

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019-22015 Filed 10-8-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87216; File No. SR-CBOE-2019-073]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Make Minor Updates and Consolidate Various Exchange Rules in Connection With Regulatory Reports, Records, and Audits on the Exchange, and Move Those Rules From the Currently Effective Rulebook to Proposed Chapter 7 of 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

October 3, 2019.

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 September 27, 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 make minor updates and consolidate various Exchange Rules in connection with regulatory reports, records, and audits on the Exchange, and move those Rules from the currently effective Rulebook (“current Rulebook”) to proposed Chapter 7 of 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.

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 Cboe Affiliated Exchanges are working to align certain system functionality, retaining only intended differences, between the Cboe Affiliated Exchanges, in the context of a technology migration. Cboe Options 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 consolidate current rules in connection with regulatory reports, records, and audits, including the rules related to the Consolidated Audit Trail (“CAT”), on the Exchange into sections of proposed Chapter 7 in the shell Rulebook. The Exchange notes that in addition to consolidating and moving the various rules related to reports, records, and audits to proposed Chapter 7, the proposed rule change deletes the rules from the current Rulebook. The proposed rule change moves and, where applicable, consolidates the rules as follows:

CHAPTER 7—REGULATORY REPORTS, RECORDS, AND AUDITS

Section A. General

| | |
|---|---|
| 7.1 Maintenance, Retention, and Furnishing of Books, Records, and Other Information | |
| 7.1(a) | 15.1 Maintenance, Retention and Furnishing of Books, Records, and Other Information, including 15.1.01. |
| 7.1(b) | 15.1.02. |
| 7.1(c) | 15.1.03. |
| 7.1(d) | 15.1.04. |

³³ 17 CFR 200.30-3(a)(12).

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).

CHAPTER 7—REGULATORY REPORTS, RECORDS, AND AUDITS—Continued

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| 7.1(e) | 28.16 (corporate debt security Market-Makers), including 28.16.01, provision regarding current Rule 15.1. |
| 7.1(f) | 21.30 (government securities options Market-Makers), including 21.30.01, provision regarding current Rule 15.1. |
| 7.1(g) | 23.15 (interest rate options Market-Makers), including last sentence of paragraph, provision regarding current Rule 15.1. |
| 7.2 Reports of Uncovered Short Positions | 15.3 Reports of Uncovered Short Positions. |
| 7.3 Financial Reports | 15.5 Financial Reports |
| 7.3(a) | 15.5.01. |
| 7.3(b) | 15.5.02. |
| 7.4 Audits | 15.6 Audits. |
| 7.5 Automated Submission of Trading Data | 15.7 Automated Submission of Trading Data. |
| 7.6 Securities Accounts and Orders of Market-Makers (note: Rule 7.6(a)–(c) currently in shell Rulebook). | |
| 7.6(d) | 28.16 (corporate debt security options Market-Makers), provision regarding current Rule 8.9. |
| 7.6(e) | 21.20 (government securities options Market-Makers), provision regarding current Rule 8.9. |
| 7.6(f) | 23.15 (interest rate options Market-Makers), provision regarding current Rule 8.9. |
| 7.7 Risk Analysis of Market-Maker Accounts | |
| 7.7(a)–(b) | 15.8(a)–(b) Risk Analysis of Market-Maker Accounts. |
| 7.7(c) | 15.8.01. |
| 7.8 Risk Analysis of Portfolio Margin Accounts | 15.8A Risk Analysis of Portfolio Margin Accounts. |
| 7.9 Regulatory Cooperation | 15.9 Regulatory Cooperation. |
| 7.10 Fingerprint-Based Background Checks of Exchange Directors, Officers, Employees, and Others. | 15.10 Fingerprint-Based Background Checks of Exchange Directors, Officers, Employees, and Others. |

