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OMB APPROVAL

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

File No.* SR - 2020 - * 050
Amendment No. (req. for Amendments *) 1

Filing by Cboe Exchange, Inc.

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

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

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐

Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐

Exhibit 3 Sent As Paper Document ☐

Description

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

Contact Information

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

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

Signature

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

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

Date 07/02/2020
By Laura G. Dickman
(Name *)

(Title *)
VP, Associate General Counsel

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

ldickman@cboe.com

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View	The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.
Exhibit 1 - Notice of Proposed Rule Change * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications Add Remove View Exhibit Sent As Paper Document ☐	Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.
Exhibit 3 - Form, Report, or Questionnaire Add Remove View Exhibit Sent As Paper Document ☐	Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.
Exhibit 4 - Marked Copies Add Remove View	The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.
Exhibit 5 - Proposed Rule Text Add Remove View	The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.
Partial Amendment Add Remove View	If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

Item 1. Text of the Proposed Rule Change

(a) Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend Rules 5.37 and 5.73. The Exchange initially submitted this rule filing SR-CBOE-2020-050 to the Securities and Exchange Commission ("Commission") on June 3, 2020 (the "Initial Rule Filing"). Amendment No. 1 narrows the scope of the proposed rule change to permit orders for the accounts of appointed Market-Makers to be solicited for AIM and FLEX AIM Auctions to S&P 500 Index ("SPX") options only. This Amendment No. 1 supersedes the Initial Rule Filing and replaces it in its entirety. The text of the proposed rule change is provided in Exhibit 5.

(b) Not applicable.

(c) Not applicable.

Item 2. Procedures of the Self-Regulatory Organization

(a) The Exchange's President (or designee) pursuant to delegated authority approved the proposed rule change on July 2, 2020.

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

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

(a) Purpose

The Exchange proposes to permit orders for the accounts of Market-Makers with an appointment in SPX to be solicited for the Initiating Order[1] submitted for execution against an Agency Order in SPX options into a simple AIM Auction pursuant to Rule 5.37 or a simple FLEX AIM Auction pursuant to Rule 5.73. The Exchange does not generally activate AIM for SPX options, and AIM for SPX options is currently not activated.[2] The introductory paragraphs of Rules 5.37 and 5.73 prohibit orders for the accounts of Market-Makers with an appointment in the applicable class to be solicited to execute against the Agency Order in a simple AIM or FLEX AIM Auction, respectively. No similar restriction applies to crossing transactions in open outcry trading, where a significant portion of SPX options trade.[3] As further discussed below, brokers seeking liquidity to execute against customer orders on the trading floor regularly solicit appointed SPX Market-Makers for this liquidity, as they are generally the primary source of pricing and liquidity for those options.

As of March 16, 2020, the Exchange suspended open outcry trading to help prevent the spread of the novel coronavirus and began operating in an all-electronic

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1 The "Initiating Order" is the order comprised of principal interest or a solicited order(s) submitted to trade against the order the submitting Trading Permit Holder (the "Initiating TPH" or "Initiating FLEX Trader," as applicable) represents as agent (the "Agency Order").

2 FLEX AIM is generally activated, and currently is activated, for FLEX SPX options.

3 See Rules 5.86 and 5.87.

configuration.[4] As a result, the Exchange activated AIM for SPX options for the first time to provide market participants with a mechanism to cross SPX options while the floor was inoperable, which would otherwise not be possible without open outcry trading The Exchange adopted a temporary rule change to permit Market-Makers to be solicited for electronic crossing transactions in its exclusively listed index options (including SPX options) when the Exchange's trading floor was inoperable. The Exchange believed this would make the same sources of liquidity for customer orders that are generally available in open outcry available for those orders in an electronic-only environment.[5] This was particularly true for SPX options, for which the Exchange enabled AIM for the first time. The Exchange believed not permitting Market-Makers to participate as contras could have made it difficult for brokers to find sufficient liquidity to fill their customer orders, which liquidity they generally solicited from SPX Market-Makers on the trading floor. For example, when the Exchange operates in its a hybrid manner as it currently is (with electronic and open outcry trading), if a customer order is not fully executable against electronic bids and offers, a floor broker can attempt to execute the order, or remainder thereof, on the trading floor, where the liquidity to trade with this remainder is generally provided by Market-Makers in the open outcry trading crowd. Additionally, brokers may solicit liquidity from upstairs Market-Maker firms.

Upon the reopening of the trading floor, the Exchange deactivated AIM for SPX options. While AIM was activated for SPX options, the Exchange observed price

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4 The Exchange continues to operate in an all-electronic environment, but currently plans to reopen its trading floor on June 8, 2020.

5 See Rule 5.24(e)(1)(A); see also Securities Exchange Act Release No. 88886 (May 15, 2020), 85 FR 31008 (May 21, 2020) (SR-CBOE-2020-047).

improvement benefits AIM auctions provided to smaller, retail-sized SPX options.[6] As a result, the Exchange intends to reactivate AIM for SPX options while the trading floor is operable for orders up to a maximum size to continue to provide these price improvement opportunities for retail-sized SPX orders.[7] Regardless of whether the trading floor is open, the Exchange believes brokers will have difficulty finding sufficient liquidity to initiate AIM auctions from only market participants that are not SPX Market-Makers. If the Exchange determines to reactivate AIM for SPX options, the Exchange believes it is appropriate to permit orders for the account of an appointed SPX Market-Maker to be submitted as the contra order, as the Exchange believes the liquidity provided by SPX Market-Makers will need to be available for brokers to initiate AIM Auctions and create potential price improvement opportunities for those retail-sized orders. To demonstrate the importance of the liquidity provided by SPX Market-Makers, in January and February 2020, the percentage of smaller simple Customer orders (20 or fewer) that executed in open outcry against an SPX Market-Maker as contra was approximately 85%, and the percentage of smaller simple Customer orders (20 or fewer) that executed electronically against an SPX Market-Maker as contra was approximately 87%. If SPX Market-Makers cannot be solicited for SPX AIM Auctions, the Exchange believes brokers may not be able to initiate as many AIM Auctions for their retail orders as they were able to do while the trading floor was closed, which may reduce the price improvement opportunities available for those orders. While the trading floor was closed, orders for the accounts of SPX Market-Makers created opportunities for customer orders to be submitted in AIM

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6 See Securities Exchange Act Release No. 89058 (June 12, 2020), 85 FR 36918 (June 18, 2020) (SR-CBOE-2020-051).

