

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-90929; File No. SR-CBOE-2021-002)

January 14, 2021

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating 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 January 4, 2021, 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Exchange proposes to adopt “drop copy” and order routing fees for a recently adopted Silexx platform (“Cboe Silexx”), effective January 4, 2021.

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

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.

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. Historically, users could not directly route orders through any of the then-current versions of Silexx to an exchange or trading center nor was the platform integrated into or directly connected to Cboe Option’s System. In 2019, the Exchange made available an additional version of the Silexx platform, Silexx FLEX, which supports the trading of FLEX Options and allows authorized Users with direct access to the Exchange.⁴ Most recently, the Exchange made a new version of the Silexx platform available, Cboe Silexx, which supports the trading of non-FLEX Options and allows authorized Users with direct access to the Exchange.⁵ The Silexx front-end and back-end platforms are a software application that is 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 any version of the Silexx platform is completely optional.

Currently, TPH or non-TPH market participants may receive order fill messages⁶ (i.e., drop copies) from their Silexx Brokers via the PULSe drop copy network. However, on January 4, 2021, the Exchange plans to migrate such functionality to Cboe Silexx in conjunction with the planned decommission of the PULSe Trader Workstation. At that

⁴ See Securities Exchange Act Release No. 87028 (September 19, 2019) 84 FR 50529 (September 25, 2019) (SR-CBOE-2019-061).

⁵ See Securities Exchange Act Release No. 88741 (April 24, 2020) 85 FR 24045 (April 30, 2020) (SR-CBOE-2020-040).

⁶ These fill messages allow customers to update positions, risk calculations, and streamline back-office functions.

time, TPH or non-TPH market participants may instead receive drop copies via the Cboe Silexx Platform. As a result, the Exchange proposes to adopt certain drop copy fees from the Cboe Options Fees Schedule to the Silexx Fees Schedule with certain modifications. Additionally, the Exchange is proposing to adopt a fee for order routing via Financial Information eXchange (“FIX”) into Cboe Silexx, and to replace the PULSe Routing Network via Silexx fee with a Cboe Silexx Routing Network fee.

The Exchange proposes to eliminate the PULSe Routing Network via Silexx fee from the Silexx Fees Schedule, which sets forth a fee for trading firms accessing the PULSe drop copy network from a non-PULSe, non-Silexx workstation for its customers’ drop copies. Instead, the Exchange is proposing to adopt a fee for accessing the Silexx routing network to or from a non-Cboe Silexx workstation for order routing or drop copies. The proposed fee is \$500 per month payable by the customer accessing the Silexx routing network on a per connection basis, and is similar to the existing PULSe Routing Network via Silexx fee that the Exchange is proposing to eliminate, with the exception that the proposed fee references the Silexx routing network rather than the PULSe Drop Copy Network and eliminates the reference to a non-PULSe workstation for order routing or drop copies. Further, the proposed fee is equal to the existing PULSe Routing Network via Silexx fee (i.e., \$500 per month per customer connection).

Second, the Exchange proposes to adopt a fee for drop copies received by a TPH customer via Cboe Silexx. The proposed fee is \$425 per month payable by the TPH customer receiving the drop copies, unless otherwise directed by the TPH broker. Specifically, for each Cboe Silexx-using TPH broker that provides a TPH customer drop copies, such receiving TPH customer incurs a fee of \$425 per month. The proposed fee is

substantially similar to a fee charged to a PULSe-using TPH broker that provides a TPH customer drop copies via a PULSe workstation. The only difference between the proposed fee and the existing fee pertaining to PULSe users is that the TPH broker may direct that the fee be assessed to itself rather than the TPH customer receiving the drop copies. However, the TPH customer will be ultimately responsible for the fee.

Third, the Exchange proposes to adopt a drop copy payable by the TPH broker sending the drop copies to its non-TPH customers, unless otherwise directed by the TPH broker. Specifically, for each non-TPH Cboe Silexx-using customer for which a TPH broker provides drop copies, the TPH broker will incur a fee of \$0.02/contract with a fee cap of \$400 per month for each non-TPH customer to which the TPH broker sends drop copies. The proposed fee is substantially similar to the fee applied to drop copies received by a non-TPH customer via a PULSe workstation with one difference. Like the proposed fee for drop copies received by a TPH customer, the TPH broker may direct that the applicable fee be assessed to its customer rather than itself. However, the TPH broker will be ultimately responsible for the fee.

