

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-89285; File No. SR-CBOE-2020-062)

July 10, 2020

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Silexx Trading Platform Fees 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 July 1, 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 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 Silexx trading platform (“Silexx” or the “platform”) 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the Silexx Fees Schedule to (1) waive certain fees for FLEX and Cboe Silexx, (2) introduce a new “CAT File” fee and (3) eliminate obsolete references to an expired upgrade opportunity, effective July 1, 2020.

By way of background, the Silexx platform consists of a “front-end” order entry and management trading platform (also referred to as the “Silexx terminal”) for listed stocks and options that supports both simple and complex orders,³ and a “back-end” platform which provides a connection to the infrastructure network. From the Silexx platform (i.e., the collective front-end and back-end platform), a Silexx user has the capability to send option orders to U.S. options exchanges, send stock orders to U.S. stock exchanges (and other trading centers), input parameters to control the size, timing, and other variables of their trades, and also includes access to real-time options and stock market data, as well as access to certain historical data. The Silexx platform is designed so that a user may enter orders into the platform to send to an executing broker (including Trading Permit Holders (“TPHs”)) of its choice with connectivity to the platform, which broker will then send the orders to Cboe Options (if the broker is a TPH) or other U.S. exchanges (and trading centers) in accordance with the user’s instructions. With the exception of Silexx FLEX and Cboe Silexx, users

³ The platform also permits users to submit orders for commodity futures, commodity options and other non-security products to be sent to designated contract markets, futures commission merchants, introducing brokers or other applicable destinations of the users’ choice.

cannot directly route orders through any of the current versions of Silexx to an exchange or trading center nor is the platform integrated into or directly connected to Cboe Option’s System. The Exchange recently made available additional versions of the Silexx platform, Silexx FLEX and Cboe Silexx, which do support the trading of FLEX and non-FLEX Options, respectively, and allows authorized Users with direct access to the Exchange. The Silexx front-end and back-end platforms are a software application that are installed locally on a user’s desktop. Silexx grants users licenses to use the platform, and a firm or individual does not need to be a TPH to license the platform. Use of Silexx is completely optional.

Additional Functionality Fee Waiver

The Exchange first proposes to waive the following fees for additional functionality users may purchase for FLEX and Cboe Silexx:

| <u>Additional Functionality for Platforms</u> | <u>Functionality Description</u> | <u>Fee</u> |
|---|--|-----------------------------|
| Crossing | Availability of crossing order ticket | \$300/month/login ID |
| Port | Provides access to an executing broker with connectivity to the Silexx platform for routing | \$100/month/login ID |
| Staged Orders, Drop Copies, and Order Routing Functionality for FIX Connections (sessions) | Ability to receive staged orders, receive “drop copies” of order fill messages, and route orders to executing brokers | \$250/month/FIX Connection |
| Staged Orders, Drop Copies, and Order Routing Functionality for FIX Connections | Ability to receive staged orders, receive “drop copies” of order fill messages, and route orders to executing brokers through a third-party FIX router | \$500/month/ FIX Connection |

(sessions) Using
Third-Party FIX
Router

| | | | |
|---|-------|--|-----------------------------|
| Equity Reports (paid by the trading firm) | Order | Daily transmission of equity order reports | \$250/month/trading firm |
|---|-------|--|-----------------------------|

Particularly, the above additional functionality permits users to add features in accordance with their use of the Silexx platform. The Exchange offers each type of additional functionality as a convenience and use of each type of additional functionality is discretionary and not compulsory. More specifically, the crossing functionality provides users who choose to regularly cross orders with access to additional crossing order tickets. The port fee applies to connections from users to executing brokers, which provides users with access to an executing broker with connectivity to the Silexx platform for routing. Financial Information eXchange (“FIX”) is an industry-standard, non-proprietary API that permits market participants to connect to exchanges. FIX connectivity provides users with the ability to receive “drop copy” order fill messages from their executing brokers. These fill messages allow customers to update positions, risk calculations, and streamline back-office functions. Additionally, FIX connections can be updated to permit the platform to receive orders sent from another system and then route these orders through the platform for execution (staged orders) as well as provide users with the ability to route orders in various ways to executing brokers (such as designation of a market to which the broker is to route an order received from the platform and use of a broker’s “smart router” functionality). Some users have connections to third-party FIX routers, who currently normalize the format of messages of their client. To the extent a FIX router has a connection to the Silexx platform, users that also have connections to these routers may elect to receive staged orders, drop copies, and order routing functionality through a fix router. Additionally, the Silexx platform permits users

to elect to receive daily transmission of equity order reports related to order users submit through the platform. As noted above, the Exchange recently adopted Silexx FLEX and Cboe Silexx. The Exchange wishes to waive the fees for these additional types of functionality⁴ as an incentive to market participants to start or continue using these new Silexx platforms as trading tools on their trading desks.

