book in which Customer orders (or any FLEX orders) may rest, and therefore the principles of customer priority are not currently applicable to FLEX trading, the Exchange observed the top of Book orders in non-FLEX symbols as a comparison point.[38] In a random sample of data drawn from orders resting at the top of the Book,[39] the Exchange observed that, on average, only 0.34% of all orders resting at the top of the Book were Customer orders. As such, the Exchange believes that, even if there was a book for FLEX Options, there would be minimal risk of executing a FLEX QCC at the same price as a Customer order in the Book. Additionally, primarily broker-dealers and institutional investors engage in FLEX trading. Indeed, executions in FLEX Options are generally larger and held long-term for strategies utilized by broker-dealers and institutional investors, as opposed to the smaller, more frequent trades with shorter expiration durations typically executed by retail investors. The Exchange also understands that many large retail brokerage firms do not accept FLEX Options or otherwise have high minimums which may discourage retail trading in FLEX Options.[40] Therefore, there are minimal retail customer orders submitted into the FLEX market and thus it would be unlikely any would be resting at the top of a FLEX book if one existed

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38 Amendment No. 1 adds a description of the top of Book data sample and the Exchange's observations in connection with the data sample in support of QCC for FLEX trading and that, as proposed, FLEX QCC orders are consistent with the protection of investors.

39 The random sample was drawn over three days (September 25, September 30, and October 1, 2020) from a different Match Engine each sample day (one of which includes SPY). The sampling of data across different Match Engines is representative of the symbols that trade on the Exchange.

40 Amendment No. 1 adds additional detail regarding the de minimis amount of retail customer orders submitted into the FLEX market that would require additional protection.

for a de minimis (if any) amount of time that would require additional protection. As discussed above, the Exchange believes the benefits of exposure on an order on the Exchange are outweighed by the benefits offered by immediate execution of these contingent order types. The Exchange does not believe market participants that engage in hedging strategies involving FLEX Options should not have access to the same functionality as market participants with hedging strategies involving non-FLEX options.

The Exchange does not believe the propose rule change raises price protection concerns that market participants may submit FLEX QCC Orders for a FLEX series with slightly different terms than a non-FLEX series in order to get better pricing. Such risk, if any, exists today with respect to all FLEX trading. The Exchange again points out that the linkage rules and customer priority are currently not applicable to any orders submitted to FLEX, wherein there is no order book. The Exchange has observed no trends of TPHs submitting FLEX orders in order to avoid trading in the non-FLEX market. The Exchange believes the risk (if any) of a market participant trading a FLEX Option rather than a non-FLEX option with slightly different terms to use the FLEX market as a substitute for the non-FLEX market and achieve such a result is minimal. This possibility exists today with respect to all options the Exchange lists for FLEX and non-FLEX trading. The Exchange has not observed market participants attempting to trade in the FLEX market rather than the non-FLEX market for this purpose in classes in which this is possible today and believes there would be minimal, if any, benefit to do so. The Exchange compiled a dataset of all FLEX series listed on the Exchange in the last year[41] that matched non-FLEX series on the underlying, expiration date, put/call and

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41 From October 14, 2019 through October 9, 2020.

exercise-style, but had different strikes. From the dataset, the Exchange was able to observe the differences in strike prices between FLEX series and listed series.[42] The Exchange found that 99.90% of all SPX and SPXW FLEX series created were over $1.00 away from the matching SPX/SPXW listed series strikes, and that 90.10% of these were over $100.00 away from the matching listed series strikes. It also found that 97.61% of all equity and ETP FLEX series created were over $1.00 away from the matching listed series strikes, and that 83% of these were over $10.00 away from the matching listed series strikes and 44.97% of these were over $100.00 away from the matching listed series strikes. As a result, the Exchange believes that there is minimal (if any) risk that market participants desire or attempt to use the FLEX market as a substitute to avoid trading in the non-FLEX market.

