

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94723; File No. SR-CBOE-2022-015]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 10.3 Regarding Margin Requirements

April 14, 2022.

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 30, 2022, 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. On April 13, 2022, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, 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 Rule 10.3 regarding margin requirements. The text of the proposed rule change is provided below.

(additions are *italicized*; deletions are [bracketed])

\* \* \* \* \*

Rules of Cboe Exchange, Inc.

\* \* \* \* \*

#### Rule 10.3. Margin Requirements

(a)–(b) No change.

(c) *Customer Margin Account—*

*Exception.* The foregoing requirements are subject to the following exceptions. Nothing in this paragraph (c) shall prevent a broker-dealer from requiring margin from any account in excess of the amounts specified in these provisions.

(1)–(4) No change.

(5) *Initial and Maintenance Margin Requirements on Short Options, Stock Index Warrants, Currency Index Warrants and Currency Warrants.*

(A)–(B) No change.

(C) *Related Securities Positions—Listed or OTC Options.* Unless otherwise specified, margin must be deposited and maintained in the

following amounts for each of the following types of positions.

(i)–(ii) No change.

(iii) *Covered Calls/Covered Puts.* [(a)] No margin is required for a call (put) option contract or warrant carried in a short position where there is carried in the same account a long (short) position in equivalent units of the underlying security.

[(b)] No margin is required for a call (put) index option contract or warrant carried in a short position where there is carried in the same account a long (short) position in an (1) underlying stock basket, (2) index mutual fund, (3) IPR, or (4) IPS, that is based on the same index underlying the index option or warrant and having a market value at least equal to the aggregate current index value.

(c) In order for th[e]is exception[s] in subparagraphs (a) and (b) above] to apply, in computing margin on positions in the underlying security[, underlying stock basket, index mutual fund, IPR or IPS, as applicable], [(1)a] in the case of a call, the current market value to be used shall not be greater than the exercise price, and [(2)b] in the case of a put, margin shall be the amount required by subparagraph (b)(2) of this Rule, plus the amount, if any, by which the exercise price exceeds the current market value.

(iv) *Exceptions.* The following paragraphs set forth the minimum amount of margin which must be maintained in margin accounts of customers having positions in components underlying options, stock index warrants, currency index warrants or currency warrant when such components are held in conjunction with certain positions in the overlying option or warrant. In respect of an option or warrant on a market index, an underlying stock basket is an eligible underlying component. The option or warrant must be listed or guaranteed by the carrying broker dealer. In the case of a call option or warrant carried in a short position, a related long position in the underlying component shall be valued at no more than the call option/warrant exercise price for margin equity purposes.

(a) *Long Option Offset.* When a component underlying an option or warrant is carried long (short) in [an] the same account [in which there is also carried] as a long put (call) option or warrant specifying equivalent units of the underlying component, the minimum amount of margin which must be maintained on the underlying component is 10% of the option/warrant exercise price plus the out-of-the-money amount not to exceed the

minimum maintenance required pursuant to paragraph (b) of this Rule.

(b) *Conversion.* When a call option or warrant carried in a short position is covered by a long position in equivalent units of the underlying component and there is [also] carried *in the same account* a long put option or warrant specifying equivalent units of the same underlying component and having the same exercise price and expiration date as the short call option or warrant, the minimum amount of margin which must be maintained for the underlying component shall be 10% of the exercise price.

(c) *Reverse Conversion.* When a put option or warrant carried in a short position is covered by a short position in equivalent units of the underlying component and there is [also] carried *in the same account* a long call option or warrant specifying equivalent units of the same underlying component and having the same exercise price and expiration date as the short put option or warrant, the minimum amount of margin which must be maintained for the underlying component shall be 10% of the exercise price plus the amount by which the exercise price of the put exceeds the current market value of the underlying, if any.

(d) *Collar.* When a call option or warrant carried in a short position is covered by a long position in equivalent units of the underlying component and there is [also] carried *in the same account* a long put option or warrant specifying equivalent units of the same underlying component and having a lower exercise price than, and same expiration date as, the short call option/warrant, the minimum amount of margin which must be maintained for the underlying component shall be the lesser of 10% of the exercise price of the put plus the put out-of-the-money amount or 25% of the call exercise price.

