

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-EMERALD-2021-45 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-EMERALD-2021-45. 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 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-EMERALD-2021-45, and should be submitted on or before February 9, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022-00880 Filed 1-18-22; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93958; File No. SR-CBOE-2021-068]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Adopt a Modified Trading Schedule for Holidays

January 12, 2022.

On November 15, 2021, Cboe Exchange, Inc. filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt a modified trading schedule for holidays. The proposed rule change was published for comment in the **Federal Register** on December 3, 2021.³ The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act⁴ provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is January 17, 2022.

The Commission hereby is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, pursuant to Section 19(b)(2) of the Act,⁵ the Commission

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 93677 (November 29, 2021), 86 FR 68703.

⁴ 15 U.S.C. 78s(b)(2).

⁵ *Id.*

designates March 3, 2022, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-CBOE-2021-068).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022-00872 Filed 1-18-22; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93955; File No. SR-CBOE-2021-076]

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

January 12, 2022.

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 December 30, 2021, 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, 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 Exchange, Inc. (the "Exchange" or "Cboe 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://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

⁶ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁸ 17 CFR 200.30-3(a)(12).

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule in connection with certain surcharges, a trading floor-related fee and its Global Trading Hours ("GTH") Cboe Volatility Index ("VIX") options/VIX weekly ("VIXW") options and S&P 500 Index ("SPX") options/SPX weekly ("SPXW") LMM Incentive Programs, effective January 2, 2022.

First, the Exchange proposes to amend the Execution Surcharge fee in Rate Table—Underlying Symbol List A of the Fees Schedule applicable to non-Market-Maker orders³ executed electronically in SPXW options. Currently, a surcharge fee of \$0.13 per contract is assessed for non-Market-Maker orders executed electronically in SPXW. The proposed rule change slightly increases this surcharge fee from \$0.13 per contract to \$0.14 per contract. The Exchange notes that the proposed SPXW Execution Surcharge fee is still less than the Execution Surcharge fee assessed for SPX and SPESG transactions.⁴

Next, the Exchange proposes to marginally increase the Index License Surcharge fees currently applicable to orders executed in SPX (including SPXW) options in Rate Table—Underlying Symbol List A and to orders executed in MSCI Emerging Markets Index ("MXEF") options and MSCI

EAFE Index ("MXEA") options (collectively, "MSCI options") in Rate Table—All Products Excluding Underlying Symbol List A. Specifically, the Exchange currently assesses an Index License Surcharge fee of \$0.17 per contract for non-Customer orders executed in SPX/SPXW and an Index License Surcharge fee of \$0.10 per contract for non-Customer orders executed in MSCI options. The proposed rule change increases the Index License Surcharge fee applicable to orders executed in SPX/SPXW from \$0.17 per contract to \$0.18 per contract and the Index License Surcharge fee applicable to orders executed in MSCI options from \$0.10 per contract to \$0.12 per contract. The Exchange notes that the Index License Surcharge fees in place for SPX/SPXW and MSCI options are designed to recoup some of the costs associated with the licenses for these indexes.⁵ The Exchange has recently renewed its license arrangements for its SPX and MSCI index licenses and, as a result, the proposed rule change amends the Index License Surcharge fees for SPX/SPXW and MSCI options in order to continue to offset some of the costs associated with the licenses for these indexes.

Next, the Exchange proposes to amend a badge type in the Access Badges table of the Fees Schedule. Currently, a \$70.00 fee is assessed for Clerk badges to access the Exchange's trading floor. The Exchange proposes to extend this badge fee to clerks and other Trading Permit Hold ("TPH") employees in order to cover TPH employees that also receive an access badge to the Exchange's trading floor (e.g., TPH technical support personnel). The Exchange notes that badge access is optional and other TPH employees may continue to be admitted to the trading floor if signed in by authorized TPH personnel.

