will have no effect on the assessment of fees for current BOX Participants as they are all fully certified to transact business on the Exchange. Future BOX Participants will be assessed the ORF once their application has been approved; as BOX’s regulatory responsibility begins as soon as a firm becomes a Participant and not when the Participant is technologically certified.

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 not necessary or appropriate in furtherance of the purposes of the Act. The ORF is not intended to have any impact on competition. Rather, it is designed to enable the Exchange to recover a material portion of the Exchange’s cost related to its regulatory activities. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs. Unilateral action by BOX in establishing fees for services provided to its Participants and others using its facilities will not have an impact on competition. In the highly competitive environment for equity options trading, BOX does not have the market power necessary to set prices for services that are unreasonable or unfairly discriminatory in violation of the Act. The Exchange’s ORF, as described herein, is comparable to fees charged by other options exchanges for the same or similar services. The Exchange believes that limiting the changes to the ORF to twice a year on specific dates with advance notice is not intended to address a competitive issue but rather to provide Participants with better notice of any change that the Exchange may make to the ORF.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

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)(ii) of the Exchange Act \(^{14}\) and Rule 19b–4(f)(2) thereunder, \(^{15}\) because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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 email to rule-comments@sec.gov. Please include File No. SR–BOX–2018–02 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.

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 email to rule-comments@sec.gov. Please include File No. SR–BOX–2018–02 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.
- This file number should be included on the subject line if email 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 No. SR–BOX–2018–02, and should be submitted on or before February 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.\(^{16}\)

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule Concerning Firm Incentive Programs


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 12, 2017, 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

The Exchange proposes to amend 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.


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 amend its fees schedule. Particularly, the Exchange proposes to amend Footnote 11 of its fees schedule, which governs the clearing trading permit holder fee cap, proprietary products sliding scale, proprietary vix sliding scale, and supplemental vix total firm discount (collectively, “firm incentive programs”) which applies to (i) clearing trading permit holder proprietary orders (“F” origin code), and (ii) orders of non-trading permit holder affiliates (“non-TPH affiliates”) of a clearing trading permit holder (“clearing TPH”) orders (“L” origin code). Footnote 11 currently defines a “non-trading permit holder affiliate” for this purpose as a 100% wholly-owned affiliate or subsidiary of a clearing TPH that is registered as a United States or foreign broker-dealer and that is not a cboe options trading permit holder (“TPH”). It also provides that only proprietary orders of the non-TPH affiliate affected for purposes of hedging the proprietary over-the-counter trading of the clearing TPH or its affiliates will be included in calculating the firm incentive programs. Additionally, Footnote 11 provides that the exchange will aggregate the fees and trading activity of separate clearing TPHs for the purposes of the firm incentive programs if there is at least 75% common ownership between the clearing TPHs as reflected on each clearing TPH’s form BD, schedule A. Footnote 11 further states that each clearing TPH is responsible for notifying the TPH Department of all of its affiliates so that fees and contracts of the clearing TPH and its affiliates may be aggregated and each clearing TPH is required to inform the exchange immediately of any event that causes an entity to cease to be an affiliate. A clearing TPH is also required to certify the affiliate status of any non-TPH affiliate whose trading activity it seeks to aggregate.

The exchange first proposes to modify which “L” orders may be included in calculating the firm incentive programs. Particularly, the exchange proposes to eliminate the requirement that to be included in calculating the firm incentive programs, “L” orders must be proprietary orders of a non-TPH affiliate affected for purposes of hedging the proprietary over-the-counter trading of the clearing TPH or its affiliates. In its place, the exchange proposes to provide that all proprietary orders of a non-TPH affiliate may be included in the above-mentioned calculations. The exchange wishes to encourage non-TPH affiliates to send all of their proprietary orders to the exchange, not just transactions that are affected for purposes of hedging over-the-counter trading.

