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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's website (*dtcc.com/legal/sec-rule-filings*). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR–DTC–2023–013 and should be submitted on or before January 18, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–28706 Filed 12–27–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99220; File No. SR–C2–2023–025]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Related to Physical Port Fees

December 21, 2023.

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 December 12, 2023, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (''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

Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2 Options'') 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://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), 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 relating to physical connectivity fees.[3]

By way of background, a physical port is utilized by a Member or non-Member to connect to the Exchange at the data centers where the Exchange's servers are located. The Exchange currently assesses the following physical connectivity fees for Trading Permit Holders (''TPHs'') and non-TPHs on a monthly basis: $2,500 per physical port for a 1 gigabit (''Gbps'') circuit and $7,500 per physical port for a 10 Gbps circuit. The Exchange proposes to increase the monthly fee for 10 Gbps physical ports from $7,500 to $8,500 per port. The Exchange notes the proposed fee change better enables it to continue to maintain and improve its market technology and services and also notes that the proposed fee amount, even as amended, continues to be in line with, or even lower than, amounts assessed by other exchanges for similar connections.[4] The physical ports may also be used to access the Systems for the following affiliate exchanges and only one monthly fee currently (and will continue) to apply per port: Cboe BZX Exchange, Inc. (options and equities platforms), Cboe EDGX Exchange, Inc. (options and equities platforms), Cboe BYX Exchange, Inc., and Cboe EDGA Exchange, Inc. (''Affiliate Exchanges'').[5]

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.[6] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[7] 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)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with section 6(b)(4)[9] of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on July 3, 2023 (SR–C2–2023–014). On September 1, 2023, the Exchange withdrew that filing and submitted SR–C2–2023–020. On September 29, 2023, the Securities and Exchange Commission issued a Suspension of and Order Instituting Proceedings to Determine whether to Approve or Disapprove a Proposed Rule Change to Amend its Fees Schedule Related to Physical Port Fees (the ''OIP''). On September 29, 2023, the Exchange filed the proposed fee change (SR–C2–2023–021). On October 13, 2023, the Exchange withdrew that filing and submitted SR–C2–2023–022. On December 12, 2023, the Exchange withdrew that filing and submitted this filing.

[4] *See e.g.*, The Nasdaq Stock Market LLC (''Nasdaq''), General 8, Connectivity to the Exchange. Nasdaq and its affiliated exchanges charge a monthly fee of $15,000 for each 10Gbps Ultra fiber connection to the respective exchange, which is analogous to the Exchange's 10Gbps physical port. *See also* New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago Inc., NYSE National, Inc. Connectivity Fee Schedule, which provides that 10 Gbps LX LCN Circuits (which are analogous to the Exchange's 10 Gbps physical port) are assessed $22,000 per month, per port.

[5] The Affiliate Exchanges are also submitting contemporaneous identical rule filings.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] 15 U.S.C. 78f(b)(4).

TPHs and other persons using its facilities.

The Exchange believes the proposed fee change is reasonable as it reflects a moderate increase in physical connectivity fees for 10 Gbps physical ports. Further, the current 10 Gbps physical port fee has remained unchanged since June 2018.[10] Since its last increase 5 years ago however, there has been notable inflation. Particularly, the dollar has had an average inflation rate of 3.9% per year between 2018 and today, producing a cumulative price increase of approximately 21.1% inflation since the fee for the 10 Gbps physical port was last modified.[11] Moreover, the Exchange historically does not increase fees every year, notwithstanding inflation. Accordingly, the Exchange believes the proposed fee is reasonable as it represents only an approximate 13% increase from the rates adopted five years ago, notwithstanding the cumulative rate of 21.1%. The Exchange is also unaware of any standard that suggests any fee proposal that exceeds a certain yearly or cumulative inflation rate is unreasonable.

The Exchange also believes the proposed fee is reasonable as it is still in line with, or even lower than, amounts assessed by other exchanges for similar connections.[12] Indeed, the Exchange believes assessing fees that are a lower rate than fees assessed by other exchanges for analogous connectivity (which were similarly adopted via the rule filing process and filed with the Commission) is reasonable. As noted above, the proposed fee is also the same as is concurrently being proposed for its Affiliate Exchanges. Further, TPHs are able to utilize a single port to connect to any of the Affiliate Exchanges with no additional fee assessed for that same physical port. Particularly, the Exchange believes the proposed monthly per port fee is reasonable, equitable and not unfairly discriminatory as it is assessed only once, even if it connects with another affiliate exchange since only one port is being used and the Exchange does not wish to charge multiple fees for the same port. Indeed, the Exchange notes that several ports are in fact purchased and utilized across one or more of the Exchange's affiliated Exchanges (and charged only once).