7 Id.

Auctions and receive price improvement. The Exchange believes those SPX Market-Maker orders should be permitted to be solicited at all times for SPX AIM Auctions in order to create similar price improvement opportunities for those customer orders.

In multi-list classes, many market-makers serve as both appointed Market-Makers on the Exchange and as market-makers on other options exchanges. These firms, as a result, can use their accounts for their away market-maker activities for being solicited with respect to AIM Auctions. In general, solicited orders submitted as the Initiating Order for AIM Auctions are almost always comprised of orders for the accounts of away market-makers. For example, in April of 2020, approximately 99.6% of the orders submitted into all AIM Auctions had Initiating Orders comprised of orders for accounts of away market-makers, making up approximately 86.2% of the volume executed through AIM auctions. However, SPX is an exclusively listed class on the Exchange, so a firm cannot serve as an SPX market-maker at another options exchange. During April and May 2020, when Initiating Orders could be comprised of orders for accounts of SPX Market-Makers pursuant to a temporary rule, approximately 22% of Initiating Orders executed in SPX AIM Auctions were comprised of orders for SPX Market-Makers, representing approximately 45% of SPX volume executed in AIM Auctions. While approximately 76% of Initiating Orders executed in SPX AIM Auctions were comprised of orders for accounts of away market-makers, those orders represented only approximately 5% of the SPX volume executed through AIM Auctions. The Exchange notes SPX Market-Makers also executed approximately 31% of SPX volume executed through AIM Auctions with auction responses. This demonstrates the difficulty brokers may have to find sufficient interest to fill customer orders in SPX if the Exchange activates AIM for SPX without permitting appointed Market-Makers to be solicited. If brokers may solicit primary liquidity providers in SPX for electronic auctions, regardless of whether the trading floor is operational, the Exchange believes brokers will be able to more efficiently locate liquidity to initiate AIM Auctions to fill their customer orders, particularly during times of volatility, which may create additional execution and price improvement opportunities for customers at all times. The Exchange believes the proposed rule change will, therefore, provide retail-sized orders with similar price improvement opportunities when AIM is activated while the trading floor is open that those orders realized while the trading floor was closed.

Permitting SPX Market-Makers to serve as contra parties to crossing transactions submitted into an AIM Auction will also further align AIM Auctions with SPX crossing executions that occur on the trading floor. SPX Market-Makers frequently serve as contra parties to crossing transactions on the trading floor. For example, during February 2020 (when the trading floor was open), approximately 76% of SPX orders crossed on the trading floor (consisting of 2,944,161 contracts) included an order of an SPX Market-Maker one side of the transaction.

This further demonstrates the importance of appointed SPX Market-Makers to the provision of liquidity in the SPX market with respect to crossing transactions, which liquidity would not be available to initiate electronic crossing transactions under the current AIM rule. Therefore, the Exchange believes the proposed rule change will permit it to activate AIM in SPX in a manner that aligns open outcry and electronic crossing auctions, and thus aligns the execution and price improvement opportunities available in both auctions, by permitting the same participants to be solicited as contras in both types of auctions in SPX at all times.

While FLEX AIM is currently available for SPX orders of all sizes, the Exchange believes brokers currently have similar difficulties locating liquidity to initiate FLEX AIM Auctions for SPX orders. Unlike in simple non-FLEX markets, FLEX Market-Makers have no obligations to provide liquidity to FLEX classes (and there is book into which FLEX Market-Makers may submit quotes to rest). Therefore, in FLEX markets, appointed Market-Makers are on equal footing with all other market participants with respect to FLEX AIM Auctions. Permitting FLEX Market-Makers to be solicited provides all market participants with the opportunity to provide liquidity to execute against Agency Orders in FLEX AIM Auctions in the same manner (both through solicitation and responses). The Exchange believes the proposed rule change may result in additional FLEX AIM auctions occurring in SPX, which may create additional price improvement opportunities for FLEX SPX orders.[8] The Exchange also believes permitting FLEX SPX Market-Makers to be solicited for FLEX AIM Auctions will provide consistency among electronic crossing auctions for SPX.

The proposed rule change also amends Rules 5.37(c)(5) and 5.73(c)(5) to codify that any User or FLEX Trader, respectively, other than the Initiating TPH or FLEX Trader, respectively, may submit responses to AIM and FLEX AIM Auctions. As set forth in Rules 5.37(e) and 5.73(e), the Initiating Order may receive an entitlement of 40% or 50% of the Agency Order. The Exchange believes it is appropriate to not permit the Initiating TPH or Initiating FLEX Trader, as applicable, to also submit responses in order to try to trade

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8 The Exchange notes Market-Makers are currently able to be solicited for complex AIM and complex FLEX AIM for similar reasons. See Rules 5.38 and 5.73.

against a larger percentage of the Agency Order. This is consistent with allocation rules, pursuant to which the Initiating Order may only receive more than 40% or 50%, as applicable, of the Agency Order if there are remaining contracts after all other interest has executed.

