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Page 1 of * 38		SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No. * SR 2023 - * 063 Amendment No. (req. for Amendments *)	
Filing by Cboe Exchange, Inc. Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934					
Initial * <input checked="" type="checkbox"/>		Amendment * <input type="checkbox"/>		Withdrawal <input type="checkbox"/>	
Section 19(b)(2) * <input checked="" type="checkbox"/>		Section 19(b)(3)(A) * <input type="checkbox"/>		Section 19(b)(3)(B) * <input type="checkbox"/>	
Pilot <input type="checkbox"/>		Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	
		Rule			
		<input type="checkbox"/> 19b-4(f)(1)		<input type="checkbox"/> 19b-4(f)(4)	
		<input type="checkbox"/> 19b-4(f)(2)		<input type="checkbox"/> 19b-4(f)(5)	
		<input type="checkbox"/> 19b-4(f)(3)		<input type="checkbox"/> 19b-4(f)(6)	
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) * <input type="checkbox"/>			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) * <input type="checkbox"/>		
Exhibit 2 Sent As Paper Document <input type="checkbox"/>			Exhibit 3 Sent As Paper Document <input type="checkbox"/>		
Description Provide a brief description of the action (limit 250 characters, required when Initial is checked *). <div>The Exchange proposes to modify position limits for equity options.</div>					
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 * Corinne Last Name * Klott Title * Assistant General Counsel E-mail * cklott@cboe.com Telephone * (312) 786-7793 Fax					
Signature Pursuant to the requirements of the Securities Exchange of 1934, Cboe Exchange, Inc. has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized. Date 11/29/2023 (Title *) By Laura G. Dickman VP, Associate General Counsel (Name *) <div>NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.</div> <div>Laura Dickman Date: 2023.11.29 12:49:02 -06'00'</div>					

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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23-063 (Position Limits Overhaul)(FIN

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

Exhibit 1 - Notice of Proposed Rule Change *

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23-063 (Position Limit Overhaul) Exhib

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 Advanced Notice by Clearing Agencies *

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

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

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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.

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Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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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.

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Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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23-063 (Position Limit Overhaul) Exhib

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

Partial Amendment

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

Item 1. Text of the Proposed Rule Change

(a) Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend its rules relating to position and exercise limits. The text of the proposed rule change is provided below and in Exhibit 5.

(b) Not applicable

(c) Not applicable.

Item 2. Procedures of the Self-Regulatory Organization

(a) The Exchange’s Chief Regulatory Officer (or designee) pursuant to delegated authority approved the proposed rule change on November 29, 2023.

(b) Please refer questions and comments on the proposed rule change to Patrick Sexton, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7467, or Corinne Klott, (312) 786-7793, Cboe Exchange, Inc., 433 West Van Buren, Chicago, Illinois 60607.

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

(a) Purpose

Background

The Exchange proposes to amend its rules relating to position limits. By way of background, in March 2005, the Securities and Exchange Commission (the “Commission”) approved the current position limit (and exercise limit) structure, which incorporates five categories of limits ranging from 25,000 to 250,000 contracts, based on two criteria: (1) the securities trading volume over the prior six months and (2) the number of shares

outstanding.¹ More specifically, Cboe Options Rule 8.30 sets forth the position limits for equity options. Specifically, Rule 8.30 provides that the position limits for equity options are 25,000 or 50,000 or 75,000 or 200,000 or 250,000 option contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market or such other number of option contracts as may be fixed from time to time by the Exchange. Interpretation and Policy .02 to Rule 8.30 describes how the Exchange determines which of the five position limit amounts will apply to an equity option class (i.e., the position limit applicable to a class is determined based on the trading volume and outstanding shares of the underlying security). These categories have remained unchanged for the last 18 years.²

By way of further background, position limits are designed to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. While position limits should address and discourage the potential for manipulative schemes and adverse market impact, if such limits are set too low, participation in the options market may be discouraged. The Exchange believes that position limits must therefore be balanced between mitigating concerns of any potential manipulation and the cost of inhibiting potential hedging activity

¹ See Securities Exchange Act Release No. 51244 (February 23, 2005), 70 FR 10010 (March 1, 2005) (order approving SR-CBOE-2003-30, as amended), which adopted two pilot programs that increase position and exercise limits for equity options) (“Pilot Program Order”). The Pilot Programs were extended 5 times for 6-month periods by the Commission, and expired on March 1, 2008. See Securities Exchange Act Release No. 52262 (August 15, 2005), 70 FR 48995 (August 22, 2005) (SR-CBOE-2005-61), Securities Exchange Act Release No. 53348 (February 22, 2006), 71 FR 10574 (March 1, 2006) (SR-CBOE-2006-11), Securities Exchange Act Release No. 54336 (August 18, 2006), 71 FR 50952 (August 28, 2006) (SR-CBOE-2006-69), Securities Exchange Act Release No. 55266 (February 9, 2007), 72 FR 7698 (February 16, 2007) (SR-CBOE-2007-12), and Securities Exchange Act Release No. 56266 (August 15, 2007), 72 FR 47094 (August 22, 2007) (SR-CBOE-2007-97). The Pilot Programs were made permanent in 2008. See Securities Exchange Act Release No. 57352 (February 19, 2007), 73 FR 10076 (February 25, 2008) (SR-CBOE-2008-007).

² See Cboe Options Rule 8.30. Pursuant to Rule 8.42, the exercise limit for an equity option is the same as the position limit established in Rule 8.30 for that equity option.

that could be used for legitimate economic purposes.