The Exchange also believes that the proposed fee change is not unfairly discriminatory because it would be assessed uniformly across all market participants that purchase the physical ports. The Exchange believes increasing the fee for 10 Gbps physical ports and charging a higher fee as compared to the 1 Gbps physical port is equitable as the 1 Gbps physical port is 1/10th the size of the 10 Gbps physical port and therefore does not offer access to many of the products and services offered by the Exchange (*e.g.,* ability to receive certain market data products). Thus, the value of the 1 Gbps alternative is lower than the value of the 10 Gbps alternative, when measured based on the type of Exchange access it offers. Moreover, market participants that purchase 10 Gbps physical ports utilize the most bandwidth and therefore consume the most resources from the network. As such, the Exchange believes the proposed fee change for 10 Gbps physical ports is reasonably and appropriately allocated.

The Exchange also notes TPHs and non-TPHs will continue to choose the method of connectivity based on their specific needs and no broker-dealer is required to become a TPH of, let alone connect directly to, the Exchange. There is also no regulatory requirement that any market participant connect to any one particular exchange. Moreover, direct connectivity is not a requirement to participate on the Exchange. The Exchange also believes substitutable products and services are available to market participants, including, among other things, other options exchanges that a market participant may connect to in lieu of the Exchange, indirect connectivity to the Exchange via a third-party reseller of connectivity, and/or trading of any options product, such as within the Over-the-Counter (OTC) markets which do not require connectivity to the Exchange. Indeed, there are currently 17 registered options exchanges that trade options (13 of which are not affiliated with Cboe), some of which have similar or lower connectivity fees.[13] Based on publicly available information, no single options exchange has more than approximately 20% of the market share.[14] Further, low barriers to entry mean that new exchanges may rapidly enter the market and offer additional substitute platforms to further compete with the Exchange and the products it offers. For example, there are 4 exchanges that have been added in the U.S. options markets in the last 5 years (*i.e.,* Nasdaq MRX, LLC, MIAX Pearl, LLC, MIAX Emerald LLC, and most recently, MEMX LLC).

As noted above, there is no regulatory requirement that any market participant connect to any one options exchange, nor that any market participant connect at a particular connection speed or act in a particular capacity on the Exchange, or trade any particular product offered on an exchange. Moreover, membership is not a requirement to participate on the Exchange. Indeed, the Exchange is unaware of anyone options exchange whose membership includes every registered broker-dealer. By way of example, while the Exchange has 52 TPHs, Cboe BZX has 61 members that trade options, and Cboe EDGX has 51 members that trade options. There is also no firm that is a Member of C2 Options only. Further, based on publicly available information regarding a sample of the Exchange's competitors, NYSE American Options has 71 members,[15] and NYSE Arca Options has 69 members,[16] MIAX Options has 46 members [17] and MIAX Pearl Options has 40 members.[18]

A market participant may also submit orders to the Exchange via a Member broker or a third-party reseller of connectivity. The Exchange notes that third-party non-TPHs also resell exchange connectivity. This indirect connectivity is another viable alternative for market participants to trade on the Exchange without connecting directly to the Exchange (and thus not pay the Exchange connectivity fees), which alternative is already being used by non-TPHs and further constrains the price that the Exchange is able to charge for connectivity to its Exchange.[19] The

[10] *See* Securities and Exchange Release No. 83455 (June 15, 2018), 83 FR 28892 (June 21, 2018) (SR–C2–2018–014).

[11] *See https://www.officialdata.org/us/inflation/2010?amount=1.*

[12] *See e.g.,* The Nasdaq Stock Market LLC (''Nasdaq''), General 8, Connectivity to the Exchange. Nasdaq and its affiliated exchanges charge a monthly fee of $15,000 for each 10Gbps Ultra fiber connection to the respective exchange, which is analogous to the Exchange's 10Gbps physical port. *See also* New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago Inc., NYSE National, Inc. Connectivity Fee Schedule, which provides that 10 Gbps LX LCN Circuits (which are analogous to the Exchange's 10 Gbps physical port) are assessed $22,000 per month, per port.