The Rule change also notes that the System will reject a response with the same EFID[9] as the Initiating Order. The Exchange notes that orders for the same User may have different EFIDs. However, the rule prohibits all responses from the same User, even with different EFIDs. The System is currently only able to reject responses with the same EFID as the Initiating Order, which is why that is specified in the proposed rule. If the same User submits a response to an auction in which that same User had an order comprising the Initiating Order (even with a different EFID), the Exchange may take regulatory action against that User for a violation of the proposed rule. The Exchange currently applies this restriction to simple AIM and FLEX AIM Auctions, but it was inadvertently omitted from the Rules, so the proposed rule change adds transparency to the Rules. This restriction is also currently in the Rules related to AIM for complex orders, so the proposed rule change adds consistency to the rules of Exchange auctions.[10]

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[11] Specifically, the Exchange believes the proposed rule change is consistent with the

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9 See Rule 1.1, which defines EFID as an Executing Firm ID.

10 See Rule 5.38(c)(5).

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

Section 6(b)(5)[12] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[13] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will benefit investors. The proposed rule change will permit the primary SPX liquidity providers on the Exchange to provide the liquidity necessary for brokers to initiate SPX AIM Auctions for their customer orders. If brokers can solicit the primary liquidity providers in SPX for electronic auctions, regardless of whether the trading floor is operational, the Exchange believes brokers will be able to more efficiently locate liquidity to fill their customer orders, particularly during times of volatility. The Exchange believes the proposed rule change will, therefore, provide retail-sized orders with similar price improvement opportunities when AIM is activated while the trading floor is open that those orders realized while the trading floor was closed. As a result, the Exchange believes the proposed rule change will permit sufficient liquidity to be available for these auctions, which may create additional execution and price improvement opportunities for

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

13 Id.

customers, including retail customers, at all times, regardless of whether the trading floor is open.

The Exchange also believes the proposed rule change will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will align the SPX AIM auction process with the open outcry crossing process, and thus align the execution and price improvement opportunities available in both auctions by permitting the same participants to be solicited as contras in both types of auctions in SPX. Currently, SPX Market-Makers may be solicited with respect to crossing transactions on the trading floor. However, under the current AIM rule, if the Exchange enabled AIM for SPX, SPX Market-Makers would not be able to be solicited to initiate AIM Auctions. The Exchange believes there is no reason to restrict SPX Market-Makers' ability to provide liquidity into SPX electronic auctions when they are able to similarly provide, and do provide, that liquidity for open outcry SPX crossing transactions. The Exchange notes the electronic crossing price improvement auction of another options exchange currently permits orders for the accounts of appointed market-makers to be solicited as the contra orders for that auction.[14]

Further, he Exchange believes the proposed rule change may result in additional FLEX AIM auctions occurring in SPX, which may create additional price improvement opportunities for FLEX SPX orders.[15] The Exchange also believes permitting FLEX

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14 See NYSE American, Inc. ("American") Rule 971.1NY.

15 The Exchange notes Market-Makers are currently able to be solicited for complex AIM and complex FLEX AIM for similar reasons. See Rules 5.38 and 5.73.

SPX Market-Makers to be solicited for FLEX AIM Auctions will provide consistency among electronic crossing auctions for SPX, which benefits investors.

Finally, the Exchange believes the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because it will be permit orders for accounts of appointed SPX Market-Makers to be solicited in the same manner as orders for the accounts of all other market participants in SPX AIM Auctions. Currently, all market participants other than appointed SPX Market-Makers would be able to be solicited as the contra and submit responses in AIM Auctions, while appointed SPX Market-Makers would be restricted to only submitting responses. While it is possible for an order to be solicited for the account of an away market-maker in SPX, those orders generally do not comprise significant volume given the orders must be for market-making purposes with respect to SPX. The Exchange believes the proposed rule change will provide all SPX Market-Makers, in the event the Exchange activates AIM for SPX, with the same ability to participate in AIM at all times. This may increase execution and price improvement opportunities for customers' SPX orders, where the ability for away market-makers to provide liquidity is limited.

The Exchange believes the proposed rule change to codify that any User or FLEX Trader, respectively, other than the Initiating TPH or FLEX Trader, respectively, may submit responses to AIM and FLEX AIM Auctions will promote just and equitable principles of trade so that market participants may not trade against a larger percentage of the Agency Order than permitted by the rules. The proposed rule change is consistent with allocation rules. The proposed rule change is consistent with current functionality and the rules related to AIM for complex orders, and therefore adds consistency and transparency to the Rules, which ultimately benefits 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 the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it will provide SPX Market-Makers with the same execution opportunities in AIM Auctions that would be available to all other market participants. Additionally, the proposed rule change will align open outcry and electronic crossing auctions for SPX and the execution and price improvement opportunities available in both auctions by permitting the same participants to be solicited as contras in both types of auctions across SPX. Unlike other option classes that trade on the Exchange, a significant portion of SPX volume executes on the trading floor. As a result, the Exchange believes it is appropriate for the electronic crossing mechanism to more closely replicate the open outcry crossing process before the Exchange activates AIM in SPX in order to minimize any impact on the market for those options. The Exchange believes it is reasonable to restrict the proposed rule change to SPX options, because that is currently the only class for which the Exchange has not activated AIM. Unlike in multi-list classes, firms cannot serve as SPX market-makers at other exchanges, making it difficult to be solicited for an away market-maker account. As noted above, the Exchange intends to make AIM Auctions available for retail-sized orders and believes the proposed rule change will create similar price improvement opportunities that those orders realized while AIM was activated in SPX when the trading floor was closed.