Proposal

To modernize the position limit rule, while minimizing impact of such change on industry participants, the Exchange is proposing the addition of three additional position limit categories: 500,000, 1,000,000 and 2,000,000 option contracts. Particularly, the proposed rule would adopt new Rule 8.30.02(f) which would provide that in order to be eligible for the 500,000-option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 500,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 375,000,000 shares and the underlying security must have at least 1,500,000,000 shares currently outstanding. The Exchange also proposes to adopt Rule 8.30.02(g) which would provide that in order to be eligible for the 1,000,000-option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 1,000,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 750,000,000 shares and the underlying security must have at least 3,000,000,000 shares currently outstanding. Finally, the Exchange proposes to adopt Rule 8.30.02(h) which provides that in order to be eligible for the 2,000,000-option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 5,000,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 3,750,000,000 shares and the underlying security must have at least 15,000,000,000 shares currently outstanding.³

As noted above, the current position limit categories were last updated 18 years

³ Current Rule 8.30.02(f) will be renumbered to Rule 8.30.02(i).

ago. Since that time, there has been a significant increase in the overall volume of exchange traded equity options and a steady increase in the number of accounts that approach the current highest position limit (i.e., 250,000 option contracts). The below chart demonstrates this growth in equity options trading industry-wide between 2005 and 2023.⁴ Indeed, annual equity options trading volume in recent years is nearly *seven* times the volume amount when the current position tier limits were adopted in 2005 and has more than doubled since 2017.

Year	Annual Industry Equity Options Trading Volume
2005	1,369,048,282 contracts
2006	1,844,181,918 contracts
2007	2,592,102,961 contracts
2008	3,284,761,345 contracts
2009	3,366,967,321 contracts
2010	3,610,436,931 contracts
2011	4,224,604,529 contracts
2012	3,681,820,659 contracts
2013	3,725,864,134 contracts
2014	3,845,073,167 contracts
2015	3,727,919,066 contracts
2016	3,626,455,947 contracts
2017	3,689,013,636 contracts
2018	4,572,482,342 contracts
2019	4,420,542,768 contracts
2020	7,004,304,148 contracts
2021	9,366,823,566 contracts
2022	9,599,301,629 contracts
2023	9,285,621,375 contracts

By way of further example, based on the proposed criteria, over 300 equity options classes that currently are limited to the maximum position limit tier of 250,000 contracts

⁴ See Options Clearing Corporation (“OCC”), Annual Historical Volume Statistics at <https://www.theocc.com/market-data/market-data-reports/volume-and-open-interest/historical-volume-statistics>. Annual Industry Options Trading Volume for 2023 is as of November 24, 2023.

would qualify for one of the three proposed position limit tiers. Particularly, the Exchange has determined that 182 equity options classes would be eligible for the 500,000 contracts tier limit; 110 equity options classes would be eligible for the 1,000,000 contracts tier limit and 13 equity options classes would be eligible for the 2,000,000 tier limit.⁵

By way of further example, prior to the stock split in August 2020,⁶ equity options class AAPL had approximately 4,000,000,000 shares outstanding and the position limit of 250,000 contracts represented control of 25,000,000 shares or 0.625% of the shares outstanding. After the stock split, AAPL had approximately 16,000,000,000 shares outstanding. The immediate adjustment of the position limit from 250,000 contracts to 1,000,000 contracts reflects control of 100,000,000 shares or 0.625% of the shares outstanding which retains the pre-stock split ratio. When the last AAPL option listed at the time of the stock split in 2020 expired in September 2022, the OCC reverted back to the original position limit for AAPL of 25,000,000 shares (250,000 contracts), which is the maximum stock option position limits permitted under the Exchange's rules.⁷ Although this position limit technically adheres to the Exchange's rules, it is more restrictive than the original position limit. Particularly, readjusting the position limit back to 25,000,000 shares (250,000 contracts) when there are 16,000,000,000 shares outstanding reduces the position limit to 0.156% of the shares outstanding, making the post-stock split position limit more restrictive than the pre-stock split position limit and would arguably no longer

⁵ As of October 12, 2023.

⁶ See Notice, 88 FR at 29728, citing OCC Memo #47509, Apple Inc.—4 for 1 Stock Split (August 28, 2020).

⁷ Position limit increases that result in the case of a stock split remain in effect until the expiration of all listed options that existed at the time of the split, at which time the position limits revert to pre-split levels. This is an industry practice applied by OCC, which currently administers position limit levels on behalf of U.S. options exchanges.

be meaningfully related to the current shares outstanding. Further, the Exchange notes that the current 250,000 position limit for AAPL forces market participants to reduce trading activity because the maximum position limit only represents 0.156% of the total shares outstanding. This reduction in trading volume also represents a reduction in available liquidity and negatively impacts liquidity, trading volume, and possibly execution prices. By comparison, under the proposed criteria, AAPL options would qualify for the 2,000,000 contract position limit, which is over 12% higher than the current maximum position limit. The adjustment of the position limit from 250,000 contracts to 2,000,000 contracts reflects control of 200,000,000 shares or 1.25% of the shares outstanding, which is well within ratios provided by the prior methodology and the Exchange believes would lead to a more liquid and competitive market environment for these options, which will benefit customers that trade these options. Further, given the total increased volume in trading, the Exchange believes it is reasonable to conclude that in addition to AAPL, position limits for many classes is currently more restrictive than they were when adopted in 2005.

The Exchange also believes that the increase in options volume and lack of evidence of market manipulation occurrences over the past twenty years justifies the proposed increases in the position and exercise limits. Moreover, several market participants across the industry have petitioned the industry to increase the current levels.

