

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-85521; File No. SR-CboeEDGA-2019-004)

April 5, 2019

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Clarify the Handling of Orders that Contain Both a Post Only Instruction and Certain Other Order Handling Instructions Maintained to Facilitate Compliance with Rule 610(d) of Regulation NMS

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 25, 2019, Cboe EDGA Exchange, Inc. (the “Exchange” or “EDGA”) 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 Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 EDGA Exchange, Inc. (“EDGA” or the “Exchange”) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to amend EDGA rules to clarify the handling of orders that contain both a Post Only instruction and certain other order handling instructions maintained to facilitate compliance with Rule 610(d) of Regulation NMS.

The text of the proposed rule change is attached as Exhibit 5.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/equities/regulation/rule\\_filings/edga/](http://markets.cboe.com/us/equities/regulation/rule_filings/edga/)), 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 purpose of the proposed rule change is to amend EDGA rules to clarify the handling of orders that contain both a Post Only instruction and certain other order handling instructions maintained to facilitate compliance with Rule 610(d) of Regulation NMS (the "Locked and Crossed Markets Rule"). An order entered with a Post Only instruction does not remove liquidity, except when the order is an order to buy or sell a security priced below \$1.00, or when executing as the taker of liquidity would be economically beneficial to the firm entering the order – i.e., if the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGA Book and subsequently provided liquidity, including the applicable fees charged or rebates provided.<sup>5</sup> Today, the Exchange's

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<sup>5</sup> See EDGA Rule 11.6(n)(4). To determine at the time of a potential execution whether the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGA Book and subsequently provided

rules state that this handling applies to Post Only orders entered with Price Adjust<sup>6</sup> or Display-Price Sliding<sup>7</sup> instruction, which are re-pricing instructions used for compliance with the Locked and Crossed Markets Rule. Thus, an executable order entered with a Post Only instruction is eligible to remove liquidity in the circumstances described in EDGA Rule 11.6(n)(4) instead of having its ranked price or display price adjusted pursuant to those order handling instructions.

However, the Exchange also offers a “Cancel Back” instruction that is not covered by EDGA Rule 11.6(n)(4). An order entered with a Cancel Back instruction is immediately cancelled instead of re-priced when displaying the order at its limit price would create a violation of the Locked and Crossed Markets Rule.<sup>8</sup> All orders must include a Price Adjust, Display-Price Sliding, or Cancel Back instruction,<sup>9</sup> and orders entered with a Post Only instruction are handled in the same manner regardless of which of these three additional instructions is applied. The Exchange therefore proposes to amend EDGA Rule 11.6(n)(4) to eliminate references to

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liquidity, the Exchange will use the highest possible rebate paid and highest possible fee charged for such executions on the Exchange.

<sup>6</sup> “Price Adjust” is an order instruction requiring that where an order would be a Locking Quotation of an external market or Crossing Quotation if displayed by the System on the EDGA Book at the time of entry, the order will be displayed and ranked at a price that is one Minimum Price Variation lower (higher) than the Locking Price for orders to buy (sell). See EDGA Rule 11.6(l)(1)(A).

<sup>7</sup> “Display-Price Sliding” is an order instruction requiring that where an order would be a Locking Quotation or Crossing Quotation of an external market if displayed by the System on the EDGA Book at the time of entry, will be ranked at the Locking Price in the EDGA Book and displayed by the System at one Minimum Price Variation lower (higher) than the Locking Price for orders to buy (sell). See EDGA Rule 11.6(l)(1)(B).

<sup>8</sup> “Cancel Back” is an instruction the User may attach to an order instructing the System to immediately cancel the order when, if displayed by the System on the EDGA Book at the time of entry, or upon return to the System after being routed away, would create a violation of Rule 610(d) of Regulation NMS or Rule 201 of Regulation SHO, or the order cannot otherwise be executed or posted by the System to the EDGA Book at its limit price. See EDGA Rule 11.6(b).

