

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-87079; File No. SR-CBOE-2019-062)

September 24, 2019

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Certain Clearing Editor Functionality in Rule 6.6 of the Shell Rulebook

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 September 18, 2019, 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, and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 certain Clearing Editor functionality in Rule 6.6 of the shell Rulebook.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

On September 5, 2019, the Exchange filed a rule filing, SR-CBOE-2019-056, which, amended Exchange Rules in connection with the Cboe Trading Match System (“CTM”).⁵ Pursuant to SR-CBOE-2019-056, which will be effective on October 7, 2019, the Exchange proposed to harmonize current Rule 6.67, in connection with the CTM, with C2 Rule 6.31, which provides for the “Clearing Editor” and is functionally equivalent to the Exchange’s current CTM. Under SR-CBOE-2019-056, Rule 6.6 in the shell Rulebook will govern the Exchange’s Clearing Editor and Rule 6.67 will be deleted from the current Rulebook, upon migration.⁶ SR-CBOE-2019-056 intended to amend the rule to conform to the Clearing Editor functionality and rule language of that

⁵ See Securities Exchange Act Release No. 86920 (September 10, 2019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Cboe Trade Match System) (SR-CBOE-2019-056).

⁶ Cboe Options intends to migrate its trading platform to the same system used by the Cboe Affiliated Exchanges (i.e., together with Cboe Options, C2 Exchange, Inc. (“C2”), Cboe EDGA Exchange, Inc. (“EDGA”), Cboe EDGX Exchange, Inc. (“EDGX” or “EDGX Options”), Cboe BZX Exchange, Inc. (“BZX” or “BZX Options”), and Cboe BYX Exchange, Inc. (“BYX”)) which the Exchange expects to complete on October 7, 2019. In connection with this technology migration, the Exchange has a shell Rulebook that resides alongside its current Rulebook, which shell Rulebook will contain the Rules that will be in place upon completion of the Cboe Options technology migration.

of C2 to the extent necessary to retain intended differences unique to Cboe Options market-model, functionality, and/or rule text. However, the Exchange now proposes to update Rule 6.6 in the shell Rulebook to describe additional functionality that is unique to the Exchange that was inadvertently not included in that previously filing. In order to coincide with the effective date of SR-CBOE-2019-056 and the migration of the Exchange’s trading platform to the same system used by the Cboe Affiliated Exchanges,⁷ the Exchange also intends to implement this proposed rule change on October 7, 2019.

In particular, the Exchange inadvertently removed paragraph (b) under current Rule 6.67, which currently applies to both trades executed electronically and in open outcry, which is unique to Cboe Options, and will continue to apply to trades executed in open outcry upon migration. Specifically, current Rule 6.67(b) permits Trading Permit Holders (“TPHs”) to change certain fields in CTM (Clearing Editor, as proposed), including series, quantity, buy or sell, and premium price, only if they provide notice to the Exchange. While the Exchange notes the removal this provision as it relates to trades executed electronically and in conformity with C2 Rule 6.31 is accurate, it will continue to apply to open outcry trades post-migration. Therefore, the Exchange now proposes to amend Rule 6.6 in the shell Rulebook and add Rule 6.6(d), which is substantively the same as current Rule 6.67(b) that was inadvertently removed under SR-CBOE-2019-056. Specifically, proposed Rule 6.6(d) states that, in addition to the fields listed in paragraph (b), Trading Permit Holders may change the following fields through the Clearing Editor for trades executed in open outcry: (1) Series, (2) Quantity, (3) Buy or Sell; or (4) Price. Each of these changes must be accompanied by a Reason Code. Notification of changes made pursuant to this paragraph (d) will automatically be sent to the Exchange with the submission of the changes through the Clearing

⁷ See id.

Editor. The proposed rule change updates the language to make it explicit that proposed Rule 6.6(d) applies only to trades executed in open outcry. It also updates the term premium price to price and Customer ID (in Rule 6.6(a)) to Client Order ID, as these terms more accurately reflect the names of the fields that are displayed on an order⁸ and in the Clearing Editor, as well as the term origin code to Capacity code, which is in line with the language in Rule 6.6 and definition currently in the shell Rulebook.⁹ The current rule provides that notification of the change shall be made as soon as practicable, but no later than 15 minutes after the change has been made. The proposed rule change does not incorporate this language because, upon migration, the Exchange will automatically receive notification of changes to the fields listed under proposed Rule 6.6(d) when a TPH submits changes through use of the Clearing Editor. The automatic notification will include a Reason Code associated with each change in which a TPH will be prompted to provide in the Clearing Editor when making changes pursuant to proposed Rule 6.6(d).¹⁰ Therefore, the Exchange notes that the proposed rule does not substantively alter the notification requirement attached to proposed Rule 6.6(d), but only updates it to accurately reflect the manner in which notice will automatically be submitted to the Exchange through use of the Clearing Editor.

In addition, the proposed rule change adds certain Cboe Options-specific fields to the list of fields that do not require a reason code under proposed Rule 6.6(b). The Exchange now

⁸ See Cboe Options FIX Specifications, available at: https://cdn.cboe.com/resources/membership/US_Options_FIX_Specification.pdf.

⁹ See Rule 1.1 in the shell Rulebook.

