

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-87959; File No. SR-CBOE-2019-035)

January 14, 2020

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Designation of Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, Regarding Off-Floor Position Transfers

On July 3, 2019, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its rule relating to off-floor position transfers. The proposed rule change was published for comment in the Federal Register on July 23, 2019.³ On August 6, 2019, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ On September 4, 2019, the Commission extended the time period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change, to October 21, 2019.⁵ On October 7, 2019, the Exchange filed Amendment No. 2 to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 86400 (July 17, 2019), 84 FR 35438 (“Notice”).

⁴ In Amendment No. 1, the Exchange deleted from the proposed rule change the proposal to permit off-floor risk-weighted asset (“RWA”) transfers. The exchange subsequently refiled the RWA transfer proposal as a separate proposed rule change filing in SR-CBOE-2019-044. See Securities Exchange Release No. 87107 (September 25, 2019), 84 FR 52149 (October 1, 2019) (order approving proposed rule change to adopt Cboe Rule 6.49B regarding off-floor RWA transfers). When the Exchange filed Amendment No. 1 to CBOE-2019-035, it also submitted the text of the amendment as a comment letter to the filing, which the Commission made publicly available at <https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-5917170-189047.pdf>.

⁵ See Securities Exchange Act Release No. 86861 (September 4, 2019), 84 FR 47627 (September 10, 2019).

the proposed rule change.⁶ The Commission received two comment letters on the proposal.⁷ On October 21, 2019, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule changes (“OIP”).⁸ The Commission received two additional comments in response to the Notice and OIP, including a response from the Exchange.⁹

Section 19(b)(2) of the Act¹⁰ provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission

⁶ In Amendment No. 2, the Exchange updated cross-references to Cboe rules throughout the proposed rule change to reflect separate amendments it made to its rulebook in connection with the Exchange’s technology migration, which it subsequently completed on October 7, 2019. When the Exchange filed Amendment No. 2 to CBOE-2019-035, it also submitted the text of the amendment as a comment letter to the filing, which the Commission made publicly available at <https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-6258833-192955.pdf>. The Commission notes that in addition to the cross-references updated in Amendment No. 2, the Exchange relocated Rule 6.49A to Rule 6.7 in its post-migration rulebook and made conforming changes to its proposed rule change to reflect that new rule number.

⁷ See Letter to Vanessa Countryman, Secretary, Commission, dated September 24, 2019, from John Kinahan, Chief Executive Officer, Group One Trading, L.P., available at <https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-6193332-192497.pdf> (“Group One Letter”) and Letter to Brent J. Fields, Secretary, Commission, dated August 19, 2019, from Gerald D. O’Connell, Compliance Coordinator, Susquehanna International Group, LLP, available at <https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-5985436-190350.pdf> (“SIG August 2019 Letter”).

⁸ See Securities Exchange Act Release No. 87374, 84 FR 57542 (October 25, 2019) (“OIP”).

⁹ See Letter to Vanessa Countryman, Secretary, Commission, dated November 15, 2019, from Laura G. Dickman, Vice President, Associate General Counsel, Cboe Exchange, Inc., available at <https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-6434377-198588.pdf> (“Cboe Response Letter”) and Letter to Vanessa Countryman, Secretary, Commission, dated December 12, 2019, from Gerald D. O’Connell, Compliance Coordinator, Susquehanna International Group, LLP, available at <https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-6535880-200548.pdf> (“SIG December 2019 Letter”).

¹⁰ 15 U.S.C. 78s(b)(2).

may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on July 23, 2019.¹¹ January 19, 2020 is 180 days from that date, and March 19, 2020 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, the issues raised in the comment letters that have been submitted in connection therewith, and the Exchange's response to comments. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹² designates March 19, 2020 as the date by which the Commission should either approve or disapprove the proposed rule change (File No. SR-CBOE-2019-035).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

J. Matthew DeLesDernier
Assistant Secretary

¹¹ See Notice, *supra* note 3.

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(57).