The Exchange further believes the restriction of this change to SPX will preserve certain aspects of market structure that are important to maintain Market-Maker incentives to provide electronic liquidity in SPX options. As noted above, the Exchange intends to activate AIM for SPX with a maximum quantity to incentive the submission of retail-sized orders into AIM Auctions. The Exchange believes implementing AIM for SPX with a maximum quantity may avoid some of the negative aspects that some attribute to auctions with respect to displayed quote quality and liquidity while providing retail-sized orders with additional price improvement opportunities. The Exchange believes implementing this change in other classes with no maximum quantity may reduce incentives for Market-Makers to quote in those classes, which may negatively impact quote quality, because a much greater percentage of the total volume in those classes may be internalized via AIM Auctions as opposed to executed on the book against Market-Maker quotes as it does today. Limiting this change to SPX, which will have a maximum quantity, allows price improvement opportunities for retail-sized orders through the auction mechanism, while avoiding the potential negative consequences of auctions that might result in classes where the use of AIM has no quantity restriction.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it relates to orders in an exclusively listed class submitted into an auction mechanism on the Exchange. Additionally, the Exchange notes that the rules of at least one other options exchange permits orders for the accounts of appointed market-makers to be solicited as contra orders for that exchange's electronic crossing price improvement auction.[16] The Exchange believes the proposed rule change may improve price competition for smaller-sized orders within AIM Auctions for SPX options in the event the Exchange activates AIM Auctions in that class, because the primary liquidity providers will be available for the solicitation necessary to initiate those auctions. The Exchange also believes the proposed rule change will increase the execution and price improvement opportunities for FLEX SPX.

The Exchange believes the proposed rule change to codify that any User or FLEX Trader, respectively, other than the Initiating TPH or FLEX Trader, respectively, may submit responses to AIM and FLEX AIM Auctions will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it codifies current system functionality. Additionally, it applies to all market participants that submit orders into AIM Auctions. The Exchange believes the proposed rule change will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it relates solely to which market participants may submit responses into Exchange auction. The proposed rule change is consistent with current allocation rules and the rules related to AIM for complex orders, and therefore adds consistency and transparency to the Rules, which ultimately benefits investors.

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.

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[16] See Arca Rule 971.1NY.

Item 6. **Extension of Time Period for Commission Action**

The Exchange does not consent to an extension of the time period for Commission action on the proposed rule change specified in Section 19(b)(2) of the Act.[17]

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

(a) Not applicable.

(b) Not applicable.

(c) Not applicable.

(d) The proposed rule change is filed for accelerated effectiveness pursuant to Section 19(b)(2) of the Act.[18] The Exchange requests that the Commission approve Amendment No. 1 on an accelerated basis pursuant to Section 19(b)(2) of the Act so that it may be operative as soon as practicable. Amendment No. 1 merely reduces the scope of the initial rule filing by applying the proposed rule change regarding the solicitation of appointed Market-Makers to a single class rather than all classes. As discussed above, the Exchange believes the proposed rule change will benefit investors, because it will permit the primary liquidity providers in SPX to provide liquidity necessary for AIM Auctions to be initiated if the Exchange activates AIM for SPX options for smaller-sized orders. By permitting brokers to solicit these primary SPX liquidity providers for electronic auctions as they are able to do in open outcry crossing transactions, regardless of whether the trading floor is operational, the Exchange believes brokers will be able to more efficiently locate liquidity to fill their customer orders (including retail customer orders), particularly during times of volatility such times as those recently experienced in

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[17] 15 U.S.C. 78s(b)(2).

[18] 15 U.S.C. 78s(b)(2).

the markets. The Exchange believes the proposed rule change will create similar price improvement opportunities that those orders realized while AIM was activated in SPX when the trading floor was closed. As a result, the Exchange believes the proposed rule change will likely expand available liquidity for these auctions, which may create additional execution and price improvement opportunities for SPX retail-sized orders at all times, which ultimately benefits investors. Accelerated approval will provide these benefits to investors as soon as possible.

Additionally, the proposed rule change is not novel or unique, as it is consistent with liquidity available in open outcry SPX crossing auctions. The proposed rule change will further align open outcry and electronic crossing auctions for SPX by permitting the same participants to be solicited as contras in both auctions. The Exchange believes this alignment is appropriate before it activates AIM for SPX options. It will provide appointed SPX Market-Makers with the ability to participate in electronic auctions in the same manner they can in open outcry auctions, and in the same manner that all other market participants would be able to participate in electronic auctions. Accelerated approval will provide all market participants, including the SPX Market-Makers, with equal access to AIM Auction execution opportunities as soon as possible. The Exchange notes the electronic crossing price improvement auction of another options exchange currently permits orders for the accounts of appointed market-makers to be solicited as the contra orders for that auction.[19]

The Exchange believes accelerated approval of the proposed rule change that any User or FLEX Trader, respectively, other than the Initiating TPH or FLEX Trader,

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19 See American Rule 971.1NY.

respectively, may submit responses to AIM and FLEX AIM Auctions is appropriate because it codifies current functionality. The proposed rule change is consistent with the allocation rules so that market participants may not trade against a larger percentage of the Agency Order than permitted by the rules. The proposed rule change is also consistent with the rules related to AIM for complex orders, and therefore adds consistency and transparency to the Rules, which ultimately benefits investors.

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 Rules of another self-regulatory organization or of the Commission. However, the Exchange notes American Rule 971.1NY permits orders for the account of any market participant (included an appointed market-maker) other than customers be solicited as the contra orders for CUBE Auctions, which is an electronic price improvement crossing auction substantially similar to AIM.

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

Not applicable.

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

Not applicable.

Item 11. Exhibits

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

Exhibit 4 Marked copy of changes to the rule text proposed in an amendment compared against the version of the rule text that was initially filed.

Exhibit 5. Proposed rule text.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-   ; File No. SR-CBOE-2020-050]

[Insert date]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to Amend Rules 5.37 and 5.73

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 Rules 5.37 and 5.73. The text of the proposed rule change is provided in Exhibit 5.

