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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-86766; File No. SR-CBOE-2019-046)

August 26, 2019

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Concerning End-of-Month and End-of-Day Indicative Values

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 August 12, 2019, 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, and II, 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 Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 and move certain current Rules in connection with end-of-month and end-of-day indicative values from the Exchange’s currently effective Rulebook (“current Rulebook”) to the shell structure for the Exchange’s Rulebook that will become effective upon the migration of the Exchange’s trading platform to the same system used by the Cboe Affiliated Exchanges (as defined below) (“shell Rulebook”). The text of the proposed rule change is provided in Exhibit 5.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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.

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

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, 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"). The Exchange intends to migrate its trading platform to the same system used by the Cboe Affiliated Exchanges, which the Exchange expects to complete on October 7, 2019. In connection with this technology migration, the Exchange has a shell Rulebook that resides alongside its current Rulebook, which shell Rulebook will contain the Rules that will be in place upon completion of the Cboe Options technology migration.

The Exchange proposes to adopt Rule 4.17 (in the shell Rulebook), which amends its current rules regarding end-of-month (“EOM”) and end-of-day (“EOD”) indicative values.⁵ Currently, Rule 6.2.06(a) describes the Exchange’s process for calculating EOM values. Specifically, it provides that following the close of trading on the last business day of each calendar month, the Exchange will conduct special non-trading closing rotations for each series of S&P 500 Index (“SPX”) options in order to determine the theoretical “fair value” of such series as of time of the close of trading in the underlying cash market. During such special non-trading closing rotations, Lead Market Makers (“LMMs”) or Select Market Makers (“SMMs”) in the SPX options in each series of SPX options, may provide bid and offer quotations, the midpoint of which will reflect the theoretical fair value of the series of SPX options, as determined by the LMM(s) or SMM(s) pursuant to the LMMs’ or SMMs’ algorithmic analysis of relevant and available data. Notwithstanding that trading in SPX options on the Exchange continues until fifteen minutes after the close of trading in the underlying cash market, on the last business day of each month, after the close of trading, the Exchange shall disseminate the fair value quotations as of the close of trading in the underlying cash market provided by the LMM(s) or SMM(s) as the quotations used to calculate the theoretical fair value for each series of SPX options. In particular, LMMs and SMMs provide the exchange with quotes to fairly represent the market of the subject series, using the final EOM fair value of the corresponding E-Mini S&P 500 (“ES”) futures price provided by the CME Group, Inc. (“CME”), usually within 10 minutes of CME’s EOM fair value market close, which occurs at 3:00 PM on the last trading day of the month.

⁵ The Exchange notes that current Rule 6.2.06, which currently provides for EOM and EOD values, was already “removed” from the current Rulebook in anticipation of migration, therefore, is effective only until October 7, 2019. See Securities Exchange Act Release No. 86387 (July 16, 2019), 84 FR 35147 (July 22, 2019) (SR-CBOE-2019-034).

Current Rule 6.2.06(b) describes the Exchange's process for calculating EOD values. Specifically, it provides that following the close of trading of Regular Trading Hours on any trading day that is not the last business day of a calendar month, in addition to the Exchange's regular end-of-day quotations, the Exchange may determine, on a series-by-series basis, to disseminate two-sided indicative values in non-expiring series of SPX options in the interests of fair and orderly markets. The Exchange derives end-of-day indicative values for series of SPX options using an algorithm based on quotations and orders displayed in series of SPX options prior to the close of trading or, in the absence of sufficient quote and order data in a series, using generally accepted volatility and options pricing models as determined by the Exchange. EOD indicative values shall be clearly identified and disseminated via the Options Price Reporting Authority ("OPRA"). This permits the Exchange to disseminate informational indicative values more reflective of actual options values in addition to final end-of-day displayed quotations when Users' systems issues or market conditions result in an absence of final quotes or extraordinarily wide final quotes without interfering in the markets or impeding any market functionalities that rely on accurate pricing or EOD quotes.

Upon migration, the Exchange will discontinue the dissemination of indicative values to OPRA,⁶ as well as the EOM closing rotation. Instead, the Exchange will make publicly available, e.g., on its website, the indicative prices calculated for each series in classes as the Exchange determines on a class-by-class basis, on any trading day, including the last trading day of the month, using the same logic currently implemented for calculating indicative values under current Rule 6.2.06(b). As such, the Exchange now proposes Rule 4.17 (in the shell Rulebook), which amends

⁶ The Exchange has communicated and worked with OPRA reporting authorities regarding the implementation of this change.

the language under current Rule 6.2.06(b) and does not adopt language from current Rule 6.2.06(a), to account for the above-described changes to be implemented upon migration.