Finally, the Exchange proposes to amend the rebates provided under its GTH1 and GTH2 VIX/VIXW LMM Incentive Programs and amend certain quote width categories under its GTH2 SPX/SPXW LMM Incentive Program. In particular, the Exchange offers, among other LMM incentive programs, a GTH1 VIX/VIXW LMM Incentive Program that applies during GTH from 7:15 p.m. CST to 2:00 a.m. CST ("GTH1") and a GTH2 VIX/VIXW LMM Incentive Program and GTH2 SPX/SPXW LMM Incentive Program that apply during GTH from 2:00 a.m. CST to 8:15 a.m. CST

("GTH2"). The Exchange notes that these LMM incentive programs in the Fees Schedule provide a rebate to TPHs with LMM appointments to the respective incentive program that meet certain quoting standards in VIX/VIXW and SPX/SPXW, as applicable, in a month. The Exchange notes that meeting or exceeding the quoting standards in VIX/VIXW or SPX/SPXW to receive the applicable rebates (as currently offered and as proposed; described in further detail below) is optional for an LMM appointed to one of the GTH VIX/VIXW and SPX/SPXW LMM Incentive Programs. Rather, an LMM appointed to an incentive program is eligible to receive the corresponding rebate if it satisfies the applicable quoting standards (as currently offered and as proposed, described in further detail below), which the Exchange believes encourages an LMM to provide liquidity in the applicable program's products during GTH. The Exchange may consider other exceptions to the programs' quoting standards based on demonstrated legal or regulatory requirements or other mitigating circumstances. In calculating whether an LMM appointed to a GTH VIX/VIXW or GTH2 SPX/SPXW incentive program meets the applicable program's quoting standards each month, the Exchange excludes from the calculation in that month the business day in which the LMM missed meeting or exceeding the quoting standards in the highest number of series.

An LMM appointed to one of the GTH VIX/VIXW LMM Incentive Programs must provide continuous electronic quotes during GTH1 or GTH2, as applicable, that meet or exceed the quoting standards under the applicable program in at least 99% of each of the VIX and VIXW series, 90% of the time in a given month in order to receive a rebate for that month in the amount of \$15,000 for VIX and \$10,000 for VIXW (or pro-rated amount if an appointment begins after the first trading day of the month or ends prior to the last trading day of the month) for that month. The Exchange now proposes to increase each rebate amount received under the GTH1 and GTH2 VIX/VIXW LMM Incentive Programs for meeting the applicable quoting standards in a given month in VIX and VIXW, by slightly increasing the rebate amount for VIX from \$15,000 to \$20,000 and in VIXW, by slightly increasing the rebate amount from \$10,000 to \$15,000. The Exchange notes that no changes are being made to the quoting standards under the GTH1 or GTH2 VIX/VIXW LMM Incentive Programs. The Exchange wishes to

³ Non-Market-Makers include Customers (capacity "C"), Clearing Trading Permit Holders (capacity "F"), Non-Clearing Trading Permit Holder Affiliates (capacity "L"), Broker-Dealers (capacity "B"), Joint Back-Offices (capacity "J"), Non-Trading Permit Holder Market-Makers (capacity "N"), and Professionals (capacity "U"). Capacity "M" applies to Market-Makers.

⁴ See Cboe Options Fees Schedule, Rate Table—Underlying Symbol List A, Execution Surcharge, SPX (not including SPXW) and SPESG, which assesses a surcharge fee of \$0.21 per contract for non-Market-Maker orders in SPX and SPESG.

⁵ See Securities Exchange Release Nos. 74854 (April 30, 2015), 80 FR 26124 (May 6, 2015) (SR-CBOE-2015-041); and 74422 (March 4, 2015), 80 FR 12680 (March 10, 2015) (SR-CBOE-2015-020).

further incentivize the LMMs appointed to the GTH VIX/VIXW LMM Incentive Programs to provide significant liquidity in VIX/VIXW options during all of GTH by meeting the applicable quoting standards currently under each program in order to receive the proposed increased rebates.

An LMM appointed to the GTH2 SPX/SPXW LMM Incentive Program must provide continuous electronic quotes during GTH2 that meet or exceed the quoting standards, provided below, in at least 85% of each of the SPX and SPXW series, 90% of the time in a given month in order to receive a rebate for that

month in the amount of \$15,000 for SPX and \$35,000 for SPXW (or pro-rated amount if an appointment begins after the first trading day of the month or ends prior to the last trading day of the month) for that month.

