

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-86065; File No. SR-CBOE-2019-029)

June 7, 2019

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Rules Relating to Registration of Trading Permit Holders

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 June 6, 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 its rules relating to registration of Trading Permit Holders. 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.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 certain rules relating to the registration of its Trading Permit Holders ("TPHs").

Qualifications of TPHs

The Exchange first proposes to amend its rules that set forth the qualifications required to be an individual TPH or TPH organization. Particularly, Rule 3.2(b) currently provides, among other things, that an individual must be approved to engage in one or more of the following enumerated trading functions: (i) Market-Maker, (ii) Floor Broker, (iii) Proprietary Trading Permit Holder, (iv) DPM Designee, (v) FLEX Appointed Market-Maker and (vi) FLEX Qualified Market-Maker. Similarly, Rule 3.3(b) provides, in relevant part that a TPH organization must be approved to engage in one or more of the following trading functions: (i) TPH organization approved to transact business with the public, (ii) Clearing Trading Permit Holder, (iii) order service firm, (iv) Market-Maker; (v) Lead Market-Maker, (vi) Designated Primary Market-Maker, and (vii) Proprietary Trading Permit Holder.

The Exchange proposes to eliminate subparagraph (b) of Rules 3.2 and 3.3. The Exchange does not believe it is necessary to enumerate in the manner that it has the trading functions for which a TPH may be approved to engage in, nor is it required to do so. Indeed, the Exchange notes that other Exchanges with similar rules governing member qualifications do not include such a list, including its affiliate Exchanges.⁵ The Exchange believes eliminating the enumerated categories from its rules provides the Exchange more flexibility in the future should additional registration capacities be added or removed. In connection with the proposed change, the Exchange also proposes to eliminate cross references to Rules 3.2(b) and 3.3(b).⁶

TPH Orientation and Qualification Examination

The Exchange proposes to amend its rule governing the Exchange's Trading Permit Holder Orientation Program and Trading Permit Holder Qualification Exam. Rule 3.9(e) currently provides that any person applying pursuant to paragraph (a) of Rule 3.9 to have an authorized trading function⁷ is required to complete the Exchange's Trading Permit Holder Orientation Program ("TPH Orientation") and to pass an Exchange Trading Permit Holder Qualification Exam ("TPH Exam"). The Exchange proposes to eliminate in its entirety the requirement to complete the TPH Orientation and take the TPH Exam. Particularly, the Exchange believes that the qualification requirements under Exchange Rule 3.6A adequately test

⁵ See Rules of Cboe C2, Exchange, Inc., Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGX Exchange, Inc. and Cboe EDGX Exchange, Inc. See also e.g., Nasdaq PHLX LLC Rule 910 and Nasdaq PHLX Rulebook generally. See also, NYSE Arca LLC Rules 2.2, 2.3 and NYSE Arca Rulebook generally.

⁶ The Exchange notes that Rule 3.10 references Rule 3.3(c) instead of Rule 3.3(b). The Exchange notes it inadvertently failed to update the reference and that indeed, subparagraph (c) of Rule 3.3 no longer exists.

⁷ Currently, Floor Brokers, Market-Makers (which includes DPM Designees, FLEX Appointed Market-Makers and FLEX Qualified Market-Makers), and Proprietary Traders applying pursuant to Rule 3.9 are subject to the TPH Orientation and TPH Exam.

TPH applicants' knowledge of the securities industry. For example, all representative-level applicants are now required to take the Securities Industry Essentials Examination ("SIE") which assesses basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices in addition to passing the appropriate qualification examination (e.g., Series 57). Additionally, the Exchange notes that all TPHs are subject to continuing education requirements under Rule 9.3A, which, among other things, requires each TPH and TPH organization to maintain a continuing and current education program for its covered registered persons to enhance their securities knowledge, skills and professionalism. As such, the Exchange believes requiring such individuals to also attend a TPH Orientation and take a TPH Exam in order to participate on the Exchange is unnecessary and duplicative. The Exchange therefore seeks to eliminate these requirements.

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

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

investors and the public interest. In addition, the Exchange believes that the proposed rule change is consistent with Section 6(c)(3)(B) of the Act,¹⁰ which authorizes exchanges to prescribe standards of training, experience and competence for persons associated with exchange members, and gives exchanges the authority to bar a natural person from becoming a member or a person associated with a member, if the person does not meet the standards of training, experience and competence prescribed in the rules of the exchange.

In particular, the Exchange believes eliminating from its rules a list of trading functions individual TPHs and TPH organizations may be approved to engage in is not a substantive change as it does not affect any rights or obligations of TPHs. Rather, the Exchange merely no longer wishes to maintain Rules 3.2(b) and 3.3(b) and notes it is not required to do so. As noted above, several other Exchanges similarly do not maintain any provisions similar to current Rules 3.2(b) and 3.3(b), including its affiliate Exchanges. Accordingly, the proposed rule change will also provide further harmonization across its affiliated exchanges with respect to its registration rules, which may alleviate potential confusion.

Next, the Exchange notes that under Section 6(c)(3)(B) of the Act, the Exchange is authorized to prescribe standards of training, experience and competence for persons associated with exchange members. The Exchange believes the standards of training, experience and competence it has prescribed under its rules, not including the TPH Orientation and Exam are, on their own, an adequate prescription of training, experience and competence. Indeed, the Exchange believes the requirements related to training, experience and competence currently set forth under rules 3.6A, along with continuing education requirements set forth under Rule 9.3A, are designed to help ensure professionalism among market participants, prevent fraudulent and

¹⁰ 15 U.S.C. 78f(c)(3)(B).

manipulative practices, and promote just and equitable principles of trade. Moreover, the Exchange believes the prescribed qualification exams required under Rule 3.6A align with the various trading functions and associated tasks that would be performed by a TPH applicant currently subject to the TPH Exam and tests knowledge of the most current laws, rules, regulations and skills relevant to the respective functions and associated tasks. The Exchange therefore believes that any TPH applicant that can satisfy such requirements has demonstrated that he or she has attained a sufficient level of competence and knowledge to participate on the Exchange. In sum, the Exchange has determined that the requisite knowledge necessary to participate on the Exchange can be assessed adequately by the qualification examinations prescribed under Rule 3.6A and that a TPH Orientation and Exam requirement provides no material improvements to the qualification process. Accordingly, the Exchange believes requiring such individuals to also complete the TPH Orientation and take the TPH Exam is redundant and unnecessary. Furthermore, the Exchange believes that it is in the interests of all market participants to provide consistent qualification and registration requirements across markets and notes that its affiliated markets do not have any exchange-specific testing requirements. The Exchange lastly notes that there is no requirement to develop or maintain an exchange-developed test for member applicants.

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. Particularly, the Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes apply to all TPH applicants. The Exchange does not believe that the proposed rule change will impose any burden on intermarket

competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change only affects those applying for membership to Cboe Options. To the extent that the proposed change makes Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants. Lastly, the Exchange notes that it believes the proposed changes will reduce the regulatory burden placed on market participants engaged in trading activities by eliminating a redundant and unnecessary exam. Indeed, the proposed rule change will provide further harmonization of registration requirements across various markets, including its affiliates, which will reduce burdens on competition by removing impediments to participation in the national market system and promoting competition among participants across the multiple national securities exchanges.

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 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

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

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-2019-029 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.

All submissions should refer to File Number SR-CBOE-2019-029. 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

¹³ 15 U.S.C. 78s(b)(2)(B).

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-2019-029 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

Eduardo A. Aleman
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).