Section B. Consolidated Audit Trail (CAT) Compliance Rule

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| 7.20 Definitions | 6.85 Definitions. |
| 7.21 Clock Synchronization | 6.86 Clock Synchronization. |
| 7.22 Industry Member Data Reporting | 6.87 Industry Member Data Reporting. |
| 7.23 Customer Information Reporting | 6.88 Customer Information Reporting. |
| 7.24 Industry Member Information Reporting | 6.89 Industry Member Information Reporting. |
| 7.25 Time Stamps | 6.90 Time Stamps. |
| 7.26 Clock Synchronization Rule Violation | 6.91 Clock Synchronization Rule Violation. |
| 7.27 Connectivity and Data Transmission | 6.92 Connectivity and Data Transmission. |
| 7.28 Development and Testing | 6.93 Development and Testing. |
| 7.29 Recordkeeping | 6.94 Recordkeeping. |
| 7.30 Timely, Accurate, and Complete Data | 6.95 Timely, Accurate, and Complete Data. |
| 7.31 Compliance Dates | 6.96 Compliance Dates. |
| 7.32 Fee Dispute Resolution | 6.97 Fee Dispute Resolution. |

The proposed rule change makes only non-substantive changes to the rules being moved into the shell Rulebook in order to update and/or incorporate headings that better align with the consolidated rules, update cross-references to other rule text that will be implemented upon migration, update certain technical text formatting that will be used in the Rules upon migration (specifically, changing all times to Eastern Time without time zone indication pursuant to Rule 1.6 in the shell Rulebook which states that unless otherwise specified, all times in the Rules are Eastern Time), incorporate defined terms in the shell Rulebook, and reformat the paragraph lettering and numbering.

The proposed rule also makes non-substantive changes in connection with removing redundant rule language. The proposed rule change removes the list of cross-referenced Rules that contain

specific maintenance and furnishing of information requirements under current Rule 15.1.01. The Exchange believes that because the current list of cross-referenced Rules is extensive, but not an exhaustive list (as the current rule states that Trading Permit Holders (“TPHs”) must comply with all applicable recordkeeping and reporting requirements whether or not listed), and contains rules that are no longer in existence or have since been moved or changed (e.g., Rule 6.59 is no longer in the current Rulebook), the current list is potentially confusing and unnecessarily cumbersome for market participants as written. Instead, the Exchange maintains the language in current Rule 15.1.01 (and moves it to proposed 7.1(a)) that provides that Trading Permit Holders must comply with all applicable recordkeeping and reporting requirements under the Rules. By maintaining the language in the current

rule that covers all Rules that require record retention and reporting requirements, the proposed change does not substantively alter the Rule. Also, the Exchange believes that by providing language that succinctly covers all Rules that require or will require record maintenance or reporting, the proposed rule change will mitigate any potential investor confusion, both upon effectiveness of this proposed change and whenever a new or changed rule is incorporated into the Exchange Rulebook. The proposed change also incorporates the term “maintenance”, alongside the term production, in proposed Rule 7.1(d) and (c) (current Rules 15.1.02 and 15.1.03) [sic] which accurately reflects the existing obligations under the Rules, and in accordance with Rule 7.1 (current Rule 15.1), regarding maintenance, retention, and furnishing of books, records, and other information. In addition, the

proposed rule change separates the provisions in Rule 28.16 (regarding Market-Makers in Corporate Debt Security options), Rule 21.30 (regarding Market-Makers in Government security options), and Rule 23.15 (regarding Market-Makers in interest rate options) that are directly related to current Rule 15.1 from the provisions that are directly related to current Rule 8.9, and moves them into the applicable rule in the shell Rulebook. The proposed rule change also removes the language under current Rules 28.16 and 21.30 which states that the respective rules supplement current Rule 8.9 (Rule 7.6 in the shell Rulebook) and Rule 15.1 (proposed Rule 7.1) and the Interpretations and Policies thereunder. This language is redundant given the fact that these rules are being consolidated into the rules in which they reference. Finally, the Exchange notes that it makes a non-substantive change to the language, “See Rule 17.50(g)(2)”, in current Rule 15.3 (proposed Rule 7.2), to instead state that Trading Permit Holders may be subject to fines pursuant to Rule 13.15(g)(2) (the updated cross-reference in the shell Rulebook) for violations of this Rule. This does not alter the current application of Rule 17.50(g)(2) (or shell Rule 13.50(g)(2)) but merely adds context which provides additional clarity to investors regarding the specific matter to which the cross-referenced rule governs and/or pertains.