Premium level	Expiring		Near term		Mid term		Long term	
	7 days or less		8 days to 60 days		61 days to 270 days		271 days to 500 days	
	Width	Size	Width	Size	Width	Size	Width	Size
VIX Value at Prior Close <20								
\$0.00–\$5.00	\$0.35	25	\$0.40	15	\$0.60	5	\$1.20	5
\$5.01–\$15.00	0.60	20	0.60	20	1.50	10	2.00	5
\$15.01–\$50.00	1.20	15	2.00	15	2.00	10	4.00	5
\$50.01–\$100.00	6.00	10	4.00	10	3.00	10	5.00	5
\$100.01–\$200.00	15.00	1	5.00	5	4.00	5	6.00	5
Greater than \$200.00	20.00	1	8.00	1	12.00	1	50.00	1
VIX Value at Prior Close from 20–30								
\$0.00–\$5.00	0.60	15	0.80	10	0.75	5	2.00	5
\$5.01–\$15.00	1.00	15	1.00	15	2.20	5	3.00	5
\$15.01–\$50.00	2.50	10	3.50	10	3.0	5	5.00	5
\$50.01–\$100.00	10.00	10	7.00	10	3.50	5	7.00	5
\$100.01–\$200.00	18.00	1	8.00	5	6.00	5	10.00	5
Greater than \$200.00	25.00	1	12.00	1	2.00	1	60.00	1
VIX Value at Prior Close >30								
\$0.00–\$5.00	0.90	10	1.00	10	1.00	5	3.00	5
\$5.01–\$15.00	2.50	10	2.50	10	3.00	5	4.00	5
\$15.01–\$50.00	4.00	10	5.00	10	5.00	5	8.00	5
\$50.01–\$100.00	12.00	5	10.00	5	4.50	3	10.00	1
\$100.01–\$200.00	20.00	1	12.00	5	15.00	1	18.00	1
Greater than 200.00	30.00	1	25.00	1	30.00	1	70.00	1

The Exchange proposes to marginally widen certain quotes widths applicable when the VIX Index value at the prior close is less than 20 for SPX/SPXW options expiring in 7 days or less as follows: Widen the quote width that corresponds to the \$5.01 to \$15.00 premium level from \$0.60 to \$0.80; widen the quote width that corresponds to a premium level of \$15.01 to \$50.00 from \$1.20 to \$1.80; and widen the quote width that corresponds to the premium level of \$50.01 to \$100.00 from \$6.00 to \$7.50. The Exchange notes that, generally, demand for and participation in SPX/SPXW options decreases as time to expiration decreases and, as a result, it becomes more difficult for LMMs to quote within specified widths and sizes for SPX/SPXW options that expire in 7 days or less. As such, the proposed rule change is designed to slightly ease the quoting requirements under the expiration category of 7 days or less (when the VIX Index value is less than 20 at the prior close) by marginally widen certain quote widths in order to better enable and encourage LMMs to satisfy the quoting standards to receive the current monthly rebate applicable to SPX and/or SPXW.

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 Section 6(b)(4) of the Act,⁸ which requires that Exchange rules provide for

the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes amending the Execution Surcharge fee applicable to non-Market-Maker electronic orders in SPXW is reasonable as such fee is still lower than the Execution Surcharge fee applicable to non-Market-Maker orders transacted in SPX and SPESG.⁹ Additionally, the proposed increase helps to ensure that there is reasonable cost equivalence between the primary execution channels for SPXW. More specifically, the SPXW Surcharge fee was adopted to minimize the cost differentials between manual and electronic executions, which is in the interest of the Exchange as it must both maintain robust electronic systems as well as provide for economic opportunity for floor brokers to continue to conduct business, as they serve an important function in achieving price discovery and customer executions.¹⁰ The Exchange believes the proposed change is also equitable and not unfairly

⁹ See *supra* note 4.

¹⁰ See Securities Exchange Act Release No. 71295 (January 14, 2014) 79 FR 3443 (January 21, 2014) (SR-CBOE-2013-129).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(4).

discriminatory as it will continue to apply uniformly to all non-Market-Maker orders executed electronically in SPXW.