(e) *Protected Option.* When an *in-the-money index call (put) option contract or warrant is carried in a short position and there is carried in the same account a long (short) position in an underlying stock basket, non-leveraged index mutual fund or non-leveraged exchange-traded fund that is based on the same index underlying the index option or warrant, the minimum amount of margin which must be maintained on a short index call option is 100% of the amount, if any, by which the aggregate current index value exceeds the market value of the basket or fund; and in the case of a short index put option, 100% of the amount, if any, by which the aggregate current index value is below the market value of the*

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

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

*basket or fund. If the index call (put) option contract or warrant carried short is at- or out-of-the-money and there is carried in the same account a long (short) position in any underlying stock basket, non-leveraged index mutual fund or non-leveraged ETF that is based on the same index underlying the index option or warrant, no margin is required.*

\* \* \* \* \*

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.

## 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 proposed rule change amends Rule 10.3 regarding margin requirements. Specifically, the Exchange proposes to amend Rule 10.3(c)(5)(C)(iii)(b) to update the provisions that provide margin relief for a cash-settled index option written against a holding in an exchange-traded fund that tracks the same index as the index underlying the index option. Rule 10.3 sets forth margin requirements, and certain exceptions to those requirements, applicable to security positions of Trading Permit Holders' ("TPHs") customers. Rule 10.3(c)(5)(C)(iii) currently requires no margin for covered calls and puts. Specifically, that rule provides the following:

- No margin is required for a call (put) option contract or warrant carried in a short position where there is carried in the same account a long (short)

position in equivalent units of the underlying security.<sup>3</sup>

- No margin is required for a call (put) index option contract or warrant carried in a short position where there is carried in the same account a long (short) position in an (1) underlying stock basket,<sup>4</sup> (2) index mutual fund, (3) index portfolio receipt ("IPR"),<sup>5</sup> or (4) index portfolio share ("IPS"),<sup>6</sup> that is based on the same index underlying the index option or warrant and having a market value at least equal to the aggregate current index value.

- In order for the exceptions in the previous bullets to apply, in computing

<sup>3</sup> In computing margin on such a position in the underlying security, (a) in the case of a call, the current market value to be used shall not be greater than the exercise price and (b) in the case of a put, margin will be the amount required by Rule 10.3(b)(2), plus the amount, if any, by which the exercise price of the put exceeds the current market value of the underlying.

<sup>4</sup> An "underlying stock basket" means a group of securities that includes each of the component securities of the applicable index and which meets the following conditions: (a) The quantity of each stock in the basket is proportional to its representation in the index, (b) the total market value of the basket is equal to the underlying index value of the index options or warrants to be covered, (c) the securities in the basket cannot be used to cover more than the number of index options or warrants represented by that value and (d) the securities in the basket shall be unavailable to support any other option or warrant transaction in the account. See Rule 10.3(a)(7).

<sup>5</sup> IPRs are securities that (a) represent an interest in a unit investment trust ("UIT") which holds the securities that comprise an index on which a series of IPRs is based; (b) are issued by the UIT in a specified aggregate minimum number in return for a "Portfolio Deposit" consisting of specified numbers of shares of stock plus a cash amount; (c) when aggregated in the same specified minimum number, may be redeemed from the UIT, which will pay to the redeeming holder the stock and cash then comprising the Portfolio Deposit; and (d) pay holders a periodic cash payment corresponding to the regular cash dividends or distributions declared and paid with respect to the component securities of the stock index on which the IPRs are based, less certain expenses and other charges as set forth in the UIT prospectus. IPRs are "UIT interests" within the meaning of the Rules. See Rule 1.1. A UIT Interest is any share, unit, or other interest in or relating to a unit investment trust, including any component resulting from the subdivision or separation of such an interest.