[13] *Id.*

[14] *See* Cboe Global Markets U.S. Options Market Volume Summary (October 13, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

[15] *See https://www.nyse.com/markets/american-options/membership#directory.*

[16] *See https://www.nyse.com/markets/arca-options/membership#directory.*

[17] *See https://www.miaxglobal.com/sites/default/files/page-files/MIAX_Options_Exchange_Members_April_2023_04282023.pdf.*

[18] *See https://www.miaxglobal.com/sites/default/files/page-files/MIAX_Pearl_Exchange_Members_01172023_0.pdf.*

[19] Third-party resellers of connectivity play an important role in the capital markets infrastructure ecosystem. For example, third-party resellers can help unify access for customers who want exposure to multiple financial markets that are

Exchange notes that it could, but chooses not to, preclude market participants from reselling its connectivity. Unlike other exchanges, the Exchange also chooses not to adopt fees that would be assessed to third-party resellers on a per customer basis (*i.e.,* fee based on number of TPHs that connect to the Exchange indirectly via the third-party).[20] Particularly, these third-party resellers may purchase the Exchange's physical ports and resell access to such ports either alone or as part of a package of services. The Exchange notes that multiple TPHs are able to share a single physical port (and corresponding bandwidth) with other non-affiliated TPHs if purchased through a third-party reseller.[21] This allows resellers to mutualize the costs of the ports for market participants and provide such ports at a price that may be lower than the Exchange charges due to this mutualized connectivity. These third-party sellers may also provide an additional value to market participants in addition to the physical port itself as they may also manage and monitor these connections, and clients of these third-parties may also be able to connect from the same colocation facility either from their own racks or using the third-party's managed racks and infrastructure which may provide further cost-savings. The Exchange believes such third-party resellers may also use the Exchange's connectivity as an incentive for market participants to purchase further services such as hosting services. That is, even firms that wish to utilize a single, dedicated 10 Gb port (*i.e.,* use one single 10 Gb port themselves instead of sharing a port with other firms), may still realize cost savings via a third-party reseller as it relates to a physical port because such reseller may be providing a discount on the physical port to incentivize the purchase of additional services and infrastructure support alongside the physical port offering (*e.g.,* providing space, hosting, power, and other long-haul connectivity options). This is similar to cell phone carriers offering a new iPhone at a discount (or even at no cost) if purchased in connection with a new monthly phone plan. These services may reevaluate reselling or offering Cboe's direct connectivity if they deem the fees to be excessive. Further, as noted above, the Exchange does not receive any connectivity revenue when connectivity is resold by a third-party, which often is resold to multiple customers, some of whom are agency broker-dealers that have numerous customers of their own. Therefore, given the availability of third-party providers that also offer connectivity solutions, the Exchange believes participation on the Exchange remains affordable (notwithstanding the proposed fee change) for all market participants, including trading firms that may be able to take advantage of lower costs that result from mutualized connectivity and/or from other services provided alongside the physical port offerings. Because third-party resellers also act as a viable alternative to direct connectivity to the Exchange, the price that the Exchange is able to charge for direct connectivity to its Exchange is constrained. Moreover, if the Exchange were to assess supracompetitve rates, members and non-members (such as third-party resellers) alike, may decide not to purchase, or to reduce its use of, the Exchange's direct connectivity. Disincentivizing market participants from purchasing Exchange connectivity would only serve to discourage participation on the Exchange which ultimately does not benefit the Exchange. Further, the Exchange believes its offerings are more affordable as compared to similar offerings at competitor exchanges.[22]

Accordingly, the vigorous competition among national securities exchanges provides many alternatives for firms to voluntarily decide whether direct connectivity to the Exchange is appropriate and worthwhile, and as noted above, no broker-dealer is required to become a Member of the Exchange, let alone connect directly to it. In the event that a market participant views the Exchange's proposed fee change as more or less attractive than the competition, that market participant can choose to connect to the Exchange indirectly or may choose not to connect to that exchange and connect instead to one or more of the other 13 non-Cboe affiliated options markets. Indeed, market participants are free to choose which exchange or reseller to use to satisfy their business needs. Moreover, if the Exchange charges excessive fees, it may stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity. Notwithstanding the foregoing, the Exchange still believes that the proposed fee increase is reasonable, equitably allocated and not unfairly discriminatory, even for market participants that determine to connect directly to the Exchange for business purposes, as those business reasons should presumably result in revenue capable of covering the proposed fee.