The Exchange believes that it is reasonable to increase the amount of the Index License Surcharge fees for orders in SPX/SPXW and MSCI options as the proposed increases are consistent with the purpose of such surcharge fees as they are intended to continue to help recoup some of the costs associated with the license for such products in light of recently renewed license arrangements between the Exchange and the applicable index providers. The proposed Index License Surcharge fees are also equitable and not unfairly discriminatory because the surcharge fees will continue to be assessed uniformly for all non-Customer orders in SPX/SPXW and MSCI options, as applicable.

The Exchange believes the proposed rule change to extend the access badge fee to other TPH employees, in addition to clerks, is reasonable as it is designed to cover TPH employees that also receive an access badge to the Exchange's trading floor (e.g., TPH technical support personnel). The Exchange again notes that badge access is optional and other TPH employees may continue to be admitted to the trading floor if signed in by TPH personnel with badge access. The extension of the access badge fee to other TPH employees is equitable and not unfairly discriminatory because it will apply uniformly to all TPH employees that opt to receive an access badge.

Regarding the GTH VIX/VIXW LMM Incentive Programs and the GTH2 SPX/SPXW LMM Incentive Program, generally, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to continue to offer these financial incentives, including as amended, to LMMs appointed to the programs, because it benefits all market participants trading in the corresponding products during GTH. These incentive programs encourage the LMMs appointed to such programs to satisfy the applicable quoting standards, which may increase liquidity and provide more trading opportunities and tighter spreads. Indeed, the Exchange notes that these LMMs serve a crucial role in providing quotes and the opportunity for market participants to trade VIX/VIXW and SPX/SPXW options, as applicable, which can lead to increased volume, providing for robust markets. The Exchange ultimately offers the LMM Incentive Programs, as amended, to sufficiently incentivize LMMs appointed to each

incentive program to provide key liquidity and active markets in the corresponding program products during the corresponding trading sessions. The Exchange believes that these incentive programs, as amended, will continue to encourage increased quoting to add liquidity in each of the corresponding program products, thereby protecting investors and the public interest. The Exchange also notes that an LMM appointed to an incentive program may undertake added costs each month to satisfy that heightened quoting standards (e.g., having to purchase additional logical connectivity).

In particular, the Exchange believes that the proposed increases to the rebates applicable to VIX and VIXW provided under the GTH VIX/VIXW LMM Incentive programs are reasonably designed to continue to incentivize an appointed LMM to meet the applicable quoting standards for VIX/VIXW options during GTH, thereby providing liquid and active markets, which facilitates tighter spreads, increased trading opportunities, and overall enhanced market quality to the benefit of all market participants. The Exchange further believes that the proposed rule change to amend the rebate amount received for VIX (\$20,000) and VIXW options (\$15,000) is reasonable because it is comparable to and within the range of the rebates offered by other LMM Incentive Programs. For example, the GTH SPX/SPXW LMM Programs currently offers \$15,000 for SPX and \$35,000 SPXW options in which the applicable quoting standards are met in a given month. The Exchange believes the proposed rebates applicable to the GTH VIX/VIXW LMM Incentive Programs are equitable and not unfairly discriminatory because they will continue to apply equally to any TPH that is appointed as an LMM to the GTH1 and GTH2 VIX/VIXW LMM Incentive Programs.

The Exchange believes that it is reasonable to slightly ease the quoting requirements under the GTH2 SPX/SPXW LMM Incentive Program by marginally widen certain quote widths for SPX/SPXW options that expire in 7 days or less, wherein it becomes more difficult for LMMs to quote within specified widths, in order to better enable and encourage LMMs to satisfy the quoting standards to receive the current monthly rebate applicable to SPX and/or SPXW. As such, the Exchange believes the slightly wider quote widths are reasonably designed to facilitate LMMs appointed to the GTH2 SPX/SPXW LMM Incentive Program in meeting the heightened quoting standards (in order to receive the

current rebate offered under the program) by increasing their quoting activity and posting tighter spreads and more aggressive quotes in SPX/SPXW options during GTH2. An increase in quoting activity and tighter quotes tends to signal additional corresponding increase in order flow from other market participants, which benefits all investors by deepening the Exchange's liquidity pool, potentially providing even greater execution incentives and opportunities, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange also believes that the proposed widths are reasonable because they remain generally aligned with the current heightened quoting standards in the program, as the proposed widths are only marginally larger than the current widths. The Exchange believes that the proposed increase in certain quote widths under the GTH2 SPX/SPXW LMM Incentive Program is equitable and not unfairly discriminatory because such quote widths will continue to apply equally to any and all TPHs with LMM appointments to the GTH2 SPX/SPXW LMM Incentive Program that seek to meet the program's heightened quoting standards in order to receive the current rebates offered under the program.