The Commission has previously stated,

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition, such limits serve to

reduce the possibility for disruption of the options market itself, especially in illiquid options classes.⁸

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange are adequate to identify violative trading activity. These procedures include daily monitoring of market activity via automated surveillance techniques to identify unusual activities in both options and underlying stocks and Exchange Traded Products (“ETPs”).

The Exchange believes that increasing the position limits for qualifying equity options would lead to a more liquid and competitive market environment for these options, which will benefit customers that trade these options. Further, the reporting requirement for such options would remain unchanged. Thus, the Exchange will still require that each TPH or TPH organization that maintains positions in impacted options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information includes, but would not be limited to, the options’ positions, whether such positions are hedged and, if so, a description of the hedge(s). Market-Makers (including Designated Primary Market-Makers (“DPMs”)) would continue to be exempt from this reporting requirement, however, the Exchange may access Market-Maker position information.⁹ Moreover, the Exchange’s requirement that TPHs file reports with the Exchange for any customer who held aggregate large long or short positions on

⁸ See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-1997-11).

⁹ The Options Clearing Corporation (“OCC”) through the Large option Position Reporting (“LOPR”) system acts as a centralized service provider for TPH compliance with position reporting requirements by collecting data from each TPH or TPH organization, consolidating the information, and ultimately providing detailed listings of each TPH’s report to the Exchange, as well as Financial Industry Regulatory Authority, Inc. (“FINRA”), acting as its agent pursuant to a regulatory services agreement (“RSA”).

the same side of the market of 200 or more option contracts of any single class for the previous day will remain at this level and will continue to serve as an important part of the Exchange's surveillance efforts.¹⁰

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange and other SROs are capable of properly identifying disruptive and/or manipulative trading activity. The Exchange also represents that it has adequate surveillances in place to detect potential manipulation, as well as reviews in place to identify continued compliance with the Exchange's listing standards. These procedures utilize daily monitoring of market activity via automated surveillance techniques to identify unusual activity in both options and the underlyings, as applicable. The Exchange also notes that large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G,¹¹ which are used to report ownership of stock which exceeds 5% of a company's total stock issue and may assist in providing information in monitoring for any potential manipulative schemes.

The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in equity options. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a TPH must maintain for a large position held by itself or by its customer.¹² In addition, Rule 15c3-1¹³ imposes a capital charge on TPHs to the extent of

¹⁰ See Rule 8.43 for reporting requirements.

¹¹ 17 CFR 240.13d-1.

¹² See Rule 10.3 for a description of margin requirements.

¹³ 17 CFR 240.15c3-1.

any margin deficiency resulting from the higher margin requirement.

The Exchange also has no reason to believe that the growth in trading volume in equity options will not continue. Rather, the Exchange expects continued options volume growth as opportunities for investors to participate in the options markets increase and evolve. The Exchange believes that the current position and exercise limits are restrictive, and not adopting increased position and exercise limit categories will hamper the listed options markets from being able to compete fairly and effectively with the over-the-counter (“OTC”) markets. OTC transactions occur through bilateral agreements, the terms of which are not publicly disclosed to the marketplace. As such, OTC transactions do not contribute to the price discovery process on a public exchange or other lit markets. In fact, the Commission previously highlighted competition with the OTC markets as a reason for increasing the standard position and exercise limits.¹⁴ Specifically, the Commission stated,

The increase in position and exercise limits for standardized equity options should allow the Exchanges to better compete with the growing OTC market in customized equity options, thereby encouraging fair competition among brokers and exchange markets.¹⁵

In addition, the Exchange believes that without the proposed changes to position and exercise limits, market participants will find the standard equity position limits an impediment to their business and investment objectives. As such, market participants may find the less transparent OTC markets a more attractive alternative to achieve their

¹⁴ See Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999) (SR-CBOE-1998-25).

¹⁵ Id.

investment and hedging objectives, leading to a retreat from the listed options markets, where trades are subject to reporting requirements and daily surveillance.

Implementation Date

Given this is an industry-wide proposal, implementation will require that all U.S. listed options exchanges adopt similar rule language regarding position limits. The Exchange will wait to announce implementation date for the proposed rule change (via Exchange Notice) until all exchanges have received regulatory approval for similar rule language.

(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.¹⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁷ 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)¹⁸

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ Id.

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

The Exchange believes that the proposed adoption of three increased position limit categories will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it will provide market participants with the ability to more effectively execute their trading and hedging activities. Also, adopting increased position limit categories for equity options may allow Market-Makers to maintain their liquidity in these options in amounts commensurate with the continued high consumer demand in the impacted underlyings' options market. The proposed higher position limits may also encourage other liquidity providers to continue to trade on the Exchange rather than shift their volume to OTC markets, which will enhance the process of price discovery conducted on the Exchange through increased order flow.

In addition, the Exchange believes that the current liquidity in shares of and options on the underlyings will mitigate concerns regarding potential manipulation of the products and/or disruption of the underlying markets upon increasing the relevant position limits. As a general principle, increases in active trading volume and deep liquidity of the underlying securities do not lead to manipulation and/or disruption. This general principle applies to the recently observed increased levels of trading volume and liquidity in shares of and options on the underlyings (as described above), and, as a result, the Exchange does not believe that the options markets or underlying markets would become susceptible to manipulation and/or disruption as a result of the proposed higher position limit categories. Further, as noted above, the Exchange has no reason to believe that the growth in trading

volume in equity options will not continue. Rather, the Exchange expects continued options volume growth as opportunities for investors to participate in the options markets continue to increase and evolve. Additionally, the Exchange continues to maintain a process in which every six-months, the status of the underlying securities are reviewed to determine what limit should apply.¹⁹ Accordingly, in the event stock trading volume and/or outstanding shares for particular securities significantly declines in the future, such overlying options classes will merely be moved to a lower corresponding, position tier limit under the rules at the next regularly scheduled review.