<sup>6</sup> IPSs are securities that (a) are issued by an open-end management investment company based on a portfolio of stocks or fixed income securities designed to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic stock index or fixed income securities index; (b) are issued by such an open-end management investment company in a specified aggregate minimum number in return for a deposit of specified number of shares of stock and/or a cash amount, or a specified portfolio of fixed income securities and/or a cash amount, with a value equal to the next determined net asset value; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such open-end management investment company, which will pay to the redeeming holder stock and/or cash, or a specified portfolio of fixed income securities and/or cash with a value equal to the next determined net asset value. See Rule 1.1.

margin on positions in the underlying security, underlying stock basket, index mutual fund, IPR or IPS, as applicable,<sup>7</sup> (1) in the case of a call, the current market value to be used shall not be greater than the exercise price, and (2) in the case of a put, margin shall be the amount required by subparagraph (b)(2) of Rule 10.3, plus the amount, if any, by which the exercise price exceeds the current market value.

Rule 10.3(c)(5) generally requires TPHs to obtain from a customer, and maintain, a margin deposit for short cash-settled index options in an amount equal to 100% of the current market value of the option plus 15% (if overlying a broad-based index) or 20% (if overlying a narrow-based index) of the amount equal to the index value multiplied by the index multiplier minus the amount, if any, by which the option is out-of-the-money.<sup>8</sup> The minimum margin required for such an option is 100% of the option current market value plus 10% of the index value multiplied by the index multiplier for a call or 10% of the exercise price multiplied by the index multiplier for a put.

Pursuant to current Rule 10.3(c)(5)(C)(iii)(b) and (c), however, a TPH needs to require no margin deposit for a short cash-settled index call option if the TPH is holding in the same account a long position in an ETF that tracks the same index underlying the index option<sup>9</sup> if the current market value of the ETF for margin purposes (1) is at least equal to the aggregate current index value and (2) is not greater than the exercise price. If an account is short a cash-settled index put option and is holding in the same account a short position in the ETF, a TPH needs to require a margin deposit for the amount required by Rule 10.3(b)(2)<sup>10</sup> plus the

<sup>7</sup> IPRs and IPSs are commonly referred to as ETFs.

<sup>8</sup> The out-of-the-money amount for a call is any excess of the aggregate exercise price of the option or warrant over the product of the current (spot or cash) index value and the applicable multiplier. The out-of-the-money amount for a put is any excess of the product of the current (spot or cash) index value and the applicable multiplier over the aggregate exercise price of the option or warrant.

<sup>9</sup> This is the same margin treatment that applies to an option on an equity security written against the underlying security. See current Rule 10.3(c)(5)(C)(iii)(a).

<sup>10</sup> Rule 10.3(b)(2) provides the minimum amount of margin that must be maintained in customer margin accounts having positions in securities is: (1) With respect to long positions, 25% of the current market value of all long in the account; plus (2) with respect to short positions, (a) \$2.50 per share or 100% of the current market value, whichever is greater, of each security short in the account that has a current market value of less than \$5.00 per share; plus (b) \$5.00 per share or 30% of the current market value, whichever is greater, of each security short in the account that has a current market value of \$5.00 per share or more.

amount, if any, by which the exercise price of the option exceeds the market value of the ETF if the market value of the ETF is at least equal to the aggregate current index value.

The Exchange proposes to amend this exception to margin requirements applicable to short option positions or warrants on indexes that are offset by positions in an underlying stock basket, non-leveraged index mutual fund, or non-leveraged exchange-traded fund (collectively referred to as "ETFs") that is based on the same index option, as well as move it within Rule 10.3 to Rule 10.3(c)(5)(C)(iv).<sup>11</sup> Specifically, the proposed rule change adopts the following as Rule 10.3(c)(5)(C)(iv)(e):<sup>12</sup>

When an in-the-money index call (put) option contract or warrant is carried in a short position and there is carried in the same account a long (short) position in an underlying stock basket, non-leveraged index mutual fund or non-leveraged exchange-traded fund that is based on the same index underlying the index option or warrant, the minimum amount of margin which must be maintained on a short index call option is 100% of the amount, if any, by which the aggregate current index value exceeds the market value of the basket or fund; and in the case of a short index put option, 100% of the amount, if any, by which the aggregate current index value is below the market value of the basket or fund. If the index call (put) option contract or warrant carried short is at- or out-of-the-money and there is carried in the same account a long (short) position in any underlying stock basket, non-leveraged index mutual fund or non-leveraged ETF that is based on the same index underlying the index option or warrant, no margin is required.<sup>13</sup>

<sup>11</sup> Proposed paragraph (e) limits the margin relief to index options written against an underlying stock basket, non-leveraged index mutual fund or non-leveraged exchange-traded fund (compared to underlying stock basket, index mutual fund, IPR, or IPS in current subparagraph (iii)(b)). The Exchange proposes to add the non-leveraged limitation to clarify that this exception is not intended to and does not apply to leveraged instruments. Additionally, the Exchange excludes IPRs and IPSs from being eligible for the margin relief in paragraph (e), as the Exchange understands that the use and availability of these products has diminished and has not observed the writing of index options against them.