Additionally, the Exchange notes if an LMM appointed to the GTH VIX/VIXW LMM Incentive Programs or the GTH2 SPX/SPXW LMM Incentive Program does not satisfy the corresponding quoting standards for any given month, then it simply will not receive the rebate(s) offered by the respective program for that month.

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule changes in connection with surcharge fees will impose any burden on intramarket competition because each applies uniformly to all similarly situated TPHs in a uniform manner (i.e., to all non-Market-Maker electronic executions in SPXW and to all non-Customer executions in SPX/SPXW or MSCI options). Additionally, the access badge fee will apply uniformly to all other TPH employees in the same manner as it applies to all clerk badges today. The Exchange again notes that badge access is optional and

other TPH employees may continue to be admitted to the trading floor if signed in by TPH personnel with badge access. Additionally, the proposed changes to existing GTH VIX/VIXW and SPX/SPXW LMM Incentive Programs will apply to all LMMs appointed to the applicable program classes (*i.e.*, VIX/VIXW and SPX/SPXW) in a uniform manner. To the extent these LMMs appointed to an incentive program receive a benefit that other market participants do not, as stated, these LMMs in their role as Mark-Makers on the Exchange have different obligations and are held to different standards. For example, Market-Makers play a crucial role in providing active and liquid markets in their appointed products, thereby providing a robust market which benefits all market participants. Such Market-Makers also have obligations and regulatory requirements that other participants do not have. The Exchange also notes that an LMM appointed to an incentive program may undertake added costs each month that it needs to satisfy that heightened quoting standards (*e.g.*, having to purchase additional logical connectivity). The Exchange also notes that the incentive programs are designed to attract additional order flow to the Exchange, wherein greater liquidity benefits all market participants by providing more trading opportunities, tighter spreads, and added market transparency and price discovery, and signals to other market participants to direct their order flow to those markets, thereby contributing to robust levels of liquidity.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed amendments to the surcharges and the LMM Incentive Programs, apply only to Exchange proprietary products, which are traded exclusively on Cboe Options. Additionally, the Exchange notes that at least one other options exchange assesses a badge fee for employees of on-floor registrants.¹¹

Additionally, the Exchange notes that it operates in a highly competitive market. TPHs have numerous alternative venues that they may participate on and direct their order flow, including 15 other options exchanges, as well as off-exchange venues, where competitive products are

available for trading. Based on publicly available information, no single options exchange has more than 15% of the market share.¹² Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange, and, additionally off-exchange venues, if they deem fee levels at those other venues to be more favorable. 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.”¹³ 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.’ . . .”.¹⁴ Accordingly, the Exchange does not believe its proposed fee 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.

¹² See Cboe Global Markets U.S. Options Market Volume Summary, Month-to-Date (December 17, 2021), available at https://www.cboe.com/us/options/market_statistics/.

¹³ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

¹⁴ *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)).

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 Act¹⁵ and paragraph (f) of Rule 19b–4¹⁶ 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR–CBOE–2021–076 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–2021–076. 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

¹¹ See BOX FEE Schedule, Section VIII C, Trading Floor Participant Fees, which assesses a \$100 badge fee for “all other registered on-floor persons employed by or associated with a Floor Market Maker or Floor Broker”.

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b–4(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-2021-076 and should be submitted on or before February 9, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2022-00871 Filed 1-18-22; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, January 20, 2022 at 2 p.m.

CHANGES IN THE MEETING: The Closed Meeting scheduled for Thursday, January 20, 2022 at 2 p.m. has been changed to Thursday, January 20, 2022 at 2:15 p.m.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Authority: 5 U.S.C. 552b.