The Exchange believes attempting to execute an order in the FLEX market as a substitute for the non-FLEX market would minimize execution opportunities for that order. Such trading would be inefficient for market participants and could introduce price and execution risk to market participants' trading strategies given the reduced liquidity, participation, and price discovery in the FLEX market compared to the non-FLEX market.[43] Additionally, series with different terms have different prices and serve different investment purposes, so trading a "similar" FLEX series may not achieve the same investment objective as the non-FLEX series a TPH initially sought to trade. The Exchange notes if a FLEX QCC Orders execute at a price through the book of the

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[42] Amendment No. 1 provides additional data in support of QCC Orders for FLEX trading, particularly demonstrating that there is minimal risk of trading in the FLEX market as a substitute for trading an economically equivalent option in the non-FLEX market.

[43] See Sections VII and X of the ODD regarding risks associated with FLEX Options.

"similar" non-FLEX series, while that would be a better price for one transaction participant, it would be a worse price for the participant on the opposite side, and thus it may be more difficult for the TPH to find sufficient contra party interest. For example, suppose the market for Aug ABC 800 call with a multiplier of 100 is 10.20 – 11.00. If a market participant sought interest from counterparties to execute a FLEX QCC Order to buy an Aug ABC 795 call with at 10.00, it is unlikely another market participant would sell at that price if they were looking to sell the Aug ABC 800 call, given that participant could sell the "similar" non-FLEX option series at 10.20, which would be a better price for that seller. Given the likely difficulties (such as reduced liquidity and potentially longer timeframe to receive execution) of trading in the FLEX market as a substitute for trading an economically equivalent option in the non-FLEX market (such as to obtain a better execution price), the Exchange believes the risk of this occurring is de minimis. The Exchange believes that any such risk is even lower for FLEX QCC Orders given the additional requirements that apply to FLEX QCC Orders, even without the heightened execution price requirement that a QCC Order cannot execute at the same price as a Priority Customer. The benefits of QCC Orders apply to FLEX options in the same manner as they do for non-FLEX options, which benefits the Exchange believes significantly outweigh any price protection risk that may exist in the FLEX market.

Ultimately, as noted above, QCC Orders in FLEX Options will execute in a substantially similar manner as QCC Orders in non-FLEX options. In addition to this, the Exchange notes that the Rules currently permit Compression orders in FLEX SPX options which, like QCC Orders for FLEX trading, may execute immediately without exposure as opposed to being submitted to a FLEX Auction despite there being no NBBO or customer priority in the FLEX market. Finally, the Exchange notes that QCC functionality is a widely adopted industry order type wherein multiple other options exchanges currently have QCC functionality in place.[44]

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 QCC functionality is already available for non-FLEX options. The Exchange is simply proposing to make QCC Orders available for additional classes (FLEX Option classes). The Exchange notes that the proposed order type will be available to all Users on a voluntary basis, and Users are not required to use QCC Orders when executing QCTs. Users may continue to execute the options component of QCTs that are comprised of FLEX Options in the same manner as they do today. The proposed rule change will provide FLEX Traders with the same functionality that is currently available to non-FLEX Traders with respect to execution of option components of QCTs. The Exchange believes all TPHs should have access to this functionality so they can all execute option components of QCTs in the same manner, regardless of whether they choose to hedge the stock portions of QCTs with FLEX or non-FLEX 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

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44 See e.g. Nasdaq Phlx Rules Options 3, Section 12 (electronic QCC orders), and Options 8, Section 32(e) (open outcry QCC orders); Nasdaq ISE Options 3, Section 12; BOX Options Rule 7110(c)(6); MIAX Options Rule 516(j); and NYSE Arca Options Rule 6.90-O.

purposes of the Act because the proposed rule change is merely making functionality currently available on the Exchange to additional option classes. As noted above, QCC Order functionality is currently available at other options exchanges, which may determine make QCC functionality available to additional option classes as well, including flexible options. To the extent the proposed rule change makes the Exchange a more attractive trading venue for market participants on other exchanges, those market participants may elect to become Exchange market participants.

Overall, the Exchange believes the proposed rule change is appropriate for the protection of investors and the maintenance of fair and orderly markets to assure, among other things, the economically efficient execution of securities transactions.