Lastly, the Exchange proposes to adopt a fee for orders routed via FIX into Cboe Silexx. Particularly, the Exchange proposes to adopt a fee for each TPH broker to whom a TPH customer using a non-Cboe Silexx workstation sends orders electronically to a TPH broker's Silexx workstation. The proposed fee is \$500 per month for each TPH broker with a Silexx workstation to which the TPH customer sends orders. The proposed fee is substantially similar to the existing Non-PULSe-to-PULSe Routing (sent by TPH customers) fee set forth in the Cboe Fees Schedule with two differences. First, like the proposed fees discussed above, the TPH broker may direct the applicable fee be assessed

to its customer rather than itself. However, the TPH broker will be ultimately responsible for the fee. Second, the Exchange is not proposing to adopt the provision that TPH customers who request FIX order routing into Cboe Silexx will also receive drop copies from its TPH brokers and must pay the monthly drop copy fee in addition to the in-bound addition fee.

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 the Section 6(b)(5)⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Additionally, the Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ Id.

Act,¹⁰ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities.

The Exchange believes that its proposed fees are reasonable and appropriate as they are substantially similar with fees set forth in the Cboe Exchange Fees Schedule applicable to the PULSe workstation, which is a substantially similar order entry and management system to Silexx.¹¹ Despite certain differences in the proposed fees from the existing fees applicable to PULSe workstations, the Exchange believes that the proposed fees are reasonable for the following reasons. First, the proposed Cboe Silexx Routing Network fee would provide trading firms the ability to access the Cboe Silexx Routing Network to or from a non-Cboe Silexx workstation for not only drop copies, but also for order routing. Further, the proposed fee is equal to the existing PULSe Routing Network via Silexx fee despite that it provides order routing functionality in addition to drop copies. Second, while the proposed Drop Copy (received by TPH customer from Cboe Silexx) and Drop Copy (received by non-TPH customer) from Cboe Silexx fees provide that the TPH broker may direct the applicable fee be payable by itself or its customer, as applicable, the proposal may simplify and streamline billing for TPH brokers and their customers. Lastly, the proposed FIX order routing into Cboe Silexx fee differs from the Non-PULSe-to-PULSe Routing (sent by TPH customers) fee currently provided in the Cboe Options Fee Schedule as it does not provide that TPH customers requesting such

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ See Cboe Options Fees Schedule, which provides for a PULSe workstation drop copy (received by TPH customer) fee of \$425 per month, a drop copy (received by non-TPH customer) fee of \$0.02 per contract capped at \$400 per month, and a Non-PULSe-to-PULSe Routing (sent by TPH customers) fee of \$500 per month.

order routing functionality will receive drop copies from its TPH brokers and must pay the monthly drop copy fee in addition to the in-bound addition fee. The Exchange believes it is reasonable not to include such language as it is no longer applicable.

Additionally, as discussed, use of drop copy functionality and FIX order routing into Cboe Silexx is discretionary and not compulsory. Indeed, Users can choose to route orders, including to Cboe Options, and receive drop copies without the use of the platform. The Exchange is making the platform available as a convenience to market participants, who will continue to have the option to use any order entry and management system available in the marketplace to send orders to the Exchange and other exchanges; the platform is merely an alternative that will be offered by the Exchange. The Exchange believes the proposed fees are equitable and not unfairly discriminatory because they apply to all market participants uniformly.

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. The proposed change will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it relates to optional services on an optional platform. The proposed fees will apply to similarly situated participants uniformly. Also as discussed, the use of the platform and the drop copy services will be completely voluntary and market participants will continue to have the flexibility to use any order entry and management tool that is proprietary or from third-party vendors, and/or market participants may choose any executing brokers to enter their orders and receive drop copies. Cboe Silexx is not an exclusive means of order routing or to receive drop copies, and if market participants believe that other products,

vendors, front-end builds, etc. available in the marketplace are more beneficial than the Cboe Silexx platform, they may simply use those products instead. Use of such functionality is completely voluntary.

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 changes are substantially similar to fees applicable to the PULSe workstation, which is a substantially similar order entry and management system and which is migrating to Cboe Silexx in conjunction with the planned decommission of the PULSe Trader Workstation on January 4, 2021. 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 Act¹² and paragraph (f) of Rule 19b-4¹³ 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

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f).

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. Please include File Number SR-CBOE-2021-002 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-2021-002. 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 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-2021-002 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.¹⁴

J. Matthew DeLesDernier
Assistant Secretary

¹⁴ 17 CFR 200.30-3(a)(12).