<sup>9</sup> Display-Price Sliding is applied as the default handling unless Price Adjust or Cancel Back is elected [sic] See EDGA Rule 11.8(b)(10).

Display-Price Sliding and Price Adjust, similar to the current rules in place on its affiliated equities exchanges, Cboe BZX Exchange, Inc. (“BZX”) and Cboe BYX Exchange, Inc. (“BYX”).<sup>10</sup> The Exchange believes that removing the references to these two instructions in the rule would reduce potential confusion as the order handling described in the rule today applies to all orders entered with a Post Only instruction, and not a specific subset of those orders. No changes to the Exchange’s trading or other systems are contemplated by this proposed change, which is instead designed to increase transparency around the Exchange’s current operation.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,<sup>11</sup> in general, and Section 6(b)(5) of the Act,<sup>12</sup> in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, the Exchange believes that the proposed rule change is consistent with the public interest and the protection of investors as it would avoid potential confusion about how an order is handled if entered with both a Post Only and Cancel Back instruction. Today, the Exchange’s rules provide that an order entered into the EDGA Book with a Post Only instruction would remove liquidity in certain circumstances, such as when economically beneficial for the order. In addition, the rules specify that this handling applies to orders entered with a Price Adjust or Display-Price Sliding instruction. The rules, however, are silent as to the handling

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<sup>10</sup> See BZX Rule 11.9(c)(6) and BYX Rule 11.9(c)(6).

<sup>11</sup> 15 U.S.C. § 78f(b).

<sup>12</sup> 15 U.S.C. § 78f(b)(5).

applied if an order with a Post Only instruction contains a Cancel Back instruction. The Exchange's order handling is, in fact, the same regardless of which of these instructions are chosen by the member. As such, the Exchange believes that it is appropriate to amend EDGA Rule 11.6(n)(4) to eliminate references to the Price Adjust or Display-Price Sliding instruction, thereby making clear that this handling applies to all orders entered with a Post Only instruction and not only those that also contain Price Adjust or Display-Price Sliding instructions.

The Exchange believes that this order handling, which mirrors that in place on the Exchange's affiliated equities markets (i.e., BZX and BYX) is appropriate regardless of whether an order entered with a Post Only instruction also contains a Display-Price Sliding, Price Adjust, or Cancel Back instruction. Specifically, the Exchange believes that it is consistent with just and equitable principles of trade to permit an order entered with a Post Only instruction to remove liquidity when the order is an order to buy or sell a security priced below \$1.00, or when executing as the taker of liquidity would be economically beneficial to the firm entering the order. This handling is designed to ensure that orders entered with a Post Only instruction are eligible to trade in certain circumstances where the entering firm may have an interest in securing an execution on entry – i.e., as the taker of liquidity – notwithstanding the member's use of the Post Only instruction. Although the Exchange's rules currently mention order handling for the Display-Price Sliding and Price Adjust instructions specifically, this functionality should be applied equally to any order entered with a Post Only instruction. Thus, amending the rule as proposed would provide additional transparency into a feature offered by the Exchange that is potentially beneficial to members that utilize the Post Only instruction.

**B. Self-Regulatory Organization's Statement on Burden on Competition**

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Rather, the proposed rule change would remove ambiguity in the EDGA rules describing the Post Only instruction by amending those rules consistent with rules currently in place for the Exchange's affiliates, BZX and BYX. No change to the Exchange's order handling is contemplated by this proposed rule change, which would merely clarify the current handling for certain orders entered with a Post Only instruction. The Exchange therefore believes that the proposed rule change would increase transparency around the operation of the Exchange to the benefit of members and investors, without imposing any significant burden on competition.

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

No written comments were solicited or received 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 Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

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

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 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.

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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeEDGA-2019-004 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-CboeEDGA-2019-004. 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-CboeEDGA-2019-004, 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.<sup>15</sup>

Eduardo A. Aleman  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).