

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 9	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2020 - * 034	Amendment No. (req. for Amendments *) 1
Filing by Cboe Exchange, Inc. Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934				
Initial * <input type="checkbox"/>	Amendment * <input checked="" 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			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934	
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>		Section 3C(b)(2) * <input type="checkbox"/>	
Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>			
Description Provide a brief description of the action (limit 250 characters, required when Initial is checked *). <input type="text"/>				
Contact Information Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.				
First Name *	Laura	Last Name *	Dickman	
Title *	VP, Associate General Counsel			
E-mail *	<input type="text"/>			
Telephone *	(312) 786-7572	Fax	<input type="text"/>	
Signature Pursuant to the requirements of the Securities Exchange Act of 1934, has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized. (Title *)				
Date	01/12/2021	VP, Associate General Counsel		
By	Laura G. Dickman	<input type="text"/>		
(Name *)		<input type="text"/>		
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.				
<input type="button" value="Idickman@cboe.com"/>				

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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

Exhibit 1 - Notice of Proposed Rule Change *

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

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

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

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

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Exhibit Sent As Paper Document

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

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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

Partial Amendment

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

PARTIAL AMENDMENT

Cboe Exchange, Inc. (“Cboe Options” or the “Exchange”) submits this Amendment, constituting Amendment No. 1, to rule filing SR-CBOE-2020-034 (the “Rule Filing”), in which the Exchange proposed to authorize for trading flexible exchange options (“FLEX Options”) on full-value indexes with a contract multiplier of one.

First, this Amendment No. 1 adds the following paragraphs after the carryover paragraph on pages 30 to 31 of the Form 19b-4 and pages 64 to 65 of Exhibit 1:

The Commission initially approved the listing and trading of FLEX Options on only two indexes – the S&P 100 and S&P 500.¹ As noted above, the Commission issued a separate order designating FLEX Options as standardized options under Rule 9b-1 of the Exchange Act, which order specifically referenced FLEX Options on those two indexes.² While the initial scope of FLEX Options was limited, the use of FLEX Options has significantly expanded since 1993. The Exchange may now list FLEX Options on any equity or index for which it is authorized to trade non-FLEX Options.³ The expansion of the use of FLEX Options is consistent with the initial purpose for which the Exchange initially proposed to adopt FLEX Options, which is to provide investors with the benefits of trading options on a listed market versus the OTC market. Since 1993, the Commission, through designated authority, has approved numerous proposed rule changes to expand the applicability of FLEX

¹ See Securities Exchange Act Release No. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (SR-CBOE-92-17) (“Initial Cboe FLEX Approval”).

² See 1993 FLEX Approval Order.

³ See Rule 4.20.

Options and designated those FLEX Options as standardized options under Rule 9b-1 of the Exchange Act, including FLEX Options with terms different than those initially approved by the Commission in 1993.

For example, in 1994, the Commission approved a Cboe proposed rule change to permit for trading FLEX Options to be settled in certain specified foreign currencies, which options would have index multipliers other than 100.⁴ The Commission found that FLEX Options with a contract term relating to settlement currency were standardized options for purposes of the options disclosure framework established under Rule 9b-1, despite the fact that non-FLEX Options were not permitted to trade in currencies other than U.S. dollars⁵ and despite the fact that the Initial Cboe FLEX Approval indicated that FLEX Options would be settled in U.S. dollars only.⁶ Therefore, approval of that proposed rule change permitted FLEX Options to have a term (other than strike price, exercise type, expiration date, and form of settlement) that impacted the nature of the rights and obligations of FLEX Traders that was different for FLEX Options than non-FLEX Options (and different than the terms of FLEX Options initially approved by the Commission in the previous year). When approving FLEX Options to settle in foreign currencies, the Commission indicated the proposal was a “reasonable response by the Exchange to meet the demands of sophisticated portfolio managers and other institutional

⁴ See Securities Exchange Act Release No. 34203 (June 13, 1994), 59 FR 31658 (June 20, 1994) (SR-CBOE-93-33).

⁵ See id. at 31659.

⁶ See Initial Cboe FLEX Approval at 12282.

investors[, which] have relied on the OTC market to satisfy their hedging needs; therefore, the [Exchange’s] proposal will promote competition among these markets.”⁷

More recently, the Commission approved a proposed rule change of NYSE American LLC (“NYSE American”) to allow FLEX Options on certain ETFs to be cash-settled.⁸ The Exchange believes the ability of an investor to settle an option in cash rather than in a physical security is a term that impacts the rights and obligations of investors. NYSE American does not offer non-FLEX Options on ETFs to have cash-settlement – those options are all physically settled. Additionally, while the 1993 FLEX Approval Order indicated that “settlement” may be a flexible term, in the proposed rule change to which that order applied, Cboe stated the settlement value may be “flexed” between A.M. and P.M., not between cash and physically settled.⁹ Nevertheless, the Commission approved the NYSE American proposed rule change as consistent with the Exchange Act.¹⁰ NYSE American noted that cash-settled FLEX Options may broaden the base of investors that use FLEX Options to manage their trading and investment risk, including investors that currently trade in the OTC

⁷ See id.

⁸ See Securities Exchange Act Release No. 88131 (February 5, 2020), 85 FR 7806 (February 11, 2020) (SR-NYSEAMER-2019-38) (“NYSE American Approval Order”).