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

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

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

2 17 CFR 240.19b-4.

on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to permit orders for the accounts of Market-Makers with an appointment in SPX to be solicited for the Initiating Order[3] submitted for execution against an Agency Order in SPX options into a simple AIM Auction pursuant to Rule 5.37 or a simple FLEX AIM Auction pursuant to Rule 5.73. The Exchange does not generally activate AIM for SPX options, and AIM for SPX options is currently not activated.[4] The introductory paragraphs of Rules 5.37 and 5.73 prohibit orders for the accounts of Market-Makers with an appointment in the applicable class to be solicited to execute against the Agency Order in a simple AIM or FLEX AIM Auction, respectively. No similar restriction applies to crossing transactions in open outcry trading, where a significant portion of SPX options trade.[5] As further discussed below, brokers seeking liquidity to execute against customer orders on the trading floor regularly solicit appointed SPX Market-Makers for this liquidity, as they are generally the primary source of pricing and liquidity for those options.

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3 The "Initiating Order" is the order comprised of principal interest or a solicited order(s) submitted to trade against the order the submitting Trading Permit Holder (the "Initiating TPH" or "Initiating FLEX Trader," as applicable) represents as agent (the "Agency Order").

4 FLEX AIM is generally activated, and currently is activated, for FLEX SPX options.

5 See Rules 5.86 and 5.87.

As of March 16, 2020, the Exchange suspended open outcry trading to help prevent the spread of the novel coronavirus and began operating in an all-electronic configuration.[6] As a result, the Exchange activated AIM for SPX options for the first time to provide market participants with a mechanism to cross SPX options while the floor was inoperable, which would otherwise not be possible without open outcry trading The Exchange adopted a temporary rule change to permit Market-Makers to be solicited for electronic crossing transactions in its exclusively listed index options (including SPX options) when the Exchange's trading floor was inoperable. The Exchange believed this would make the same sources of liquidity for customer orders that are generally available in open outcry available for those orders in an electronic-only environment.[7] This was particularly true for SPX options, for which the Exchange enabled AIM for the first time. The Exchange believed not permitting Market-Makers to participate as contras could have made it difficult for brokers to find sufficient liquidity to fill their customer orders, which liquidity they generally solicited from SPX Market-Makers on the trading floor. For example, when the Exchange operates in its a hybrid manner as it currently is (with electronic and open outcry trading), if a customer order is not fully executable against electronic bids and offers, a floor broker can attempt to execute the order, or remainder thereof, on the trading floor, where the liquidity to trade with this remainder is generally provided by Market-Makers in the open outcry trading crowd. Additionally, brokers may solicit liquidity from upstairs Market-Maker firms.

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6 The Exchange continues to operate in an all-electronic environment, but currently plans to reopen its trading floor on June 8, 2020.

7 See Rule 5.24(e)(1)(A); see also Securities Exchange Act Release No. 88886 (May 15, 2020), 85 FR 31008 (May 21, 2020) (SR-CBOE-2020-047).

Upon the reopening of the trading floor, the Exchange deactivated AIM for SPX options. While AIM was activated for SPX options, the Exchange observed price improvement benefits AIM auctions provided to smaller, retail-sized SPX options.[8] As a result, the Exchange intends to reactivate AIM for SPX options while the trading floor is operable for orders up to a maximum size to continue to provide these price improvement opportunities for retail-sized SPX orders.[9] Regardless of whether the trading floor is open, the Exchange believes brokers will have difficulty finding sufficient liquidity to initiate AIM auctions from only market participants that are not SPX Market-Makers. If the Exchange determines to reactivate AIM for SPX options, the Exchange believes it is appropriate to permit orders for the account of an appointed SPX Market-Maker to be submitted as the contra order, as the Exchange believes the liquidity provided by SPX Market-Makers will need to be available for brokers to initiate AIM Auctions and create potential price improvement opportunities for those retail-sized orders. To demonstrate the importance of the liquidity provided by SPX Market-Makers, in January and February 2020, the percentage of smaller simple Customer orders (20 or fewer) that executed in open outcry against an SPX Market-Maker as contra was approximately 85%, and the percentage of smaller simple Customer orders (20 or fewer) that executed electronically against an SPX Market-Maker as contra was approximately 87%. If SPX Market-Makers cannot be solicited for SPX AIM Auctions, the Exchange believes brokers may not be able to initiate as many AIM Auctions for their retail orders as they were able to do while the trading floor was closed, which may reduce the price improvement opportunities

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8 See Securities Exchange Act Release No. 89058 (June 12, 2020), 85 FR 36918 (June 18, 2020) (SR-CBOE-2020-051).

9 Id.

available for those orders. While the trading floor was closed, orders for the accounts of SPX Market-Makers created opportunities for customer orders to be submitted in AIM Auctions and receive price improvement. The Exchange believes those SPX Market-Maker orders should be permitted to be solicited at all times for SPX AIM Auctions in order to create similar price improvement opportunities for those customer orders.

In multi-list classes, many market-makers serve as both appointed Market-Makers on the Exchange and as market-makers on other options exchanges. These firms, as a result, can use their accounts for their away market-maker activities for being solicited with respect to AIM Auctions. In general, solicited orders submitted as the Initiating Order for AIM Auctions are almost always comprised of orders for the accounts of away market-makers. For example, in April of 2020, approximately 99.6% of the orders submitted into all AIM Auctions had Initiating Orders comprised of orders for accounts of away market-makers, making up approximately 86.2% of the volume executed through AIM auctions. However, SPX is an exclusively listed class on the Exchange, so a firm cannot serve as an SPX market-maker at another options exchange. During April and May 2020, when Initiating Orders could be comprised of orders for accounts of SPX Market-Makers pursuant to a temporary rule, approximately 22% of Initiating Orders executed in SPX AIM Auctions were comprised of orders for SPX Market-Makers, representing approximately 45% of SPX volume executed in AIM Auctions. While approximately 76% of Initiating Orders executed in SPX AIM Auctions were comprised of orders for accounts of away market-makers, those orders represented only approximately 5% of the SPX volume executed through AIM Auctions. The Exchange notes SPX Market-Makers also executed approximately 31% of SPX volume executed through AIM Auctions with auction responses. This demonstrates the difficulty brokers may have to find sufficient interest to fill customer orders in SPX if the Exchange activates AIM for SPX without permitting appointed Market-Makers to be solicited. If brokers may solicit primary liquidity providers in SPX for electronic auctions, regardless of whether the trading floor is operational, the Exchange believes brokers will be able to more efficiently locate liquidity to initiate AIM Auctions to fill their customer orders, particularly during times of volatility, which may create additional execution and price improvement opportunities for customers at all times. The Exchange believes the proposed rule change will, therefore, provide retail-sized orders with similar price improvement opportunities when AIM is activated while the trading floor is open that those orders realized while the trading floor was closed.