Dated: January 13, 2022.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2022-01000 Filed 1-14-22; 11:15 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93966; File No. SR-FINRA-2021-029]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change To Amend FINRA Rule 6732 and Expand the Scope of Exemptions That FINRA May Grant ATSS From the TRACE Reporting Requirements

January 12, 2022.

I. Introduction

On November 15, 2021, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b-4 thereunder, ² a proposed rule change to amend FINRA Rule 6732 (Exemption from Trade Reporting Obligation for Certain Transactions on an Alternative Trading System) to expand the scope of exemptions from the transaction reporting obligations of FINRA Rule 6730 (Transaction Reporting) that FINRA may grant to a member alternative trading system (“ATS”). The proposed rule change was published for comment in the **Federal Register** on November 30, 2021.³ The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

FINRA Rule 6730(a) requires each FINRA member that is a Party to a Transaction in a TRACE-Eligible Security ⁴ to report the transaction to the Trade Reporting and Compliance Engine (“TRACE”). FINRA Rule 6710(e) defines “Party to a Transaction” as an introducing broker-dealer (if any), an executing broker-dealer, or a customer. An alternative trading system (“ATS”) is a Party to a Transaction occurring through its system and has a TRACE transaction reporting obligation, unless an exception or exemption applies.⁵

FINRA Rule 6732 provides FINRA with the authority to exempt a member ATS from TRACE reporting obligations under FINRA Rule 6730. FINRA has stated that it adopted Rule 6732 in

response to concerns raised by members regarding operational difficulties arising from the reporting of certain transactions on an ATS, particularly when the ATS does not have a role in the clearance and settlement for trades on its system.⁶ If FINRA grants an ATS an exemption under Rule 6732, a member subscriber of the ATS, when engaging in a trade on the ATS covered by the Rule 6732 exemption, must report against its counterparty (rather than the ATS), which mitigates these operational difficulties and facilitates clearance and settlement.⁷

Currently, under Rule 6732, FINRA may grant an ATS an exemption if the following criteria are satisfied: (1) A trade is between two FINRA members; (2) the trade does not pass through any ATS account, and the ATS seeking the exemption does not exchange TRACE-Eligible Securities or funds on behalf of the subscribers or take either side of the trade for clearing or settlement purposes, or in any other way insert itself into the trade; (3) the ATS seeking the exemption agrees to provide data relating to each exempted trade to FINRA on either a monthly basis or as otherwise proscribed by FINRA, and acknowledges that failure to meet this requirement would result in its exemption being revoked; (4) the ATS seeking the exemption pays the applicable reporting fee to FINRA; and (5) the ATS seeking the exemption has entered into a written agreement with each member that is a Party to a Transaction to ensure that each exempted trade is properly reported.⁸ Where these criteria are satisfied, an exempted trade occurring on the ATS must be reported by a member (other than the ATS) that meets the definition of “Party to a Transaction” identifying a counterparty other than the ATS with respect to each side of the trade.⁹

FINRA is now proposing to amend Rule 6732 to expand the scope of transactions that may be exempted under Rule 6732 to include trades that involve only one FINRA member (other than the ATS). Specifically, FINRA proposes to delete the current language in subparagraph (a)(1) of Rule 6732 that requires an exempted transaction to be between two FINRA members, and

⁶ See Notice, 86 FR at 67997. FINRA explained that members’ back-end systems are often programmed to clear against the counterparty identified on TRACE trade reports, and when the ATS is not involved in clearance and settlement, member subscribers often prefer to TRACE-report against the party with which they clear and settle the trade (*i.e.*, another subscriber, rather than the ATS). See *id.*

⁷ See *id.*

⁸ See FINRA Rule 6732(a).

⁹ See FINRA Rule 6732(b).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 93651 (November 23, 2021), 86 FR 67996 (November 30, 2021) (“Notice”).

⁴ See FINRA Rule 6710(a) (defining “TRACE-Eligible Security”).

⁵ See *Regulatory Notice* 14-53 (November 2014).

¹⁷ 17 CFR 200.30-3(a)(12).