Further, the Exchange notes that the proposed rule change to adopt increased position limits for actively traded options is not novel. Indeed, the Commission has previously expressed the belief that not just increasing, but removing, position and exercise limits may bring additional depth and liquidity to the options markets without increasing concerns regarding intermarket manipulation or disruption of the options or the underlying securities.²⁰ The Commission also has approved similar proposed rule changes by the Exchange to increase position limits for options on highly liquid and actively traded ETPs (e.g., iShares Russell 2000 ETF (“IWM”), the iShares MSCI Emerging Markets ETF (“EEM”), iShares China Large-Cap ETF (“FXI”), and iShares MSCI EAFE ETF (“EFA”), VanEck Vectors Gold Miners ETF (“GDX”), and iShares iBoxx \$ Investment Grade Corporate Bond ETF (“LQD”)).²¹ While those are ETPs and the current proposal applies

¹⁹ See Current Cboe Options Rule 8.30.02(f).

²⁰ See Securities Exchange Act Release No. 40969 (January 22, 1999), 64 FR 4911, 4913 (February 1, 1999) (SR-CBOE-98-23).

²¹ See Securities Exchange Act Release Nos. 93525 (November 4, 2021), 86 FR 62584 (November 10, 2021) (SR-CBOE-2021-029); 88768 (April 29, 2020), 85 FR 26736 (May 5, 2020) (SR-CBOE-2020-015); 83415 (June 12, 2018), 83 FR 28274 (June 18, 2018) (SR-CBOE-2018-042); and 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

to equity options, pursuant to Rule 8.30, the position limits for options on stock and ETPs are generally calculated in the same manner and based in part on trading volume of the underlying. Further, by way of comparison, the outstanding shares of AAPL stock is significantly higher than that of IWM, EEM, FXI and EFA, which have an overlying options position limit of 1,000,000 (as compared to the 250,000 position limit for AAPL options).²² Particularly, while the outstanding shares of AAPL is currently nearly 16 billion shares, the outstanding shares of IWM, EEM, FXI and EFA range between approximately 187 million and 673 million. The Exchange notes that the criteria under the proposed new position limit tier categories of 1,000,000 and 2,000,000 for equity options require the most recent six-month trading volume of the underlying security to have totaled at least 1 billion or 5 billion shares, respectively or have at least 3 billion or 15 billion shares, respectively, of the underlying security outstanding.²³ The proposed criteria under the 500,000 position limit category requires the most recent six-month trading volume of the underlying security to have totaled at least 500 million shares or have at least 1.5 billion shares of the underlying security outstanding²⁴ (by comparison, LQD and GDX, have approximately 275 million shares and 395 million shares outstanding, and have an overlying options position limit of 500,000). The Exchange therefore believes it is reasonable and appropriate to increase the position limit of options as proposed to similar position limits that apply for

²² See Securities Exchange Act Release Nos. 93525 (November 4, 2021), 86 FR 62584 (November 10, 2021) (SR-CBOE-2021-029); 88768 (April 29, 2020), 85 FR 26736 (May 5, 2020) (SR-CBOE-2020-015); 83415 (June 12, 2018), 83 FR 28274 (June 18, 2018) (SR-CBOE-2018-042); and 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

²³ There is also a corresponding recent six-month volume of the underlying security requirement that must be satisfied in addition to the requirement relating to total outstanding shares.

²⁴ There is also a corresponding recent six-month volume of the underlying security requirement that must be satisfied in addition to the requirement relating to total outstanding shares.

certain ETPs.

Finally, as discussed above, the Exchange's surveillance and reporting safeguards continue to be designed to deter and detect possible manipulative behavior that might arise from increasing or eliminating position and exercise limits in certain classes. The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in the options on the underlying securities, further promoting just and equitable principles of trading, the maintenance of a fair and orderly market, and the protection of investors.

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

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

The Exchange does not believe that the proposed rule change will impose any burden on intra-market competition as the rules of the Exchange apply equally to all TPHs of the Exchange and all TPHs of the Exchange are required to adhere to the position limits established by the Exchange's rules. The Exchange believes that the proposed rule change will also provide additional opportunities for market participants to continue to efficiently achieve their investment and trading objectives for equity options on the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on inter-market competition as the proposal is not competitive in nature. The Exchange expects that all option exchanges will adopt substantively similar proposals for adopting the additional position limit tiers, such that the Exchange's proposal would benefit competition. For these reasons, the Exchange does not believe that the proposed rule

change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Item 5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

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

Item 6. Extension of Time Period for Commission Action

The Exchange does not consent to an extension of the time period for the Commission action on the proposed rule change specified in Section 19(b)(2) of the Act.²⁵

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)

Not applicable.

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

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

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

Not applicable.

Item 10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

Item 11. Exhibits

Exhibit 1. Completed Notice of Proposed Rule Change for publication in the Federal Register.

²⁵

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

Exhibit 5. Proposed Rule Text.

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CBOE-2023-063]

[Insert date]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Amend its Rules Relating to Position and Exercise Limits

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 its rules relating to position and exercise limits. The text of the proposed rule change is 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.