The Exchange lastly notes that it is not required by the Exchange Act, nor any other rule or regulation, to undertake a cost-of-service or rate-making approach with respect to fee proposals. Moreover, Congress's intent in enacting the 1975 Amendments to the Act was to enable competition—rather than government order—to determine prices. The principal purpose of the amendments was to facilitate the creation of a national market system for the trading of securities. Congress intended that this ''national market system evolve through the interplay of *competitive forces* as unnecessary regulatory restrictions are removed.'' [23] Other provisions of the Act confirm that intent. For example, the Act provides that an exchange must design its rules ''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.'' [24] Likewise, the Act grants the Commission authority to amend or repeal ''[t]he rules of [an] exchange [that] impose any burden on

geographically dispersed by establishing connectivity to all of the different exchanges, so the customers themselves do not have to. Many of the third-party connectivity resellers also act as distribution agents for all of the market data generated by the exchanges as they can use their established connectivity to subscribe to, and redistribute, data over their networks. This may remove barriers that infrastructure requirements may otherwise pose for customers looking to access multiple markets and real-time data feeds. This facilitation of overall access to the marketplace is ultimately beneficial for the entire capital markets ecosystem, including the Exchange, on which such firms transact business.

[20] *See, e.g.,* Nasdaq Price List—U.S. Direct Connection and Extranet Fees, available at, US Direct-Extranet Connection (*nasdaqtrader.com*); and Securities Exchange Act Release Nos. 74077 (January 16, 2022), 80 FR 3683 (January 23, 2022) (SR–NASDAQ–2015–002); and 82037 (November 8, 2022), 82 FR 52953 (November 15, 2022) (SR–NASDAQ–2017–114).

[21] For example, a third-party reseller may purchase one 10 Gbps physical port from the Exchange and resell that connectivity to three different market participants who may only need 3 Gbps each and leverage the same single port.

[22] *See e.g.,* The Nasdaq Stock Market LLC (''Nasdaq''), General 8, Connectivity to the Exchange. Nasdaq and its affiliated exchanges charge a monthly fee of $15,000 for each 10Gbps Ultra fiber connection to the respective exchange, which is analogous to the Exchange's 10Gbps physical port. *See also* New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago Inc., NYSE National, Inc. Connectivity Fee Schedule, which provides that 10 Gbps LX LCN Circuits (which are analogous to the Exchange's 10 Gbps physical port) are assessed $22,000 per month, per port.

[23] *See* H.R. Rep. No. 94–229, at 92 (1975) (Conf. Rep.) (emphasis added).

[24] 15 U.S.C. 78f(b)(5).

competition not necessary or appropriate in furtherance of the purposes of this chapter.'' [25] In short, the promotion of free and open competition was a core congressional objective in creating the national market system.[26] Indeed, the Commission has historically interpreted that mandate to promote competitive forces to determine prices whenever compatible with a national market system. Accordingly, the Exchange believes it has met its burden to demonstrate that its proposed fee change is reasonable and consistent with the immediate filing process chosen by Congress, which created a system whereby market forces determine access fees in the vast majority of cases, subject to oversight only in particular cases of abuse or market failure. Lastly, and importantly, the Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for the proposed fee would be so complicated that it could not be done practically.

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 proposed fee change will not impact intramarket competition because it will apply to all similarly situated TPHs equally (*i.e.,* all market participants that choose to purchase the 10 Gbps physical port). Additionally, the Exchange does not believe its proposed pricing will impose a barrier to entry to smaller participants and notes that its proposed connectivity pricing is associated with relative usage of the various market participants. For example, market participants with modest capacity needs can continue to buy the less expensive 1 Gbps physical port (which cost is not changing) or may choose to obtain access via a third-party reseller. While pricing may be increased for the larger capacity physical ports, such options provide far more capacity and are purchased by those that consume more resources from the network. Accordingly, the proposed connectivity fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation reflects the network resources consumed by the various size of market participants—lowest bandwidth consuming members pay the least, and highest bandwidth consuming members pays the most.

