

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-87546; File No. SR-CBOE-2019-105)

November 15, 2019

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Fee Schedule

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 November 1, 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, 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 the Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend its Fees Schedule. 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 on the proposed rule change. The text of these statements may be examined at the places specified in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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”). Cboe Options migrated its trading platform to the same system used by the Cboe Affiliated Exchanges, on October 7, 2019 (the “migration”). As a result of the migration, the Exchange adopted a new connectivity infrastructure, including new physical ports and corresponding fees.³ The Exchange proposes to waive physical port fees for connections to PULSe, effective November 1, 2019.

By way of background, a physical port is utilized by a Trading Permit Holder (“TPH”) or non-TPH to connect to the Exchange at the data centers where the Exchange’s servers are located. Prior to migration, the Exchange utilized Network Access Ports for these physical connections to the Exchange and assessed fees based on the gigabit size of the port. Specifically, TPHs and non-TPHs could elect to connect to Cboe Options’ trading system via either a 1 gigabit per second (“Gb”) Network Access Port or a 10 Gb Network Access Port. The Exchange assessed a monthly fee of \$1,500 per port for 1 Gb Network Access Ports and a monthly fee of

³ The Exchange notes that effective October 7, 2019, market participants will no longer have connectivity to the old Exchange architecture.

\$5,000 per port for 10 Gb Network Access Ports for access to Cboe Options primary system. Network Access Ports could also be used to send orders to PULSe. Upon migration, the TPHs and non-TPHs had the option to alternatively elect to connect to Cboe Options via new latency equalized Physical Ports. Through January 31, 2020 however, Cboe Options market participants will still have the ability to connect to Cboe Options' trading system via the current Network Access Ports. For the month of October 2019, TPHs and non-TPHs would be assessed (1) \$1,500 per 1 Gb port, regardless if it was a legacy Network Access Port or new Physical Port and (2) \$5,000 per 10 Gb port, regardless if it was a legacy Network Access Port or Physical Port.⁴ As of November 1, 2019, the monthly fee per 1 Gb Network Access Port and Physical Port is \$1,500 and the monthly fee per 10 Gb Network Access Port and Physical Port is \$7,000.

The Exchange notes that although the new latency equalized Physical Ports became available on October 7, 2019, the new Physical Ports cannot currently be utilized to send orders to PULSe. Accordingly, users who wish to route orders to PULSe via the Exchange's physical ports must maintain and use a legacy Network Access Fee Port and cannot use any of the new Physical Ports for such purpose. As such, the Exchange proposes to provide that fees for one Network Access Port that is used only to access PULSe will be waived per TPH or non-TPH. As such, the Exchange proposes to provide that fees for one Network Access Port that is used only to access PULSe will be waived per TPH or non-TPH. The Exchange notes that whether a user requires a 1 Gb Network Access Port or 10 Gb Network Access Port for this particular purpose may depend on their own connectivity architecture (i.e., some participants may not be able to route orders to PULSe over a 1 Gb, whereas others may not be able to route over a 10 Gb).

⁴ If a TPH replaced a legacy Network Access Port with a new C1 latency equalized Physical Port in October 2019, the TPH was not billed an additional fee for the new C1 platform physical connection for October.

Accordingly, the Exchange will waive fees for either a 1 Gb or 10 Gb Network Access Port. Such ports will be configured to only allow routing of orders to PULSe, regardless of size, and notes further that for this particular purpose, a 10 Gb port does not have an advantage over a 1 Gb port.

The Exchange lastly proposes to eliminate now obsolete language in the Physical Connectivity Fees table. Particularly, the Exchange proposes to eliminate the Monthly Fees column for fees through October 31, 2019 and eliminate the reference to “Effective November 1, 2019” in the title of the column with for fees effective November 1, 2019.

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.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ 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 Section 6(b)(4) of the Act,⁷ which requires that Exchange rules provide for the

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78f(b)(4).

equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes the proposed waiver is reasonable as users subject to the proposed waiver would not have to pay a fee for one Network Access Port used only to access PULSe. As noted above, the recently adopted latency equalized Physical Ports that TPHs and non-TPHs may purchase to connect to the Exchange's trading system, do not support the routing of orders to PULSe. As such, TPHs that wish to route orders to PULSe via physical ports must maintain a legacy Network Access Port. Due to this limitation, the Exchange believe it's reasonable to waive fees for one Network Access Port that is used only to access PULSe. As noted above, the Exchange believes it's appropriate to waive either one 1 Gb Network Access Port or one 10 Gb Network Access Port, as for this particular purpose, there is no latency advantages to maintain a 10 Gb versus 1 Gb port and because users' own architecture may require one size over the other. The Exchange believes the proposed waiver is equitable and not unfairly discriminatory as it applies to any TPH or non-TPH that must maintain a Network Access Port for the sole purpose of accessing PULSe.

Lastly, the Exchange believes eliminating obsolete language in the Fees Schedule pertaining to fees assessed in a prior month maintains clarity in the Fees Schedule and alleviates potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

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 because the proposed changes applies uniformly to all similarly situated market participants. The Exchange believes that the proposed rule change will not cause an unnecessary burden on

intermarket competition because it only applies to trading on Cboe Options. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and paragraph (f) of Rule 19b-4⁹ thereunder. 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

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2019-105 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-2019-105. 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 such 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-2019-105, 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.¹⁰

Jill M. Peterson
Assistant Secretary

¹⁰ 17 CFR 200.30-3(a)(12).