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

Background

The Exchange proposes to amend its rules relating to position limits. By way of background, in March 2005, the Securities and Exchange Commission (the "Commission") approved the current position limit (and exercise limit) structure, which incorporates five categories of limits ranging from 25,000 to 250,000 contracts, based on two criteria: (1) the securities trading volume over the prior six months and (2) the number of shares outstanding.³ More specifically, Cboe Options Rule 8.30 sets forth the position limits for equity options. Specifically, Rule 8.30 provides that the position limits for equity options

³ See Securities Exchange Act Release No. 51244 (February 23, 2005), 70 FR 10010 (March 1, 2005) (order approving SR-CBOE-2003-30, as amended), which adopted two pilot programs that increase position and exercise limits for equity options) ("Pilot Program Order"). The Pilot Programs were extended 5 times for 6-month periods by the Commission, and expired on March 1, 2008. See Securities Exchange Act Release No. 52262 (August 15, 2005), 70 FR 48995 (August 22, 2005) (SR-CBOE-2005-61), Securities Exchange Act Release No. 53348 (February 22, 2006), 71 FR 10574 (March 1, 2006) (SR-CBOE-2006-11), Securities Exchange Act Release No. 54336 (August 18, 2006), 71 FR 50952 (August 28, 2006) (SR-CBOE-2006-69), Securities Exchange Act Release No. 55266 (February 9, 2007), 72 FR 7698 (February 16, 2007) (SR-CBOE-2007-12), and Securities Exchange Act Release No. 56266 (August 15, 2007), 72 FR 47094 (August 22, 2007) (SR-CBOE-2007-97). The Pilot Programs were made permanent in 2008. See Securities Exchange Act Release No. 57352 (February 19, 2007), 73 FR 10076 (February 25, 2008) (SR-CBOE-2008-007).

are 25,000 or 50,000 or 75,000 or 200,000 or 250,000 option contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market or such other number of option contracts as may be fixed from time to time by the Exchange. Interpretation and Policy .02 to Rule 8.30 describes how the Exchange determines which of the five position limit amounts will apply to an equity option class (i.e., the position limit applicable to a class is determined based on the trading volume and outstanding shares of the underlying security). These categories have remained unchanged for the last 18 years.⁴

By way of further background, position limits are designed to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. While position limits should address and discourage the potential for manipulative schemes and adverse market impact, if such limits are set too low, participation in the options market may be discouraged. The Exchange believes that position limits must therefore be balanced between mitigating concerns of any potential manipulation and the cost of inhibiting potential hedging activity that could be used for legitimate economic purposes.

Proposal

To modernize the position limit rule, while minimizing impact of such change on industry participants, the Exchange is proposing the addition of three additional position limit categories: 500,000, 1,000,000 and 2,000,000 option contracts. Particularly, the proposed rule would adopt new Rule 8.30.02(f) which would provide that in order to be eligible for the 500,000-option contract limit, either the most recent six-month trading

⁴ See Cboe Options Rule 8.30. Pursuant to Rule 8.42, the exercise limit for an equity option is the same as the position limit established in Rule 8.30 for that equity option.

volume of the underlying security must have totaled at least 500,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 375,000,000 shares and the underlying security must have at least 1,500,000,000 shares currently outstanding. The Exchange also proposes to adopt Rule 8.30.02(g) which would provide that in order to be eligible for the 1,000,000-option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 1,000,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 750,000,000 shares and the underlying security must have at least 3,000,000,000 shares currently outstanding. Finally, the Exchange proposes to adopt Rule 8.30.02(h) which provides that in order to be eligible for the 2,000,000-option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 5,000,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 3,750,000,000 shares and the underlying security must have at least 15,000,000,000 shares currently outstanding.⁵

As noted above, the current position limit categories were last updated 18 years ago. Since that time, there has been a significant increase in the overall volume of exchange traded equity options and a steady increase in the number of accounts that approach the current highest position limit (i.e., 250,000 option contracts). The below chart demonstrates this growth in equity options trading industry-wide between 2005 and 2023.⁶ Indeed, annual equity options trading volume in recent years is nearly *seven* times the volume

⁵ Current Rule 8.30.02(f) will be renumbered to Rule 8.30.02(i).

⁶ See Options Clearing Corporation (“OCC”), Annual Historical Volume Statistics at <https://www.theocc.com/market-data/market-data-reports/volume-and-open-interest/historical-volume-statistics>. Annual Industry Options Trading Volume for 2023 is as of November 24, 2023.

amount when the current position tier limits were adopted in 2005 and has more than doubled since 2017.

Year	Annual Industry Equity Options Trading Volume
2005	1,369,048,282 contracts
2006	1,844,181,918 contracts
2007	2,592,102,961 contracts
2008	3,284,761,345 contracts
2009	3,366,967,321 contracts
2010	3,610,436,931 contracts
2011	4,224,604,529 contracts
2012	3,681,820,659 contracts
2013	3,725,864,134 contracts
2014	3,845,073,167 contracts
2015	3,727,919,066 contracts
2016	3,626,455,947 contracts
2017	3,689,013,636 contracts
2018	4,572,482,342 contracts
2019	4,420,542,768 contracts
2020	7,004,304,148 contracts
2021	9,366,823,566 contracts
2022	9,599,301,629 contracts
2023	9,285,621,375 contracts

By way of further example, based on the proposed criteria, over 300 equity options classes that currently are limited to the maximum position limit tier of 250,000 contracts would qualify for one of the three proposed position limit tiers. Particularly, the Exchange has determined that 182 equity options classes would be eligible for the 500,000 contracts tier limit; 110 equity options classes would be eligible for the 1,000,000 contracts tier limit and 13 equity options classes would be eligible for the 2,000,000 tier limit.⁷

By way of further example, prior to the stock split in August 2020,⁸ equity options class AAPL had approximately 4,000,000,000 shares outstanding and the position limit of

⁷ As of October 12, 2023.

