

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-88341; File No. SR-CBOE-2020-006)

March 6, 2020

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Make Certain Non-Substantive Changes to Clean Up its Fees Schedule

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 February 26, 2020, 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 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 make certain non-substantive changes to clean up 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.

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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).

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

The Exchanges proposes to make certain nonsubstantive change to its Fees Schedule in connection with RLG, RLV, RUI and UKXM related fees, in connection with the Livevol Fees table, and in connection with rule references to Cboe Options Rules.

RLG, RLV, RUI and UKXM

Currently, RLG, RLV, RUI and UKXM sit in line items in the Fees Schedule along with other products (e.g., VIX, OEX, XEO, and/or RUT) which have corresponding fee rates that are different than that of RLG, RLV, RUI and UKXM. Footnote 40 is appended to RLG, RLV, RUI and UKXM within these line items and states only that it is \$0.00 for transactions in RLG, RLV, RUI and UKXM. The Exchange believes that footnote 40 is no longer necessary and the manner in which it is currently appended to RLG, RLV, RUI and UKXM within certain line items along with other products that are instead assessed a fee is potentially confusing to market participants. As such, the Exchange proposes to amend the Fees Schedule to parse out RLG, RLV, RUI and UKXM as separate line items with a corresponding charge of \$0.00 and to remove footnote 40. The Exchange believes that RLG, RLV, RUI and UKXM as a separate line item apart from other products that are currently assessed a fee will provide additional clarity and mitigate any

confusion regarding the specific fee amounts charged to the corresponding products. The Exchange notes this will not amend the fees for any of these products.

#### Livevol Fees Table

The Livevol Fees table shows the fees charged for receipt of historical Open-Close data per different packages (i.e. for one Cboe security, for all Cboe securities, and for all Cboe securities as a daily download) for different periods of time. Currently, the fees are listed for some data products on a per month basis, while the fees for other data products are listed on a per year basis. For example, the Livevol Fees table shows that for downloads of a Cboe security for one to nine years, the monthly rate is \$4.50, while it shows that for downloads of a Cboe security for ten or more years, the annual rate is \$270.00. The Exchange believes that it is potentially confusing to investors to display the rates for the same download in different increments of time. Therefore, the Exchange now proposes to amend the Livevol Fees table to make uniform the rates per increment of time and display all rates as a monthly rate. The Exchange notes that this will not change the rates or the timing in which these fees currently apply and are charged to market participants. For example, the proposed change will amend the download per Cboe security for ten or more years of historical data at \$270.00 to instead display the price per month, which would be \$2.25 (i.e.,  $\$2.25 \times 12 \text{ months} \times 10 \text{ years}$ ). The proposed rule change is designed to present market participants with more precise rates and time frames for which they may currently request historical Open-Close data (i.e., a market participant may currently request historical data for 10.5 years and the Exchange would accordingly charge them the applicable rate broken down for 126 months).

## Rule Reference Updates

In connection with a recent technology migration,<sup>5</sup> Cboe Options updated and reorganized its entire Rulebook. In light of the reorganized Rulebook, the Exchange proposes to update cross-references to Cboe Options Rules within the Fees Schedule that have been relocated in the Cboe Options Rulebook. This includes updates to the rule references in the Marketing Fee table, the Sponsored User Fees table, the Sales Value Fee table, the Stock Portion of Stock-Option Strategy Orders table, the Regulatory Fees table, the Miscellaneous table, and in footnotes 15, 30, 36, 41 and 46. The Exchange notes that in the Stock Portion of Stock-Option Strategy Orders table, particularly, the proposed change removes the reference to stock-option orders executed via the splitting mechanism which is used for certain market orders pursuant to (prior) Interpretation .06(d) of Rule 6.53C. Pursuant to a migration-related rule filing,<sup>6</sup> Interpretation .06(d) provided the Exchange with authority to determine on a class-by-class basis to permit unexecuted option legs of stock-option market orders to leg following a COA, and that the Exchange did not intend to permit this following the technology migration. As such, the Exchange no longer permits this and the proposed change merely updates the Fees Schedule to accurately reflect this rule change.

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<sup>5</sup> In 2016, the Exchange's parent company, Cboe Global Markets, 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"). On October 7, 2019, Cboe Options migrated its trading platform to the same system used by the Cboe Affiliated Exchanges.

<sup>6</sup> See Securities Exchange Act Release No. 86772 (August 27, 2019), 84 FR 46069 (September 3, 2019) (SR-CBOE-2019-042).

## 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>7</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>8</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 Section 6(b)(4) of the Act,<sup>9</sup> which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes that the proposed changes to the Fees Schedule do not change any fees charged for RLG, RLV, RUI or UKXM, historical Open-Close data, or within any of the tables in which the proposed rule change updates a rule reference to Cboe Options Rules, and thus, those fees will continue to be reasonable and equitable, and uniformly applied to all market participants. The Exchange believes the proposed rule changes remove impediments to and perfect the mechanism of a free and open market and national market system as they add clarity,

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78f(b)(4).

mitigate any potential confusion in connection with the presentation of these fees or information in connection with these fees, and facilitate better understanding of the Fees Schedule for all market participants, which ultimately protects investors.

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. As indicated above, the proposed changes to the Fees Schedule do not change any of the current fees or the manner in which they currently apply to market participants. The proposed changes are not competitive in nature and are merely intended to clean up the Fees Schedule in order to provide additional clarity and facilitate better understanding of the Fees Schedule for all 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

Because the foregoing proposed rule change does not:

- A. significantly affect the protection of investors or the public interest;
- B. impose any significant burden on competition; and
- C. 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 Act<sup>10</sup> and Rule 19b-4(f)(6)<sup>11</sup> thereunder. At any time within 60 days of the filing of the

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</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

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-2020-006 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-2020-006. 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

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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.

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. 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-2020-006 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>12</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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