Permitting SPX Market-Makers to serve as contra parties to crossing transactions submitted into an AIM Auction will also further align AIM Auctions with SPX crossing executions that occur on the trading floor. SPX Market-Makers frequently serve as contra parties to crossing transactions on the trading floor. For example, during February 2020 (when the trading floor was open), approximately 76% of SPX orders crossed on the trading floor (consisting of 2,944,161 contracts) included an order of an SPX Market-Maker one side of the transaction.

This further demonstrates the importance of appointed SPX Market-Makers to the provision of liquidity in the SPX market with respect to crossing transactions, which liquidity would not be available to initiate electronic crossing transactions under the current AIM rule. Therefore, the Exchange believes the proposed rule change will permit it to activate AIM in SPX in a manner that aligns open outcry and electronic crossing auctions, and thus aligns the execution and price improvement opportunities available in both auctions, by permitting the same participants to be solicited as contras in both types of auctions in SPX at all times.

While FLEX AIM is currently available for SPX orders of all sizes, the Exchange believes brokers currently have similar difficulties locating liquidity to initiate FLEX AIM Auctions for SPX orders. Unlike in simple non-FLEX markets, FLEX Market-Makers have no obligations to provide liquidity to FLEX classes (and there is book into which FLEX Market-Makers may submit quotes to rest). Therefore, in FLEX markets, appointed Market-Makers are on equal footing with all other market participants with respect to FLEX AIM Auctions. Permitting FLEX Market-Makers to be solicited provides all market participants with the opportunity to provide liquidity to execute against Agency Orders in FLEX AIM Auctions in the same manner (both through solicitation and responses). The Exchange believes the proposed rule change may result in additional FLEX AIM auctions occurring in SPX, which may create additional price improvement opportunities for FLEX SPX orders.[10] The Exchange also believes permitting FLEX SPX Market-Makers to be solicited for FLEX AIM Auctions will provide consistency among electronic crossing auctions for SPX.

The proposed rule change also amends Rules 5.37(c)(5) and 5.73(c)(5) to codify that any User or FLEX Trader, respectively, other than the Initiating TPH or FLEX Trader, respectively, may submit responses to AIM and FLEX AIM Auctions. As set forth in Rules 5.37(e) and 5.73(e), the Initiating Order may receive an entitlement of 40% or 50% of the Agency Order. The Exchange believes it is appropriate to not permit the Initiating TPH or

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[10] The Exchange notes Market-Makers are currently able to be solicited for complex AIM and complex FLEX AIM for similar reasons. See Rules 5.38 and 5.73.

Initiating FLEX Trader, as applicable, to also submit responses in order to try to trade against a larger percentage of the Agency Order. This is consistent with allocation rules, pursuant to which the Initiating Order may only receive more than 40% or 50%, as applicable, of the Agency Order if there are remaining contracts after all other interest has executed.

The Rule change also notes that the System will reject a response with the same EFID[11] as the Initiating Order. The Exchange notes that orders for the same User may have different EFIDs. However, the rule prohibits all responses from the same User, even with different EFIDs. The System is currently only able to reject responses with the same EFID as the Initiating Order, which is why that is specified in the proposed rule. If the same User submits a response to an auction in which that same User had an order comprising the Initiating Order (even with a different EFID), the Exchange may take regulatory action against that User for a violation of the proposed rule. The Exchange currently applies this restriction to simple AIM and FLEX AIM Auctions, but it was inadvertently omitted from the Rules, so the proposed rule change adds transparency to the Rules. This restriction is also currently in the Rules related to AIM for complex orders, so the proposed rule change adds consistency to the rules of Exchange auctions.[12]

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.[13]

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11 See Rule 1.1, which defines EFID as an Executing Firm ID.

12 See Rule 5.38(c)(5).

13 15 U.S.C. 78f(b).

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

In particular, the Exchange believes the proposed rule change will benefit investors. The proposed rule change will permit the primary SPX liquidity providers on the Exchange to provide the liquidity necessary for brokers to initiate SPX AIM Auctions for their customer orders. If brokers can solicit the primary liquidity providers in SPX for electronic auctions, regardless of whether the trading floor is operational, the Exchange believes brokers will be able to more efficiently locate liquidity to fill their customer orders, particularly during times of volatility. The Exchange believes the proposed rule change will, therefore, provide retail-sized orders with similar price improvement opportunities when AIM is activated while the trading floor is open that those orders realized while the trading floor was closed. As a result, the Exchange believes the proposed rule change will permit sufficient liquidity to be available for these auctions, which may create additional execution and price improvement opportunities for

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[14] 15 U.S.C. 78f(b)(5).

[15] Id.

customers, including retail customers, at all times, regardless of whether the trading floor is open.

