



September 12, 2019

Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street NE., Washington, DC 20549

Re: ***SIFMA Comment Letter on Cboe Proposed Trading Right Fees; File Nos. SR-CboeBYX-2019-013; SR-CboeBZX-2019-072; SR-CboeEDGA-2019-014; SR-CboeEDGX-2019-050***

Dear Ms. Countryman:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ requests that the U.S. Securities and Exchange Commission (“Commission”) suspend the above-referenced filings and institute proceedings pursuant to Section 19(b)(2) of the Securities and Exchange Act (“Exchange Act”) to determine whether to approve or disapprove the proposed rule changes filed by Cboe BYX Exchange, Inc. (“BYX”),² Cboe BZX Exchange, Inc. (“BZX”),³ Cboe EDGA Exchange, Inc. (“EDGA”)⁴ and Cboe EDGX Exchange, Inc. (“EDGX”),⁵ (together, “Exchanges”) to institute trading rights fees. The Exchanges previously filed proposed rule changes to institute trading rights fees,⁶ and the Commission suspended those filings. Rather than address the shortcomings of the initial filings, the Exchanges have simply filed new proposals now claiming that the trading rights fees are necessary to recover the Exchanges’ regulatory costs. Regardless of the reasoning, the Exchanges still have not provided enough information on revenues and cost for the Commission to determine whether the proposed fees satisfy the requirements of the Exchange Act.

¹ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry’s nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

² See Securities Exchange Act Release No. 86685 (Aug. 15, 2019), 84 FR 43627 (Aug. 21, 2019).

³ See Securities Exchange Act Release No. 86686 (Aug. 15, 2019), 84 FR 43633 (Aug. 21, 2019).

⁴ See Securities Exchange Act Release No. 86684 (Aug. 14, 2019), 84 FR 43242 (Aug. 20, 2019).

⁵ See Securities Exchange Act Release No. 86683 (Aug. 14, 2019), 84 FR 43222 (Aug. 20, 2019).

⁶ See Securities Exchange Act Release Nos. 86232, 86233, 86236, 86231 (Jun. 28, 2019).

The Exchanges must provide sufficient information upon which to base a determination that the proposed fees are consistent with the requirements of Sections 6(b)(5), 6(b)(6) and 6(b)(9) of the Exchange Act. That information may follow the examples of necessary information set forth in the Staff Guidance on SRO Rule Filings Relating to Fees,⁷ or through another acceptable means. However, the Exchanges may not base the fee increases simply on assertions that they satisfy the Exchange Act requirements.

The trade-through requirements under Regulation NMS⁸ and broker-dealers' best execution obligations effectively require direct or indirect access and connection to all registered exchanges, and each exchange remains the exclusive purveyor of those services – *i.e.*, access to the exchange's facilities. In other words, competition does not constrain the Exchanges' trading rights fees when broker-dealers must pay these fees prior to being able to satisfy their regulatory obligations and deciding where to route orders.

For that reason, the Exchanges should include quantitative data showing its anticipated revenues, costs and profitability—and describe its methodology for estimating the baseline and expected costs and revenues—to support its assertion that the trading rights fees are fair and reasonable. In particular, the Exchanges should provide specific detail on the amount of their regulatory costs, not simply broad estimates of percentage increases. The Exchanges also should provide specific detail on the amount of revenue they would expect to receive from the trading rights fees as well as the amount of revenue they receive from other sources that are intended to fund regulation, such as registration and licensing fees. For now, the Exchanges have provided insufficient evidence for the Commission to independently determine whether the proposed trading rights fees satisfy the requirements of the Exchange Act.

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SIFMA greatly appreciates the Commission's consideration of the issues raised above and would be pleased to discuss these comments in greater detail. If you have any questions or need any additional information, please contact me (at [REDACTED] or [REDACTED]).

Sincerely,



Theodore R. Lazo
Managing Director and
Associate General Counsel

⁷ SEC's Division of Trading and Markets, *Staff Guidance on SRO Rule Filings Relating to Fees* ("Staff Guidance") (May 21, 2019).

⁸ CFR 242.611.