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

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

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

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

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

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

## IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2020-075 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-2020-075. 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-2020-075 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.[45]

Secretary

[45] 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

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Rules of Cboe Exchange, Inc.

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**Rule 5.33. Complex Orders**

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

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**QCC with Stock Order**

A "QCC with Stock Order" is a QCC Order (including a Complex QCC Order <u>and a FLEX QCC Order</u>), as defined in Rule 5.6(c), entered with a stock component to be electronically communicated by the Exchange to a designated broker-dealer for execution on behalf of the submitting User pursuant to subparagraph (l)(3) below. QCC with Stock Orders are available to Users on a voluntary basis. A User may not designate a QCC with Stock Order as Direct to PAR.

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(l) *Stock-Option Orders*. Stock-option orders execute in the same manner as other complex orders pursuant to this Rule, except as follows:

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(3) *QCC with Stock Orders*. The System processes QCC with Stock Orders as follows:

(A) *Entry of QCC with Stock Order*. When a User submits a QCC with Stock Order to the System, it enters a QCC Order (which may be a Complex QCC Order <u>or FLEX QCC Order</u>) pursuant to Rule 5.6(c) <u>or 5.72(e), as applicable,</u> with a stock component (pursuant to this Rule 5.33). When entering a QCC with Stock Order, the User must: (i) include a net price for the stock and option components in accordance with the minimum increments for stock-option orders set forth in paragraph (f) above<u> or Rule 5.72(e), as applicable</u>, and (ii) identify the designated broker-dealer as set forth in subparagraph (l)(2) above.

(B) *Execution of Option Component*. If the option component (i.e., the QCC Order<u>,</u> [or] Complex QCC Order <u>or FLEX QCC Order</u>) of a QCC with Stock Order can execute, the System executes it in accordance with Rule 5.6(c)<u> or Rule 5.72(e), as applicable</u>, but does not immediately send the User a trade execution report, and automatically communicates the stock component to the designated broker-dealer for execution at a stock trading venue. If the option component(s) of a QCC with Stock Order cannot execute, the System cancels the QCC with Stock Order, including both the stock and option components.

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**Rule 5.70. Availability of Orders**

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

(1) No change.

(2) *Order Instructions*: All Sessions, Attributable, Direct to PAR, Electronic Only, Non-Attributable, Not Held, FLEX QCC (as defined in Rule 5.72(e)), and RTH Only.

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**Rule 5.72. FLEX Trading**

(a) – (d) No change.

(e) *FLEX QCC Orders.* A "FLEX QCC" order is comprised of an originating order to buy or sell at least 1,000 standard FLEX Option contracts (or 10,000 mini FLEX option contracts) that is identified as being part of a QCT (as defined in Rule 5.6(c)) coupled with a contra-side order or orders totaling an equal number of contracts. If a FLEX QCC order has more than one option leg (a "Complex FLEX QCC" order), each option leg must have at least 1,000 standard FLEX option contracts (or 10,000 mini FLEX option contracts). See Rule 5.33(b) for a definition of a FLEX QCC with Stock Order. Unless the context otherwise requires, the term FLEX QCC order includes Complex FLEX QCC order and FLEX QCC with Stock Order.

(1) Notwithstanding paragraphs (a) through (d) above, a FLEX QCC order may execute automatically upon entry without exposure. A FLEX QCC Order is cancelled if it cannot execute. A FLEX QCC with Stock order executes pursuant to Rule 5.33(l). Rule 5.9 (related to exposure of orders on the Exchange) does not apply to FLEX QCC orders.

(2) A FLEX QCC order may only be entered in the increments applicable to FLEX Orders under Rule 5.4(c)(4).

(3) A User may not designate a FLEX QCC order (including a Complex FLEX QCC order) as Direct to PAR.

(f) *Section 11(a)(1) of the Exchange Act.* All executions of FLEX Orders must comply with Section 11(a)(1) of the Exchange Act, which prohibits a TPH from effecting transactions on the Exchange for the TPH's own account, the account of an associated person, or an account with respect to which the TPH or its associated person exercises investment discretion (collectively referred to as "proprietary" orders), unless an exception applies.

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