The Exchange also believes the proposed rule change will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will align the SPX AIM auction process with the open outcry crossing process, and thus align the execution and price improvement opportunities available in both auctions by permitting the same participants to be solicited as contras in both types of auctions in SPX. Currently, SPX Market-Makers may be solicited with respect to crossing transactions on the trading floor. However, under the current AIM rule, if the Exchange enabled AIM for SPX, SPX Market-Makers would not be able to be solicited to initiate AIM Auctions. The Exchange believes there is no reason to restrict SPX Market-Makers' ability to provide liquidity into SPX electronic auctions when they are able to similarly provide, and do provide, that liquidity for open outcry SPX crossing transactions. The Exchange notes the electronic crossing price improvement auction of another options exchange currently permits orders for the accounts of appointed market-makers to be solicited as the contra orders for that auction.[16]

Further, he Exchange believes the proposed rule change may result in additional FLEX AIM auctions occurring in SPX, which may create additional price improvement opportunities for FLEX SPX orders.[17] The Exchange also believes permitting FLEX

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16 See NYSE American, Inc. ("American") Rule 971.1NY.

17 The Exchange notes Market-Makers are currently able to be solicited for complex AIM and complex FLEX AIM for similar reasons. See Rules 5.38 and 5.73.

SPX Market-Makers to be solicited for FLEX AIM Auctions will provide consistency among electronic crossing auctions for SPX, which benefits investors.

Finally, the Exchange believes the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because it will be permit orders for accounts of appointed SPX Market-Makers to be solicited in the same manner as orders for the accounts of all other market participants in SPX AIM Auctions. Currently, all market participants other than appointed SPX Market-Makers would be able to be solicited as the contra and submit responses in AIM Auctions, while appointed SPX Market-Makers would be restricted to only submitting responses. While it is possible for an order to be solicited for the account of an away market-maker in SPX, those orders generally do not comprise significant volume given the orders must be for market-making purposes with respect to SPX. The Exchange believes the proposed rule change will provide all SPX Market-Makers, in the event the Exchange activates AIM for SPX, with the same ability to participate in AIM at all times. This may increase execution and price improvement opportunities for customers' SPX orders, where the ability for away market-makers to provide liquidity is limited.

The Exchange believes the proposed rule change to codify that any User or FLEX Trader, respectively, other than the Initiating TPH or FLEX Trader, respectively, may submit responses to AIM and FLEX AIM Auctions will promote just and equitable principles of trade so that market participants may not trade against a larger percentage of the Agency Order than permitted by the rules. The proposed rule change is consistent with allocation rules. The proposed rule change is consistent with current functionality and the rules related to AIM for complex orders, and therefore adds consistency and transparency to the Rules, which ultimately benefits investors.

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 the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it will provide SPX Market-Makers with the same execution opportunities in AIM Auctions that would be available to all other market participants. Additionally, the proposed rule change will align open outcry and electronic crossing auctions for SPX and the execution and price improvement opportunities available in both auctions by permitting the same participants to be solicited as contras in both types of auctions across SPX. Unlike other option classes that trade on the Exchange, a significant portion of SPX volume executes on the trading floor. As a result, the Exchange believes it is appropriate for the electronic crossing mechanism to more closely replicate the open outcry crossing process before the Exchange activates AIM in SPX in order to minimize any impact on the market for those options. The Exchange believes it is reasonable to restrict the proposed rule change to SPX options, because that is currently the only class for which the Exchange has not activated AIM. Unlike in multi-list classes, firms cannot serve as SPX market-makers at other exchanges, making it difficult to be solicited for an away market-maker account. As noted above, the Exchange intends to make AIM Auctions available for retail-sized orders and believes the proposed rule change will create similar price improvement opportunities that those orders realized while AIM was activated in SPX when the trading floor was closed.

The Exchange further believes the restriction of this change to SPX will preserve certain aspects of market structure that are important to maintain Market-Maker incentives to provide electronic liquidity in SPX options. As noted above, the Exchange intends to activate AIM for SPX with a maximum quantity to incentive the submission of retail-sized orders into AIM Auctions. The Exchange believes implementing AIM for SPX with a maximum quantity may avoid some of the negative aspects that some attribute to auctions with respect to displayed quote quality and liquidity while providing retail-sized orders with additional price improvement opportunities. The Exchange believes implementing this change in other classes with no maximum quantity may reduce incentives for Market-Makers to quote in those classes, which may negatively impact quote quality, because a much greater percentage of the total volume in those classes may be internalized via AIM Auctions as opposed to executed on the book against Market-Maker quotes as it does today. Limiting this change to SPX, which will have a maximum quantity, allows price improvement opportunities for retail-sized orders through the auction mechanism, while avoiding the potential negative consequences of auctions that might result in classes where the use of AIM has no quantity restriction.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it relates to orders in an exclusively listed class submitted into an auction mechanism on the Exchange. Additionally, the Exchange notes that the rules of at least one other options exchange permits orders for the accounts of appointed market-makers to be solicited as contra orders for that exchange's electronic crossing price improvement auction.[18] The Exchange believes the proposed rule change may improve price competition for smaller-sized orders within AIM Auctions for SPX options in the event the Exchange activates AIM Auctions in that class, because the primary liquidity providers will be available for the solicitation necessary to initiate those auctions. The Exchange also believes the proposed rule change will increase the execution and price improvement opportunities for FLEX SPX.

The Exchange believes the proposed rule change to codify that any User or FLEX Trader, respectively, other than the Initiating TPH or FLEX Trader, respectively, may submit responses to AIM and FLEX AIM Auctions will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it codifies current system functionality. Additionally, it applies to all market participants that submit orders into AIM Auctions. The Exchange believes the proposed rule change will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it relates solely to which market participants may submit responses into Exchange auction. The proposed rule change is consistent with current allocation rules and the rules related to AIM for complex orders, and therefore adds consistency and transparency to the Rules, which ultimately benefits investors.

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.

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18 See Arca Rule 971.1NY.