⁹ See Initial Cboe FLEX Approval at 12284. The Exchange has also expanded the available exercise styles for FLEX Options beyond European and American (the only two exercise styles available in non-FLEX Option trading), which were the two exercise styles contemplated in the Initial Cboe FLEX Approval. See Rule 4.21(b)(3); see also Securities Exchange Act Release No. 75425 (July 10, 2015), 80 FR 42152 (July 16, 2015) (SR-CBOE-2015-044).

¹⁰ See NYSE American Approval Order at 7809.

markets for customized options, where settlement restrictions do not apply. NYSE American further stated that cash-settled FLEX Options may encourage market makers to shift liquidity from the OTC market onto an exchange to enhance the process of price discovery.¹¹

The proposed rule change similarly seeks to expand the availability of FLEX Options in a manner consistent with the initial purpose for which the Exchange initially adopted, and has since then expanded the applicability of, FLEX Options, which is to provide investors with the benefits of trading options on a listed market versus the OTC market. Specifically, the proposed rule change seeks to meet the demands of investors that currently may only obtain more precise hedging as described above through the OTC markets. Similar to previous changes in the past, the Commission has the authority to designate FLEX Options with an index multiplier of one to be standardized options pursuant to Rule 9b-1 under the Exchange Act if it believes such designation is appropriate. The primary purpose of FLEX Options has always been, and continues to be, to permit trading in options that were otherwise permissible in the OTC market to be permissible on a listed exchange, and the proposed rule change is consistent with that purpose. Options with an index multiplier of one are currently permissible in the OTC market but not in the listed market. As described above, the Commission has approved prior rule changes to permit FLEX Options to trade with terms different than those available in the non-

¹¹ See Securities Exchange Act Release No. 87444 (November 1, 2019), 84 FR 60120, 60124 (November 7, 2019) (SR-NYSEAMER-2019-38).

FLEX market, including terms that impact the nature of the rights and obligations that are different than corresponding non-FLEX Options and that expand the terms of FLEX Options beyond those initially approved by the Commission. The Exchange believes it benefits the investing public to continue to enhance product offerings to evolve to constantly changing needs of investors, even if certain products were initially introduced in a more limited manner.

Second, this Amendment No. 1 adds the following paragraph after the carryover paragraph on pages 25 to 26 of Form 19b-4 and pages 59 to 60 of the Exhibit 1:

As noted above, the Commission recently approved a NYSE American proposed rule change to allow FLEX Options on certain ETFs to be cash-settled. Just as the proposed rule change would permit certain FLEX Index Options to have a multiplier of one with the exact same, or similar, terms as non-FLEX options on the same indexes with a multiplier of 100, the NYSE American change would allow cash-settled FLEX Options on certain ETFs to have the exact same, or similar, terms as non-FLEX options on the same ETFs with physical settlement. As a result, that proposed rule change would have presented the same issues related to price protection that this proposed rule change theoretically presents. Specifically, permitting two options – one cash-settled and one physically settled – on the same underlying ETF could have the effect of allowing cash-settled FLEX ETF options gain priority over customer orders on the book for the similar physically settled non-FLEX ETF options and also allow bypassing or trading through the NBBO. Yet, in its proposed rule change, and in the Commission approval order of that change, there was no discussion of why NYSE American's proposed rule change would address

such a price protection issue. NYSE American merely stated that it did not believe its proposed rule change would cause fragmentation of liquidity.¹² NYSE American further stated: “[NYSE American] believes that offering innovative products flows to the benefit of the investing public. A robust and competitive market requires that exchanges respond to members’ evolving needs by constantly improving their offerings. Such efforts would be stymied if exchanges were prohibited from offering innovative products for reasons that are generally debated in academic literature. [NYSE American] believes that introducing cash-settled FLEX Equity Options would further broaden the base of investors that use FLEX Options to manage their trading and investment risk, including investors that currently trade in the OTC markets for customized options, where settlement restrictions do not apply.”¹³ The Exchange similarly does not believe the proposed rule change will cause a fragmentation of liquidity. The Exchange has listed FLEX Options for trading for nearly 30 years. As discussed above, any such price protection and fragmentation issues would have existed since the initiation of FLEX Options trading. Yet, the Exchange has observed no market fragmentation or investor attempts to trade FLEX Options with the same or similar terms to gain priority over customers in the book or trade through the NBBO. As discussed above, the Exchange believes any such risk is de minimis, as the Exchange believes it is impractical for investors to attempt to trade in the FLEX market with fewer investors and far less liquidity if the options are

¹² See NYSE American Approval Order at 60123.

¹³ See id. at 60124.

otherwise available in the liquid non-FLEX market, as it would be far more difficult to find counterparties for executions, particularly at a price outside of the market price. The Exchange believes any such price protection issues are academic and theoretical, as they have not manifested in nearly 30 years of FLEX trading, and should not hinder innovation efforts to address real investor demand, which may result in tangible benefits of FLEX Options to increase price transparency and discovery of options that are currently only available in the OTC market.

The Exchange requests accelerated approval of Amendment No. 1. Amendment No. 1 makes no substantive changes to the proposed rule change and has no impact on how the FLEX Index Options with an index multiplier of one will be traded. Amendment No. 1 merely adds support for the proposal.