

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-87274; File No. SR-CBOE-2019-098)

October 10, 2019

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend the Appointment Weight Table in Rule 5.50 in the Shell Structure for the Exchange's Rulebook

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 4, 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 Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 the appointment weight table in Rule 5.50 in the shell structure for the Exchange's Rulebook that will become effective upon the migration of the Exchange's trading platform to the same system used by the Cboe Affiliated Exchanges (as defined below) ("shell Rulebook"). The text of the proposed rule change is provided in Exhibit 5.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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 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

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) ("Cboe Global"), which is also the parent company of Cboe C2 Exchange, Inc. ("C2"), acquired 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" and, together with Cboe Options, C2, EDGX, EDGA, and BZX, the "Cboe Affiliated Exchanges"). The Cboe Affiliated Exchanges are working to align certain system functionality, retaining only intended differences, between the Cboe Affiliated Exchanges, in the context of a technology migration. Cboe Options intends to migrate its trading platform to the same system used by the Cboe Affiliated Exchanges, 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.

The Exchange proposes to amend an inadvertent error currently in the appointment weight table in shell Rule 5.50(g). Currently, the appointment weight table shows “Options on the iPath S&P 500 VIX Short-Term Futures” with an appointment weight of .100 in one row of the table and “Index ETN (VXX)” with a weight of .001 in the row directly below. The Exchange notes that this is incorrect and should be displayed in a single row containing “Options on the iPath S&P 500 VIX Short-Term Futures Index ETN (VXX)” with a weight of .100. A formatting error occurred that inadvertently broke apart Options on the iPath S&P 500 VIX Short-Term Futures Index ETN (VXX) into two rows.<sup>5</sup> Indeed, the Exchange notes that neither Options on the iPath S&P 500 VIX Short-Term Futures, nor Index ETN, are separate products on the Exchange and instead, Options on the iPath S&P 500 VIX Short-Term Futures Index ETN (symbol: VXX) is, in fact, the correct name of the product.<sup>6</sup> Therefore, the Exchange now proposes to correct this in the appointment table to show Options on the iPath S&P 500 VIX Short-Term Futures Index ETN (VXX) with an appointment weight of .100. Additionally, the proposed rule change also removes the rows in the appointment table which refer to Options on the NASDAQ 100 Index (NDX) and Morgan Stanley Retail Index Options (MVR), on which the Exchange is authorized to list options, but on which the Exchange does not currently, and does not intend, to list options. Because there are currently no options listed on either of these indexes, the proposed rule change has no impact on trading on the Exchange. The proposed rule

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<sup>5</sup> See Securities and Exchange Act Release No. 81879 (October 16, 2017), 82 FR 48858 (October 20, 2017) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List and Trade S&P Select Sector Index Options) (SR-CBOE-2017-065), wherein the Exhibit 5 to SR-CBOE-2017-065 it shows, correctly, Options on the iPath S&P 500 VIX Short-Term Futures Index ETN (VXX), as one product with an appointment cost (the prior term) of .10.

<sup>6</sup> See Cboe Options on Volatility-based ETPs (October 4, 2019), available at <http://www.cboe.com/products/options-on-single-stocks-and-exchange-traded-products/options-on-exchange-traded-products/cboe-options-on-volatility-based-etps>.

change also corrects a cross-reference in the table. The rule provision regarding the Exchange’s ability to list SPX or VIX on a group basis is in Rule 4.13 rather Rule 4.14, so the proposed rule change updates the cross-reference accordingly.<sup>7</sup> The proposed changes are of a non-substantive nature and are only making changes to correct an formatting error that had resulted in an inaccurate row within the appointment weight table under shell Rule 5.50(g) and to remove references to indexes on which the Exchange does not list (and does not intend to list) options.

## 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.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> 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)<sup>10</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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<sup>7</sup> See Rule 4.13(f) in the shell Rulebook.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> Id.

As stated, the proposed rule change makes no substantive changes to the rules. The proposed rule change is merely intended to correct an inadvertent formatting error in the appointment weight table which mistakenly broke apart the product name “Options on the iPath S&P 500 VIX Short-Term Futures Index ETN (VXX)” into two rows, delete references to indexes on which the Exchange does not list (and does not intend to list) options, and correct a cross-reference to another rule in order to avoid potential confusion and provide market participants with accurate rules within the shell Rulebook upon the technology migration on October 7, 2019. As such, the proposed rule change is designed to promote just and equitable principles of trade, 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, by providing market participants with rules of the Exchange that are clear and, thus, easy to understand.

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 proposed rule change is not intended as a competitive change, but rather, seeks to make non-substantive rule changes in amending a table formatting error, remove references to certain indexes no longer applicable to trading on the Exchange, and correct a cross-reference to shell Rule 5.50(g) in anticipation of the October 7, 2019 technology migration. The Exchange also does not believe that the proposed rule change will impose any undue burden on competition because, as stated, the proposed changes will not impact trading on the Exchange as they are non-substantive changes designed to correct rule formatting and provide an up-to-date list of indexes in order to alleviate any potential confusion and provide market participants with clear and accurate rules.

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)(iii) of the Act<sup>11</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>12</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>13</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>14</sup> 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 five day prefiling requirement and the 30-day operative delay so that it may implement the proposed rule change without delay. According to the Exchange, waiver of the prefiling requirement and the operative delay will help to avoid any potential confusion by providing market participants with accurate rules within the shell Rulebook upon the technology migration on October 7, 2019. The Commission believes that waiver of the 30-day operative delay is

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>12</sup> 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 Commission has waived that requirement in this case.

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

consistent with the protection of investors and the public interest because the proposed rule change raises no new or novel issues. Therefore, the Commission hereby waives the prefiling requirement and the operative delay and designates the proposal operative upon filing.<sup>15</sup>

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 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 will 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2019-098 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.

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

All submissions should refer to File Number SR-CBOE-2019-098. 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. 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-2019-098 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.<sup>16</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).