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

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

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

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

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2020-050 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2020-050. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The

Commission will post all comments on the Commission's Internet website (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2020-050 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Secretary

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[19] 17 CFR 200.30-3(a)(12).

EXHIBIT 4

Additions set forth in the proposed rule text of original SR-CBOE-2020-050 are underlined and deletions set forth in the proposed rule text of original SR-CBOE-2020-050 are bracketed. Additions being made pursuant to Amendment No. 1 to SR-CBOE-2020-050 are double-underlined and deletions being made pursuant to Amendment No. 1 to SR-CBOE-2020-050 are struck-through.

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Rules of Cboe Exchange, Inc.

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Rule 5.37. Automated Improvement Mechanism ("AIM" or "AIM Auction")

A Trading Permit Holder (the "Initiating TPH") may electronically submit for execution an order it represents as agent ("Agency Order") against principal interest or a solicited order(s) ~~[~~(except for an order for the account of any Market-Maker with an appointment in the applicable class on the Exchange in all classes except SPX)~~]~~ (an "Initiating Order") provided it submits the Agency Order for electronic execution into an AIM Auction pursuant to this Rule. For purposes of this Rule, the term "NBBO" means the national best bid or national best offer at the particular point in time applicable to the reference, and the term "Initial NBBO" means the national best bid or national best offer at the time an Auction is initiated. Bulk messages are not eligible for AIM.

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(c) *AIM Auction Process.* Upon receipt of an Agency Order that meets the conditions in paragraphs (a) and (b), the AIM Auction process commences.

(1) – (4) No change.

(5) *AIM Auction Responses.* [All Users] Any User other than the Initiating TPH (the System rejects a response with the same EFID as the Initiating Order) may submit responses to an AIM Auction that are properly marked specifying price, size, side of the market, and the Auction ID for the AIM Auction to which the User is submitting the response. An AIM response may only participate in the AIM Auction with the Auction ID specified in the response.

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Rule 5.73. FLEX Automated Improvement Mechanism ("FLEX AIM" or "FLEX AIM Auction")

A FLEX Trader (the "Initiating FLEX Trader") may electronically submit for execution an order (which may be a simple or complex order) it represents as agent ("Agency Order") against principal interest or a solicited order(s) ~~[~~(except, if the Agency Order is a simple order, for an order for the account of any FLEX Market-Maker with an appointment in the applicable FLEX Option class on the Exchange in all classes except FLEX SPX)~~]~~ (an "Initiating Order") provided it submits the Agency Order for electronic execution into a FLEX AIM Auction pursuant to this Rule.

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(c) *FLEX AIM Auction Process.* Upon receipt of an Agency Order that meets the conditions in paragraphs (a) and (b), the FLEX AIM Auction process commences.

(1) – (4) No change.

(5) *FLEX AIM Responses.* Any FLEX Trader other than the Initiating FLEX Trader (the System rejects a response with the same EFID as the Initiating Order) may submit responses to a FLEX AIM Auction that are properly marked specifying price, size, side, and the Auction ID for the FLEX AIM Auction to which the FLEX Trader is submitting the response. A FLEX AIM response may only participate in the FLEX AIM Auction with the Auction ID specified in the response.

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EXHIBIT 5

(additions are underlined; deletions are [bracketed])

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Rules of Cboe Exchange, Inc.

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Rule 5.37. Automated Improvement Mechanism (“AIM” or “AIM Auction”)

A Trading Permit Holder (the “Initiating TPH”) may electronically submit for execution an order it represents as agent (“Agency Order”) against principal interest or a solicited order(s) (except for an order for the account of any Market-Maker with an appointment in the applicable class on the Exchange in all classes except SPX) (an “Initiating Order”) provided it submits the Agency Order for electronic execution into an AIM Auction pursuant to this Rule. For purposes of this Rule, the term “NBBO” means the national best bid or national best offer at the particular point in time applicable to the reference, and the term “Initial NBBO” means the national best bid or national best offer at the time an Auction is initiated. Bulk messages are not eligible for AIM.

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(c) *AIM Auction Process.* Upon receipt of an Agency Order that meets the conditions in paragraphs (a) and (b), the AIM Auction process commences.

(1) – (4) No change.

(5) *AIM Auction Responses.* [All Users] Any User other than the Initiating TPH (the System rejects a response with the same EFID as the Initiating Order) may submit responses to an AIM Auction that are properly marked specifying price, size, side of the market, and the Auction ID for the AIM Auction to which the User is submitting the response. An AIM response may only participate in the AIM Auction with the Auction ID specified in the response.

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Rule 5.73. FLEX Automated Improvement Mechanism (“FLEX AIM” or “FLEX AIM Auction”)

A FLEX Trader (the “Initiating FLEX Trader”) may electronically submit for execution an order (which may be a simple or complex order) it represents as agent (“Agency Order”) against principal interest or a solicited order(s) (except, if the Agency Order is a simple order, for an order for the account of any FLEX Market-Maker with an appointment in the applicable FLEX Option class on the Exchange in all FLEX classes except FLEX SPX) (an “Initiating Order”) provided it submits the Agency Order for electronic execution into a FLEX AIM Auction pursuant to this Rule.

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(c) *FLEX AIM Auction Process.* Upon receipt of an Agency Order that meets the conditions in paragraphs (a) and (b), the FLEX AIM Auction process commences.

(1) – (4) No change.

(5) *FLEX AIM Responses.* Any FLEX Trader <u>other than the Initiating FLEX Trader (the System rejects a response with the same EFID as the Initiating Order)</u> may submit responses to a FLEX AIM Auction that are properly marked specifying price, size, side, and the Auction ID for the FLEX AIM Auction to which the FLEX Trader is submitting the response. A FLEX AIM response may only participate in the FLEX AIM Auction with the Auction ID specified in the response.

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