

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99304; File No. SR–FINRA–2023–010]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Provide Relief Relating to Specified Option Transactions Under FINRA Rule 4210 (Margin Requirements)

January 9, 2024.

On June 30, 2023, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities and Exchange Act of 1934 (“Exchange Act”) ¹ and Rule 19b–4 thereunder, ² a proposed rule change to amend FINRA Rule 4210 (Margin Requirements) to provide margin relief for specified index option transactions, known as “protected options,” and to make other minor conforming revisions with regard to the margin relief. The proposed rule change was published for comment in the *Federal Register* on July 19, 2023. ³

On August 31, 2023, FINRA extended the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to October 17, 2023. ⁴ On September 28, 2023, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change. ⁵

Section 19(b)(2) of the Exchange Act ⁶ provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than

60 days if the Commission determines that a longer period is appropriate and publishes reasons for such determination. The proposed rule change was published for notice and comment in the *Federal Register* on July 19, 2023. ⁷ The 180th day after publication of the proposed rule change is January 15, 2024. The Commission is extending the time period for approving or disapproving the proposed rule change for an additional 60 days.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Exchange Act, ⁸ designates March 15, 2024, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–FINRA–2023–010).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. ⁹

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99302; File No. SR–CboeEDGX–2024–001]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

January 9, 2024.

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 2, 2024, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) 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.

⁷ See *supra* note 3 and accompanying text.

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30–3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) proposes to amend its Fee 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://markets.cboe.com/us/options/regulation/rule_filings/edgx/), 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 Fee Schedule, effective January 2, 2024. The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 17 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 12% of the market share. ³ Thus, in such a low-concentrated and highly competitive market, no single options exchange, including the Exchange, possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to fee

³ See Cboe Global Markets U.S. Options Market Monthly Volume Summary (December 19, 2023), available at https://markets.cboe.com/us/options/market_statistics/.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Exchange Act Release No. 97898 (Jul. 13, 2023), 88 FR 46204.

⁴ See Letter from Adam Arkel, Associate General Counsel, FINRA, to Sheila Swartz, Division of Trading and Markets, Commission (Aug. 31, 2023).

⁵ See Exchange Act Release No. 34–98628 (Sep. 28, 2023), 88 FR 68855 (Oct. 4, 2023). All comments received on the proposed rule change are available at <https://www.sec.gov/comments/sr-fina-2023-010/srfinra2023010.htm>.

⁶ 15 U.S.C. 78s(b)(2).