CAT File Fee

The Exchange next wishes to adopt a fee for CAT Files. Particularly, Silexx intends to make Consolidated Audit Trail (“CAT”)-formatted files available to Silexx users for orders processed by the user via Silexx applications. Users may also elect to have Silexx, which is a CAT Reporter Agent, submit these files to CAT on their behalf. Similar to the fee assessed for Equity Order Reports⁵, the Exchange proposes to adopt a monthly fee of \$250 per CAT Industry Member ID (“IMID”)⁶, payable by the trading firm for CAT Files. The Exchange also proposes to waive this fee for Silexx FLEX and Cboe Silexx.

The Exchange lastly proposes to eliminate obsolete language in the “Silexx Platform Version” table. Particularly, the notes section provides that: “All users of Basic may be upgraded to Pro at no additional cost through May 31, 2020”. As that date has passed, and the free upgrade

⁴ The Exchange is not waiving Additional Functionality fees for API, PULSe Routing Network via Silexx or Market Data. Particularly, the API functionality is not applicable or available for Silexx Flex or Cboe Silexx and the PULSe Network via Silexx fee is already only applicable to non-Silexx (and non-PULSe) workstations. The Exchange lastly does not wish to waive fees for market data.

⁵ The Equity Order Reports fee is assessed to Silexx users that elect to receive daily transmission of Order Audit Trail System (“OATS”) reports for its orders submitted through their Silexx platform.

⁶ CAT uses the IMID to determine the firm for which data is submitted and to facilitate event linkages within a firm and between venues.

is no longer available, the Exchange proposes to delete that language in its entirety to avoid potential confusion.

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.⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ 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,⁹ 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.

In particular, the Exchange believes the proposed rule change to waive certain additional functionality fees for Silexx FLEX and Cboe Silexx is reasonable because users using the functionality for these newer platforms would not be subject to such fees. The Exchange believes not assessing these fees for Silexx FLEX and Cboe Silexx also serves as an incentive to market

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78f(b)(4).

participants to start using these recently adopted Silexx platforms as additional trading tools on their trading desks. Moreover, the Exchange notes that Silexx FLEX and Cboe Silexx are available to all market participants at no cost.¹⁰ The proposal is equitable and not unfairly discriminatory as it applies to all users of Silexx FLEX and Cboe Silexx uniformly. Additionally, the Exchange notes that use of each version of the platform, including each type of additional functionality, is discretionary and not compulsory.

The Exchange believes the proposed monthly fee for CAT Files is reasonable as it is the same rate for other similar reports (i.e., Equity Order Reports). Additionally, the Exchange believes the proposed fee is reasonable as the Exchange believes it is substantially lower than the cost assessed by third-party vendors for similar CAT files. The proposal is equitable and not unfairly discriminatory as it applies to all users other than Silexx FLEX and Cboe Silexx. As discussed above, the Exchange believes waiving additional functionality fees, including the proposed fee for CAT files, for Silexx FLEX and Cboe Silexx is reasonable, equitable and not unfairly discriminatory as such platforms are new and the Exchange wishes to incentivize their use to market participants. Finally, the Exchange notes receipt of the CAT files is completely voluntary and not compulsory.

Lastly, the Exchange believes its proposal to eliminate language regarding an outdated free upgrade alleviates potential confusion and maintains clarity in the fees schedule, 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.

¹⁰ See Silexx Fees Schedule, Silexx Platform Version Table.

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

Cboe Options 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 Exchange believes that the proposed rule change will not impose any burden on intramarket competition because the proposed rule changes apply to all similarly situated users of Silexx uniformly. The Exchange notes that each additional type of Silexx functionality, including the new CAT Files, are available to all market participants, and users have discretion to determine which, if any, types of functionality and reports to purchase.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change applies only to 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 Act¹¹ and paragraph (f) of Rule 19b-4¹² 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

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f).

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. Please include File Number SR-CBOE-2020-062 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-2020-062. 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-2020-062 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.¹³

J. Matthew DeLesDernier
Assistant Secretary

¹³ 17 CFR 200.30-3(a)(12).