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 of any non-TPH affiliate who’s trading activity it seeks to aggregate. The exchange believes that it is incumbent on any TPH marking an order with any origin code to ensure that it is marking the order appropriately and meeting any stated criteria. Orders should only be marked with an “L” origin code if it meets the definition provided for in footnote 11, which, as noted above, requires that the order be from a 100% wholly-owned affiliate or subsidiary of a Clearing TPH that is registered as a United States or foreign broker-dealer and that is not a Cboe Options TPH. Accordingly, the exchange does not believe it’s necessary for further certification and therefore does not believe this language is necessary to maintain in the fees schedule.

Lastly, the exchange proposes to (i) relocate to a new footnote and (2) modify the language currently in footnote 11 requiring each clearing TPH to notify the TPH Department of all of its affiliations and of any event that causes an entity to cease to be an affiliate. Particularly, the exchange notes that the definition of an “affiliate” as used in footnote 11 (i.e., 75% common ownership between the firms as reflected on each firm’s form BD, schedule A) is also referenced numerous times throughout the fees schedule. Particularly, there are a number of other occasions for which the exchange may aggregate activity between affiliates. As such, the exchange believes it would be more appropriate to relocate the notification requirement to its own footnote (proposed footnote 39) and expand the scope of the notice requirement to apply to all TPHs (not just clearing TPHs). Accordingly, the fees schedule will now provide that each TPH is responsible for notifying the exchange of all its affiliates and is required to inform the exchange immediately of any event that causes an entity to cease to be an affiliate, in a form and manner to be determined by the exchange. As noted above, an “affiliate” is defined as having at least 75% common ownership between two entities as reflected on each entity’s form BD, schedule A.

3. Other Matters

The exchange believes the proposed rule change is consistent with the securities exchange act of 1934 (the “act”) and the rules and regulations of any non-TPH affiliate who’s trading activity it seeks to aggregate. The exchange believes that it is incumbent on any TPH marking an order with any origin code to ensure that it is marking the order appropriately and meeting any stated criteria. Orders should only be marked with an “L” origin code if it meets the definition provided for in footnote 11, which, as noted above, requires that the order be from a 100% wholly-owned affiliate or subsidiary of a Clearing TPH that is registered as a United States or foreign broker-dealer and that is not a Cboe Options TPH. Accordingly, the exchange does not believe it’s necessary for further certification and therefore does not believe this language is necessary to maintain in the fees schedule.

Lastly, the exchange proposes to (i) relocate to a new footnote and (2) modify the language currently in footnote 11 requiring each clearing TPH to notify the TPH Department of all of its affiliations and of any event that causes an entity to cease to be an affiliate. Particularly, the exchange notes that the definition of an “affiliate” as used in footnote 11 (i.e., 75% common ownership between the firms as reflected on each firm’s form BD, schedule A) is also referenced numerous times throughout the fees schedule. Particularly, there are a number of other occasions for which the exchange may aggregate activity between affiliates. As such, the exchange believes it would be more appropriate to relocate the notification requirement to its own footnote (proposed footnote 39) and expand the scope of the notice requirement to apply to all TPHs (not just clearing TPHs). Accordingly, the fees schedule will now provide that each TPH is responsible for notifying the exchange of all its affiliates and is required to inform the exchange immediately of any event that causes an entity to cease to be an affiliate, in a form and manner to be determined by the exchange. As noted above, an “affiliate” is defined as having at least 75% common ownership between two entities as reflected on each entity’s form BD, schedule A.
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 Act and paragraph (f) of Rule 19b–4 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 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 email to rule-comments@sec.gov. Please include File Number SR–CBOE–2018–005 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–2018–005. This file number should be included on the subject line if email 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–2018–005 and should be submitted on or before February 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.\(^4\)

Eduardo A. Aleman, Assistant Secretary.

SECURITIES AND EXCHANGE COMMISSION


On November 21, 2017, Cboe BZX Exchange, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)\(^1\) and Rule 19b–4 thereunder,\(^2\) a proposed rule change to list and trade shares of a series of the Cboe Vest S&P 500\(^8\) Enhanced Growth Strategy ETF under the ETF Series Solutions Trust under Exchange Rule 14.11(c)(3), Index Fund Shares. The proposed rule change was published for comment in the Federal Register on December 11, 2017.\(^3\) The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act\(^4\) provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is January 25, 2018. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period