The proposed rule does not present any new or novel functionality as the indicative value logic will function for all trading days in the same manner as it does today for EOD. The proposed change merely applies the same process to every trading day, including the last business day of the calendar month. This will provide a streamlined indicative price process for each trading day in which indicative prices may be published. In addition to streamlining the process for each trading day, the Exchange proposes to remove the theoretical fair value process for EOM for a number of other reasons. First, the migrated technology platform will no longer support the ability for LMMs or SMMs to quote after the close as the current rule provides. Second, the Exchange believes using an algorithm based on quotations and orders displayed will provide a more objective, static formulation for indicative prices as opposed to the current analysis conducted by LMMs or SMMs, which potentially varies across different LMMs or SMMs. Third, though CME currently provides for a EOM fair value procedure for many of its equities products (which differs from the 3:15 PM daily settlement process for such products), it may determine to have a 3:00 PM daily settlement process for all days, including the last trading day of the month, in its equities products as it currently has in place for other products, which could interfere with the current EOM process. Therefore, the Exchange proposes to mitigate any possibility that indicative values could not be calculated on the last day of the month by applying the current Exchange-generated EOD logic to all trading days.

The Exchange also proposes that, instead of a series-by-series basis, the Exchange may determine which indicative values will be provided on a class-by-class basis, which is consistent with the majority of Exchange determinations, where applicable, throughout the Exchange rules,

as well as provides the Exchange with flexibility to potentially provide indicative prices for any and all of its options classes exclusively listed on the Exchange.⁷ This will benefit all market participants by providing more indicative values than if the Exchange determined indicative prices on the narrower series-by-series basis. In addition to this, rather than disseminating the indicative pricing to OPRA, for which market participants must pay a fee to OPRA to access, the Exchange will make indicative prices publicly available, e.g., by posting on its website, which will provide free access to such prices for all market participants.

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

⁷ Upon migration, the Exchange plans to provide indicative prices for SPX, SPXW, VIX, and VIXX options.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

is consistent with the Section 6(b)(5)¹⁰ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange notes that the proposed rule does not present any new or novel functionality, as it will continue to use the EOD logic in the same manner for calculating indicative values as it does today for all trading days. The proposed change merely applies the current EOD logic to every trading day, including the last business day of the calendar month. As such, the proposed rule change will protect investors by fostering cooperation and coordination with market participants processing information with respect to securities and by removing impediments to and perfecting the mechanism of a free and open market and national market system by providing market participants with a streamlined indicative price process. The Exchange believes this will make the process itself easier to understand within the Exchange Rules, as well as provide easier access to such pricing. In addition to streamlining the process for each trading day, removing the theoretical fair value process for EOM will also remove impediments to and perfect the mechanism of a free and open market and national market system by providing market participants with rules that will accurately reflect the manner in the Exchange's System will function upon migration, allow for a more objective, static formulation for indicative prices than the current LMM or SMM analysis, which potentially varies across different LMMs or SMMs, as well as mitigate any potential issues in deriving indicative values from CME's EOM fair value process, which is subject to change and, as a result, could interfere with the current EOM process. Additionally, by providing the Exchange with the flexibility to determine indicative values on a broader class-by-class basis, the proposed rule change will potentially provide more indicative pricing information, benefitting all market participants.

¹⁰

Id.

Exchange determinations on a class-by-class basis are also consistent with the majority of Exchange determinations currently under the Rules. Moreover, the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and national market system by making the indicative values publicly available and free for all participants to access, as opposed to the current dissemination of such prices to OPRA, for which market participants must pay a fee to access.

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 Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because the dissemination of EOD indicative values does not impact trading on the Exchange, but is intended merely to make indicative pricing information available to all market participants. Likewise, the Exchange does not believe that the proposed rule change will impose any burden on intermarket competition because the indicative values will be publicly available, e.g., on the Exchange's website, to all market participants for free.

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 Act¹¹ and Rule 19b-4(f)(6)¹² 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 Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹³ of the Act 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-2019-046 on the subject line.

Paper Comments:

- Send paper comments in triplicate to the Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR-CBOE-2019-046. 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-2019-046 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

Jill M. Peterson
Assistant Secretary

¹⁴ 17 CFR 200.30-3(a)(12).