¹⁰ Example Reason Codes include: Input Error; Unmatched Trade; Unknown; Manual Add; Other Text Required; Trade Nullification; Trade Adjustment; Error Account; and System Issue.

proposes to incorporate Strategy ID,¹¹ Frequent Trader ID,¹² Compression Trade ID,¹³ and ORS ID¹⁴ to the list of fields that a TPH may change through the Clearing Editor (for both trades executed electronically and in open outcry) without notice to the Exchange. These fields are unique to orders executed on Cboe Options¹⁵ and TPHs currently submit all updates to such fields to the Exchange populated via a form post-execution today.¹⁶ Upon migration, the Exchange functionality will allow for automated entry for these fields, just like all other order fields. Therefore, the proposed amendment merely intends to make it explicit that TPHs may continue to submit updates to these fields post-execution. The Exchange also proposes to clarify that a TPH may make a change from a Capacity code (C) to any other Capacity code only if the change is accompanied by a Reason Code and, like proposed paragraph (d), makes it explicit that notice of such change will automatically be sent to the Exchange with the submission of the change through the Clearing Editor. This is substantially the same manner in which current Rule 6.67 functions, where both Rule 6.67(a) and (b) are applicable to trades executed electronically

¹¹ Strategy ID indicates whether an order qualifies for certain treatment for various strategies provided under the Exchange's Fees Schedule. See Cboe Exchange, Inc. Fees Schedule (for example, footnote 13).

¹² Frequent Trader ID is a unique identification number which can be appended by executing agents to orders submitted to the Exchange on behalf of those customers registered for the Frequent Trader Program. See Cboe Exchange, Inc. Fees Schedule, "Frequent Trader Program" Table.

¹³ Compression Trader ID indicates whether an order qualifies for certain treatment in connection with facilitating a compression of options positions. See Cboe Exchange, Inc. Fees Schedule, footnote 41.

¹⁴ ORS ID indicates whether an order qualifies for certain treatment under the ORS Program. See Cboe Options Exchange, Inc. Fees Schedule, "Order Router Subsidy Program" Table.

¹⁵ See supra note 8.

¹⁶ The Exchange notes that TPHs may currently update Frequent Trader ID via CTM. See Securities Exchange Act Release No. 86617 (August 9, 2019), 84 FR 41776 (August 15, 2019) Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Ability To Submit Frequent Trader Forms (SR-CBOE-2019-043).

and on open outcry (therefore, changing a customer Capacity code is permissible under current Rule 6.67 for all trades executed if notification is provided to the Exchange). The Exchange proposes to maintain that a TPH may change the Capacity code from a customer Capacity code to any other Capacity code for trades executed electronically or in open outcry, however, it still must provide notification to the Exchange via a prompted Reason Code and, like changes made pursuant to proposed paragraph (d), will automatically provide such notification to the Exchange when the change is submitted through the Clearing Editor.

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.¹⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ 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)¹⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ Id.

The proposed rule change is substantively the same as the manner in which the CTM rules and post-execution functionality and/or processes work today. The proposed change merely amends the rule proposed under SR-CBOE-2019-056 to permit changes in certain fields that TPHs are already permitted to change through the Clearing Editor or other post-execution forms. The proposed change is intended to correct an inadvertent omission from Rule 6.6 in the shell Rulebook of a provision from Rule 6.67 in the current Rulebook that currently applies to open outcry executions, and will continue to apply to open outcry executions upon migration. Likewise, the Exchange notes that TPHs may currently update fields that require notification for trades executed in open outcry and make changes made from customer Capacity code (C), with the same requisite notice. Therefore, the proposed change does not alter the manner in which the current rule functions but instead removes impediments to and perfects the mechanism of a free and open market and national market system by continuing to allow for these functions, along with automatic notification containing reason codes transmitted to the Exchange through submission of the changes in the Clearing Editor, upon migration. Additionally, the Exchange notes that the proposed amendment to add certain fields for which updates do not require notification to the rule will remove impediments to and perfect the mechanism of a free and open market and national market system because TPHs may already submit updates to these fields (in paper form) post-execution and the rule is designed to continue to allow TPHs to make such updates post-execution in electronic form upon migration.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendment merely updates Rule 6.6 in the shell Rulebook to continue to allow for

certain post-execution changes, which are currently permitted on the Exchange, through the use of the Clearing Editor after October 7, 2019. The Exchange notes that all proposed changes and current changes made pursuant to Rule 6.6 occur post-execution, therefore will not have any impact on trading. As the same post-execution changes are already permitted and made via processes and functionality currently in place on the Exchange, the Exchange believes this proposed filing to allow for the continuation of the same post-execution changes through use of the Clearing Editor will have no impact on competition. The Exchange also notes that the proposed change is intended to reduce the compliance burden on TPHs by providing them with functionality that allows for automatic input and notification to the Exchange.

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

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

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act²⁰ and Rule 19b-4(f)(6) thereunder.²¹

²⁰ 15 U.S.C. 78s(b)(3)(A).

²¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act²² normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)²³ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because, as the Exchange discussed above, its proposal complements its recent filing, SR-CBOE-2019-056, in which it conformed the rule governing the Clearing Editor to that of C2 but inadvertently omitted from that proposal current Cboe-specific provisions that the Exchange wishes to maintain post migration. Accordingly, its proposal is designed to preserve current functionality in order to continue to permit TPHs to make certain post-execution changes after October 7, 2019 through the use of the Clearing Editor. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any new or novel issues, and waiver will allow the changes in this filing to align with the proposed amendments to Rule 6.6 that the Exchange adopted pursuant to SR-CBOE-2019-056, thereby minimizing disruptions to TPHs and their customers with respect to post-execution functionality and processes available on the Exchange. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.²⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

²² 17 CFR 240.19b-4(f)(6).

²³ 17 CFR 240.19b-4(f)(6)(iii).

²⁴ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or 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-2019-062 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-2019-062. 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, DC 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2019-062 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.²⁵

Jill M. Peterson
Assistant Secretary

²⁵ 17 CFR 200.30-3(a)(12).