⁸ See Notice, 88 FR at 29728, citing OCC Memo #47509, Apple Inc.—4 for 1 Stock Split (August

250,000 contracts represented control of 25,000,000 shares or 0.625% of the shares outstanding. After the stock split, AAPL had approximately 16,000,000,000 shares outstanding. The immediate adjustment of the position limit from 250,000 contracts to 1,000,000 contracts reflects control of 100,000,000 shares or 0.625% of the shares outstanding which retains the pre-stock split ratio. When the last AAPL option listed at the time of the stock split in 2020 expired in September 2022, the OCC reverted back to the original position limit for AAPL of 25,000,000 shares (250,000 contracts), which is the maximum stock option position limits permitted under the Exchange's rules.⁹ Although this position limit technically adheres to the Exchange's rules, it is more restrictive than the original position limit. Particularly, readjusting the position limit back to 25,000,000 shares (250,000 contracts) when there are 16,000,000,000 shares outstanding reduces the position limit to 0.156% of the shares outstanding, making the post-stock split position limit more restrictive than the pre-stock split position limit and would arguably no longer be meaningfully related to the current shares outstanding. Further, the Exchange notes that the current 250,000 position limit for AAPL forces market participants to reduce trading activity because the maximum position limit only represents 0.156% of the total shares outstanding. This reduction in trading volume also represents a reduction in available liquidity and negatively impacts liquidity, trading volume, and possibly execution prices. By comparison, under the proposed criteria, AAPL options would qualify for the 2,000,000 contract position limit, which is over 12% higher than the current maximum position limit.

28, 2020).

⁹ Position limit increases that result in the case of a stock split remain in effect until the expiration of all listed options that existed at the time of the split, at which time the position limits revert to pre-split levels. This is an industry practice applied by OCC, which currently administers position limit levels on behalf of U.S. options exchanges.

The adjustment of the position limit from 250,000 contracts to 2,000,000 contracts reflects control of 200,000,000 shares or 1.25% of the shares outstanding, which is well within ratios provided by the prior methodology and the Exchange believes would lead to a more liquid and competitive market environment for these options, which will benefit customers that trade these options. Further, given the total increased volume in trading, the Exchange believes it is reasonable to conclude that in addition to AAPL, position limits for many classes is currently more restrictive than they were when adopted in 2005.

The Exchange also believes that the increase in options volume and lack of evidence of market manipulation occurrences over the past twenty years justifies the proposed increases in the position and exercise limits. Moreover, several market participants across the industry have petitioned the industry to increase the current levels.

The Commission has previously stated,

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition, such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.¹⁰

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange are adequate to identify violative trading activity. These procedures include daily monitoring of market activity via automated surveillance

¹⁰ See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-1997-11).

techniques to identify unusual activities in both options and underlying stocks and Exchange Traded Products (“ETPs”).

The Exchange believes that increasing the position limits for qualifying equity options would lead to a more liquid and competitive market environment for these options, which will benefit customers that trade these options. Further, the reporting requirement for such options would remain unchanged. Thus, the Exchange will still require that each TPH or TPH organization that maintains positions in impacted options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information includes, but would not be limited to, the options’ positions, whether such positions are hedged and, if so, a description of the hedge(s). Market-Makers (including Designated Primary Market-Makers (“DPMs”)) would continue to be exempt from this reporting requirement, however, the Exchange may access Market-Maker position information.¹¹ Moreover, the Exchange’s requirement that TPHs file reports with the Exchange for any customer who held aggregate large long or short positions on the same side of the market of 200 or more option contracts of any single class for the previous day will remain at this level and will continue to serve as an important part of the Exchange’s surveillance efforts.¹²

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange and other SROs are capable of properly identifying

¹¹ The Options Clearing Corporation (“OCC”) through the Large option Position Reporting (“LOPR”) system acts as a centralized service provider for TPH compliance with position reporting requirements by collecting data from each TPH or TPH organization, consolidating the information, and ultimately providing detailed listings of each TPH’s report to the Exchange, as well as Financial Industry Regulatory Authority, Inc. (“FINRA”), acting as its agent pursuant to a regulatory services agreement (“RSA”).

¹² See Rule 8.43 for reporting requirements.

disruptive and/or manipulative trading activity. The Exchange also represents that it has adequate surveillances in place to detect potential manipulation, as well as reviews in place to identify continued compliance with the Exchange's listing standards. These procedures utilize daily monitoring of market activity via automated surveillance techniques to identify unusual activity in both options and the underlyings, as applicable. The Exchange also notes that large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G,¹³ which are used to report ownership of stock which exceeds 5% of a company's total stock issue and may assist in providing information in monitoring for any potential manipulative schemes.

The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in equity options. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a TPH must maintain for a large position held by itself or by its customer.¹⁴ In addition, Rule 15c3-1¹⁵ imposes a capital charge on TPHs to the extent of any margin deficiency resulting from the higher margin requirement.

The Exchange also has no reason to believe that the growth in trading volume in equity options will not continue. Rather, the Exchange expects continued options volume growth as opportunities for investors to participate in the options markets increase and evolve. The Exchange believes that the current position and exercise limits are restrictive, and not adopting increased position and exercise limit categories will hamper the listed

¹³ 17 CFR 240.13d-1.

¹⁴ See Rule 10.3 for a description of margin requirements.

