

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-83486; File No. SR-CBOE-2018-043)

June 20, 2018

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Rule Governing Crowd Space Disputes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 7, 2018, Cboe Exchange, Inc. (“Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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

The Exchange proposes to amend Rule 24.21 relating to Crowd Space Disputes. 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule change is to amend Rule 24.21 (Index Crowd Space Dispute Resolution Procedures). By way of background, Rule 24.21 provides for guidelines and procedures to resolve disputes concerning the right of Trading Permit Holders ("TPHs") to occupy a certain space in certain index option trading pits.

Particularly, the Exchange proposes to amend subparagraphs (b) and (g) of Rule 24.21, which provisions relate to the Space Mediator and the Crowd Space Dispute Resolution ("CSDR") panel, respectively. Currently, the rule provides that the Space Mediator³ will select a CSDR Panel ("Panel") composed of seven TPHs to hear and resolve a space dispute. The rule provides that the Space Mediator selects six members of the Panel from members of the Exchange (other than the Space Mediator himself) and of those six members, three members shall be TPHs who trade in the trading station where the dispute has arisen and three shall be TPHs who do not trade in the trading station where the dispute has arisen. The seventh Panel member shall be a Floor Official designated by the Exchange.

The Exchange is seeking to reduce the number of TPHs that must be appointed to a Panel. Specifically, the Exchange proposes that Panels be comprised of 5 TPHs, two of whom trade in a trading station where the dispute has arisen and two of whom trade outside of the trading station where the dispute has arisen. The fifth Panel member would be a TPH Floor Official that may trade in or out of the trading station where the dispute has arisen. The Exchange desires this reduction in Panel size because it has become increasingly burdensome for the Exchange to designate a sufficient number of TPHs to sit on any given Panel, as fewer TPHs

³ As defined in Cboe Options Rule 24.21(b).

are willing to perform these functions and often times there are conflicts limiting the pools of available TPHs. The Exchange notes that the proposed change to state that the fifth panel member must be a “TPH” Floor Official is not a substantive change, but rather reflects the Exchange’s current practice with respect to staffing Panels (i.e., the Space Mediator does not appoint Floor Officials that are Exchange employees).

The Exchange also proposes to eliminate the language providing that the Space Mediator selects members of the Panel “other than the Space Mediator himself”. Particularly, the Exchange notes that Space Mediator currently is, and has been for some time, an Exchange employee. Additionally, the Exchange does not intend in the future to appoint a Space Mediator that is a TPH. Since all Panels are to be comprised of TPHs (and thereby could not include the Space Mediator), the Exchange believes the above-mentioned language is unnecessary and therefore proposes to eliminate it. Similarly, the Exchange proposes to make clear in subparagraph (b) of Rule 24.21 that the Space Mediator shall be an Exchange employee, to provide clarity in the rules and reflect current practice. Lastly, the Exchange proposes to move the sentence “The selection of all Panel members will be according to the sole discretion of the Space Mediator” within subparagraph (g) to make the rule easier to read, as this sentence applies to the Panel in its entirety.

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.⁴ Specifically, the

⁴ 15 U.S.C. 78f(b).

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

In particular, over the years, fewer TPHs have made themselves available to serve on Panels. The Exchange notes that service on a Panel is voluntary and it cannot force any TPH to serve on a Panel. As such, it has become increasingly burdensome to appoint a sufficient number of TPHs to the Panels. The Exchange believes reducing the number of Panel members will remove impediments to, and perfect the mechanism of, a free and open market because it will assist the Exchange in being able to appoint a sufficient number of TPHs to a Panel in a timely manner. The Exchange notes that the composition requirements of ensuring there are Panel members both in and outside of the station where the dispute occurred still ensures a fair balance.

The Exchange also believes the proposed changes to make explicit that the Floor Official panel member must be a TPH and that the Space Mediator must be an Exchange employee provides transparency and clarity in the rules, which alleviates confusion, thereby protecting investors and the public interest. The Exchange also notes these changes do not reflect

⁵ 15 U.S.C. 78f(b)(5).

⁶ Id.

substantive changes from current practice, but rather clarifies and codifies the Exchange's current practice.

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 proposed rule change merely reduces the number of Panel members that must serve on a Panel and clarifies and codifies current practices relating to the spot dispute process and thus has no impact on current trading on Cboe Options. Therefore, the proposed rule change has no impact on competition.

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) of the Act and Rule 19b-4(f)(6) 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.

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-2018-043 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-2018-043. 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-2018-043 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.⁷

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Assistant Secretary

⁷ 17 CFR 200.30-3(a)(12).