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.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ 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)⁷ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule change does not make any substantive changes to the rules and is merely intended to consolidate and update the Exchange’s rules in anticipation of the technology migration on October 7, 2019. The Exchange believes that the non-substantive proposed changes, which update technical text and formatting (e.g., paragraph headings, time-related references, and verbiage to accurately reflect the maintenance and production requirements), update rule cross-references (as well as provide added context surrounding one such cross-reference in order to provide additional clarity), consolidate and reorganize rules and rule paragraphs and/or Interpretations and Policies, incorporate defined terms, and remove redundant and/or cumbersome provisions that are potentially confusing for market participants, particularly in light of the consolidated shell Rulebook format, will foster cooperation and coordination with those facilitating transactions in securities and remove impediments to and perfect the mechanism of a free and open market and national market system by simplifying the Exchange Rules and Rulebook as a whole, and making its Rules easier to follow and understand, which will also result in less burdensome and more efficient regulatory compliance.

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 reiterates that the proposed rule change is being proposed in the context of a technology migration of the Cboe Affiliated Exchanges, and not as a competitive filing. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because it does not make any substantive changes to the current Exchange Rules. The proposed rule change merely intends to provide consolidated rules upon migration, which are consistent with the technical text and formatting in the shell Rulebook that will be in place come October 7, 2019. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition because the proposed rules are the same as the Exchange’s current

rules, all of which have all been previously filed with the Commission.

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 Act⁸ and Rule 19b-4(f)(6) thereunder.⁹

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁰ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹¹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may implement the proposed rule change at the time of its anticipated October 7, 2019 system migration. The Exchange believes that waiver of the operative delay is appropriate because, as the Exchange discussed above, its proposal does not make any substantive changes to the Exchange’s rules, but merely relocates current rules regarding reporting, records, and audit to Chapter 7 of the Shell Rulebook. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any new or novel issues and makes only non-substantive

⁵ 15 U.S.C. 78f(b).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ *Id.*

changes to the rules. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.¹²

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-2019-073 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-2019-073. 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

¹² For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2019-073 and should be submitted on or before October 30, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Jill M. Peterson,
Assistant Secretary.

[FR Doc. 2019-22017 Filed 10-8-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87206; File No. SR-Phlx-2019-40]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Related to the Market-Wide Circuit Breaker in Rule 133

October 3, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 26, 2019, Nasdaq PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 extend the pilot related to the market-wide circuit breaker in Rule 133.

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqphlx.cchwallstreet.com/>, at the principal office of the Exchange,

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

Rule 133 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.*, market-wide circuit breakers). The market-wide circuit breaker ("MWCB") mechanism under Rule 133 was approved by the Commission to operate on a pilot basis, the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the "LULD Plan"),³ including any extensions to the pilot period for the LULD Plan.⁴ The Commission recently approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.⁵ In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 133 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.⁶

The Exchange now proposes to amend Rule 133 to extend the pilot to the close of business on October 18, 2020. This filing does not propose any substantive

³ See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

⁴ See Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR-Phlx-2011-129) (Approval Order); and 68816 (February 1, 2013), 78 FR 9760 (February 11, 2013) (SR-Phlx-2013-11) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delay the Operative Date of a Rule Change to Exchange Rule 133).

⁵ See Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

⁶ See Securities Exchange Act Release No. 85579 (April 9, 2019), 84 FR 15258 (April 15, 2019) (SR-Phlx-2019-12).