¹⁵ 17 CFR 240.15c3-1.

options markets from being able to compete fairly and effectively with the over-the-counter (“OTC”) markets. OTC transactions occur through bilateral agreements, the terms of which are not publicly disclosed to the marketplace. As such, OTC transactions do not contribute to the price discovery process on a public exchange or other lit markets. In fact, the Commission previously highlighted competition with the OTC markets as a reason for increasing the standard position and exercise limits.¹⁶ Specifically, the Commission stated,

The increase in position and exercise limits for standardized equity options should allow the Exchanges to better compete with the growing OTC market in customized equity options, thereby encouraging fair competition among brokers and exchange markets.¹⁷

In addition, the Exchange believes that without the proposed changes to position and exercise limits, market participants will find the standard equity position limits an impediment to their business and investment objectives. As such, market participants may find the less transparent OTC markets a more attractive alternative to achieve their investment and hedging objectives, leading to a retreat from the listed options markets, where trades are subject to reporting requirements and daily surveillance.

Implementation Date

Given this is an industry-wide proposal, implementation will require that all U.S. listed options exchanges adopt similar rule language regarding position limits. The Exchange will wait to announce implementation date for the proposed rule change (via Exchange Notice) until all exchanges have received regulatory approval for similar rule language.

¹⁶ See Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999) (SR-CBOE-1998-25).

¹⁷ Id.

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.¹⁸ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁹ 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)²⁰ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed adoption of three increased position limit categories will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it will provide market participants with the ability to more effectively execute their trading and hedging activities. Also, adopting increased position limit categories for equity options may allow Market-Makers to maintain their liquidity in these options in amounts commensurate with the continued high consumer demand in the

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

²⁰ Id.

impacted underlyings' options market. The proposed higher position limits may also encourage other liquidity providers to continue to trade on the Exchange rather than shift their volume to OTC markets, which will enhance the process of price discovery conducted on the Exchange through increased order flow.

In addition, the Exchange believes that the current liquidity in shares of and options on the underlyings will mitigate concerns regarding potential manipulation of the products and/or disruption of the underlying markets upon increasing the relevant position limits. As a general principle, increases in active trading volume and deep liquidity of the underlying securities do not lead to manipulation and/or disruption. This general principle applies to the recently observed increased levels of trading volume and liquidity in shares of and options on the underlyings (as described above), and, as a result, the Exchange does not believe that the options markets or underlying markets would become susceptible to manipulation and/or disruption as a result of the proposed higher position limit categories. Further, as noted above, the Exchange has no reason to believe that the growth in trading volume in equity options will not continue. Rather, the Exchange expects continued options volume growth as opportunities for investors to participate in the options markets continue to increase and evolve. Additionally, the Exchange continues to maintain a process in which every six-months, the status of the underlying securities are reviewed to determine what limit should apply.²¹ Accordingly, in the event stock trading volume and/or outstanding shares for particular securities significantly declines in the future, such overlying options classes will merely be moved to a lower corresponding, position tier limit under the rules at the next regularly scheduled review.

²¹ See Current Cboe Options Rule 8.30.02(f).

Further, the Exchange notes that the proposed rule change to adopt increased position limits for actively traded options is not novel. Indeed, the Commission has previously expressed the belief that not just increasing, but removing, position and exercise limits may bring additional depth and liquidity to the options markets without increasing concerns regarding intermarket manipulation or disruption of the options or the underlying securities.²² The Commission also has approved similar proposed rule changes by the Exchange to increase position limits for options on highly liquid and actively traded ETPs (e.g., iShares Russell 2000 ETF (“IWM”), the iShares MSCI Emerging Markets ETF (“EEM”), iShares China Large-Cap ETF (“FXI”), and iShares MSCI EAFE ETF (“EFA”), VanEck Vectors Gold Miners ETF (“GDX”), and iShares iBoxx \$ Investment Grade Corporate Bond ETF (“LQD”)).²³ While those are ETPs and the current proposal applies to equity options, pursuant to Rule 8.30, the position limits for options on stock and ETPs are generally calculated in the same manner and based in part on trading volume of the underlying. Further, by way of comparison, the outstanding shares of AAPL stock is significantly higher than that of IWM, EEM, FXI and EFA, which have an overlying options position limit of 1,000,000 (as compared to the 250,000 position limit for AAPL options).²⁴ Particularly, while the outstanding shares of AAPL is currently nearly 16 billion shares, the outstanding shares of IWM, EEM, FXI and EFA range between approximately

²² See Securities Exchange Act Release No. 40969 (January 22, 1999), 64 FR 4911, 4913 (February 1, 1999) (SR-CBOE-98-23).

²³ See Securities Exchange Act Release Nos. 93525 (November 4, 2021), 86 FR 62584 (November 10, 2021) (SR-CBOE-2021-029); 88768 (April 29, 2020), 85 FR 26736 (May 5, 2020) (SR-CBOE-2020-015); 83415 (June 12, 2018), 83 FR 28274 (June 18, 2018) (SR-CBOE-2018-042); and 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

²⁴ See Securities Exchange Act Release Nos. 93525 (November 4, 2021), 86 FR 62584 (November 10, 2021) (SR-CBOE-2021-029); 88768 (April 29, 2020), 85 FR 26736 (May 5, 2020) (SR-CBOE-2020-015); 83415 (June 12, 2018), 83 FR 28274 (June 18, 2018) (SR-CBOE-2018-042); and 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

187 million and 673 million. The Exchange notes that the criteria under the proposed new position limit tier categories of 1,000,000 and 2,000,000 for equity options require the most recent six-month trading volume of the underlying security to have totaled at least 1 billion or 5 billion shares, respectively or have at least 3 billion or 15 billion shares, respectively, of the underlying security outstanding.²⁵ The proposed criteria under the 500,000 position limit category requires the most recent six-month trading volume of the underlying security to have totaled at least 500 million shares or have at least 1.5 billion shares of the underlying security outstanding²⁶ (by comparison, LQD and GDX, have approximately 275 million shares and 395 million shares outstanding, and have an overlying options position limit of 500,000). The Exchange therefore believes it is reasonable and appropriate to increase the position limit of options as proposed to similar position limits that apply for certain ETPs.