The Exchange's proposed fee is also still lower than some fees for similar connectivity on other exchanges and therefore may stimulate intermarket competition by attracting additional firms to connect to the Exchange or at least should not deter interested participants from connecting directly to the Exchange. Further, if the changes proposed herein are unattractive to market participants, the Exchange can, and likely will, see a decline in connectivity via 10 Gbps physical ports as a result. The Exchange operates in a highly competitive market in which market participants can determine whether or not to connect directly to the Exchange based on the value received compared to the cost of doing so. Indeed, market participants have numerous alternative venues that they may participate on and direct their order flow, including 13 non-Cboe affiliated options markets, as well as off-exchange venues, where competitive products are available for trading. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [27] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[28] Accordingly, the Exchange does not believe its proposed change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act [29] and paragraph (f) of Rule 19b–4 [30] 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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–C2–2023–025 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–C2–2023–025. This file number should be included on the subject line if email is used. To help the Commission process and review your

[25] 15 U.S.C. 78f(8).

[26] *See* also 15 U.S.C. 78k–l(a)(1)(C)(ii) (purposes of Exchange Act include to promote ''fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets''); Order, 73 FR at 74781 (''The Exchange Act and its legislative history strongly support the Commission's reliance on competition, whenever possible, in meeting its regulatory responsibilities for overseeing the SROs and the national market system.'').

[27] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[28] *NetCoalition* v. *SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4(f).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–C2–2023–025 and should be submitted on or before January 18, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–28606 Filed 12–27–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99221; File No. SR–CboeEDGX–2023–080]

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

December 21, 2023.

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 December 12, 2023, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''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

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX Options'') 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://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 for its equity options platform (''EDGX Options'') relating to physical connectivity fees.[3]

By way of background, a physical port is utilized by a Member or non-Member to connect to the Exchange at the data centers where the Exchange's servers are located. The Exchange currently assesses the following physical connectivity fees for Members and non-Members on a monthly basis: $2,500 per physical port for a 1 gigabit (''Gb'') circuit and $7,500 per physical port for a 10 Gb circuit. The Exchange proposes to increase the monthly fee for 10 Gb physical ports from $7,500 to $8,500 per port. The Exchange notes the proposed fee change better enables it to continue to maintain and improve its market technology and services and also notes that the proposed fee amount, even as amended, continues to be in line with, or even lower than, amounts assessed by other exchanges for similar connections.[4] The physical ports may also be used to access the Systems for the following affiliate exchanges and only one monthly fee currently (and will continue) to apply per port: the Exchange's equities platform (EDGX Equities), Cboe BZX Exchange, Inc. (options and equities platforms), Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe C2 Exchange, Inc. (''Affiliate Exchanges'').[5]

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.[6] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[7] 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

[31] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on July 3, 2023 (SR–CboeEDGX–2023–045). On September 1, 2023, the Exchange withdrew that filing and submitted SR–CboeEDGX–2023–058. On September 29, 2023, the Securities and Exchange Commission issued a Suspension of and Order Instituting Proceedings to Determine whether to Approve or Disapprove a Proposed Rule Change to Amend its Fees Schedule Related to Physical Port Fees (the ''OIP''). On September 29, 2023, the Exchange filed the proposed fee change (SR–CboeEDGX–2023–063). On October 13, 2023, the Exchange withdrew that filing and submitted SR–CboeEDGX–2023–064. On December 12, 2023, the Exchange withdrew that filing and submitted this filing.

[4] *See e.g.,* The Nasdaq Stock Market LLC (''Nasdaq''), General 8, Connectivity to the Exchange. Nasdaq and its affiliated exchanges charge a monthly fee of $15,000 for each 10Gb Ultra fiber connection to the respective exchange, which is analogous to the Exchange's 10Gb physical port. *See also* New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago Inc., NYSE National, Inc. Connectivity Fee Schedule, which provides that 10 Gb LX LCN Circuits (which are analogous to the Exchange's 10 Gb physical port) are assessed $22,000 per month, per port.

[5] The Affiliate Exchanges are also submitting contemporaneous identical rule filings.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).