Finally, as discussed above, the Exchange's surveillance and reporting safeguards continue to be designed to deter and detect possible manipulative behavior that might arise from increasing or eliminating position and exercise limits in certain classes. The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in the options on the underlying securities, further promoting just and equitable principles of trading, the maintenance of a fair and orderly market, and the protection of investors.

²⁵ There is also a corresponding recent six-month volume of the underlying security requirement that must be satisfied in addition to the requirement relating to total outstanding shares.

²⁶ There is also a corresponding recent six-month volume of the underlying security requirement that must be satisfied in addition to the requirement relating to total outstanding shares.

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 intra-market competition as the rules of the Exchange apply equally to all TPHs of the Exchange and all TPHs of the Exchange are required to adhere to the position limits established by the Exchange's rules. The Exchange believes that the proposed rule change will also provide additional opportunities for market participants to continue to efficiently achieve their investment and trading objectives for equity options on the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on inter-market competition as the proposal is not competitive in nature. The Exchange expects that all option exchanges will adopt substantively similar proposals for adopting the additional position limit tiers, such that the Exchange's proposal would benefit competition. For these reasons, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CBOE-2023-063 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-2023-063. This file number should be included on the subject line if email 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 (<https://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, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CBOE-2023-063 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

Sherry R. Haywood,

Assistant Secretary.

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17 CFR 200.30-3(a)(12).

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

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Rules of Cboe Exchange, Inc.

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Rule 8.30. Position Limits

Except with the prior permission of the President or his designee, to be confirmed in writing, no Trading Permit Holder shall make, for any account in which it has an interest or for the account of any customer, an opening transaction on any exchange if the Trading Permit Holder has reason to believe that as a result of such transaction the Trading Permit Holder or its customer would, acting alone or in concert with others, directly or indirectly, (a) control an aggregate position in an option contract dealt in on the Exchange in excess of 25,000 or 50,000 or 75,000 or 200,000 or 250,000, or 500,000, or 1,000,000 or 2,000,000 option contracts (whether long or short) of the put type and the call type on the same side of the market respecting the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options, or such other number of option contracts as may be fixed from time to time by the Exchange as the position limit for one or more classes or series of options, or (b) exceed the applicable position limit fixed from time to time by another exchange for an option contract not dealt in on the Exchange, when the Trading Permit Holder is not a member of the other exchange on which the transaction was effected. In addition, should a Trading Permit Holder have reason to believe that a position in any account in which it has an interest or for the account of any customer is in excess of the applicable limit, such Trading Permit Holder shall promptly take the action necessary to bring the position into compliance. Reasonable notice shall be given of each new position limit fixed by the Exchange, by publicly posting notice thereof. Limits shall be determined in the manner described in Interpretations and Policies .02 and .04 below.

Interpretations and Policies

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.02 Option Contract Limits.

(a) The 25,000 option contract limit applies to those options having an underlying security that does not meet the requirements for a higher option contract limit.

(b) To be eligible for the 50,000 option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 20,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 15,000,000 shares and the underlying security must have at least 40,000,000 shares currently outstanding.

(c) To be eligible for the 75,000 option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 40,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 30,000,000 shares and the underlying security must have at least 120,000,000 shares currently outstanding.

(d) To be eligible for the 200,000 option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 80,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 60,000,000 shares and the underlying security must have at least 240,000,000 shares currently outstanding.

(e) To be eligible for the 250,000 option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 100,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 75,000,000 shares and the underlying security must have at least 300,000,000 shares currently outstanding.

(f) To be eligible for the 500,000 option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 500,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 375,000,000 shares and the underlying security must have at least 1,500,000,000 shares currently outstanding.

(g) To be eligible for the 1,000,000 option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 1,000,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 750,000,000 shares and the underlying security must have at least 3,000,000,000 shares currently outstanding.

(h) To be eligible for the 2,000,000 option contract limit, either the most recent six-month trading volume of the underlying security must have totaled at least 5,000,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 3,750,000,000 shares and the underlying security must have at least 15,000,000,000 shares currently outstanding.

([f]i) Every six months, the Exchange will review the status of underlying securities to determine which limit should apply. A higher limit will be effective on the date set by the Exchange, while any change to a lower limit will take effect after the last expiration then trading, unless the requirement for the same or a higher limit is met at the time of the intervening six-month review. However, if subsequent to a six-month review, an increase in volume and/or outstanding shares would make a stock eligible for a higher position limit prior to the next review, the Exchange in its discretion may immediately increase such position limit.

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Rule 8.42. Exercise Limits

(a) General. Except with the prior permission of the President or his designee, to be confirmed in writing, no Trading Permit Holder shall exercise, for any account in which it has an interest or for the account of any customer, a long position in any option contract where such Trading Permit Holder or customer, acting alone or in concert with others, directly or indirectly:

(1) has or will have exercised within any five consecutive business days aggregate long positions in any class of options dealt in on the Exchange in excess of 25,000 or 50,000 or 75,000 or 200,000, or 250,000 or 500,000 or 1,000,000 or 2,000,000 option contracts or such other number of options contracts as may be fixed from time to time by the Exchange as the exercise limit for that class of options; or

(2) has or will have exceeded the applicable exercise limit fixed from time to time by another exchange for an option class not dealt in on the Exchange, when the Trading Permit Holder is not a member of the other exchange which lists the option class.

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