<sup>12</sup> The proposed rule change identifies the strategy described in proposed subparagraph (e) as a "protected option," which is a strategy of writing an index option against a holding in an ETF based on the same index as the index option, to differentiate it from a "covered call," which is a strategy of writing an option against a position in an underlying security (the margin treatment for which is described in current subparagraph (iii)(a)).

<sup>13</sup> The Exchange understands that FINRA intends to submit a proposed rule change to adopt the same

The proposed rule change amends the form of margin a TPH is required to hold in an account for a short in-the-money index call (put) option if there is a long position in an ETF based on the same index to be the amount by which the value of an ETF is below (above) the aggregate index value. Rather than necessitating the purchase or deposit of additional ETF shares to address a deficiency in the value of the ETF compared to the aggregate index value (regardless of the amount of the deficiency), as required by current rules, the proposed rule change will enable excess maintenance margin equity in a margin account to support the requirement. If excess maintenance margin is insufficient or nonexistent, the TPH would need to require a deposit of margin which can be in any form (e.g., cash and/or marginable securities) from the account owner in an amount equal to any deficit.<sup>14</sup> Additionally, the proposed rule change will require no margin when an option is at- or out-of-the-money, regardless of whether the ETF market value is at least equal to the aggregate index value.

The Exchange believes the proposed rule change is more reasonable and practical than the current requirements, as clearing firms will no longer need to constantly monitor the value of an ETF and compare it to the aggregate current index value and see to it that an account owner deposits or purchases additional ETF shares to address any deficiencies in order to satisfy the margin exception in the rule. As a result, the Exchange believes the proposed rule may reduce the operational cost of the protected option strategy, which may make this strategy more beneficial to customers. While the structure of ETFs and market forces may cause an ETF's price to differ slightly in value from the index value, the Exchange has observed that these values are highly correlated and do not deviate significantly. Therefore, the Exchange believes the proposed margin requirement for protected in-the-money index options is an effective safeguard against the risk of a short option position.

The proposed rule change also eliminates the need for margin for an at-the-money or out-of-the-money protected index option, regardless of the

provision in its rules following Commission approval of this proposed rule change.

<sup>14</sup> Pursuant to the current Rules, if the ETF market value is not at least equal to the aggregate index value, and additional shares are not purchased or deposited, then the required margin is equal to the amount of the option current market value plus 15% (if a broad-based index) or 20% (if a narrow-based index) of the aggregate index value minus any out-of-the-money amount, subject to a minimum requirement.

value of the ETF. Currently, if the market value of an ETF was less (if a call) or more (if a put) than the current aggregate index value, the ETF position must be supplemented to address the deficiency. Due to the high correlation between the values of an ETF and an index, as noted above, the amount of margin necessary to address such deficiency would be minimal. In addition, given that options are unlikely to be assigned/exercised when they are at- or out-of-the-money, the need for such margin is also minimal. Therefore, the Exchange believes the cost to TPHs to monitor the need for margin for options that are unlikely to be assigned/exercised is not justified and unnecessary given the minimal margin amounts that would ultimately be necessary to cover the likely small deficiencies between the values of an ETF and index.

Additionally, the proposed rule change eliminates the requirement to mark the price of a long ETF with an index call option written against it at the lower of the ETF's market value or the index option strike price. With covered call options, this requirement is intended to cap favorable moves in the price of the underlying security at the strike price because moves above the strike price will not be realized. Currently, the Exchange applies this same requirement to protected options written against ETF holdings to maintain equivalency with the treatment of covered options. However, unlike stocks, favorable moves in the price of an underlying ETF may be realized because, if a short index option is assigned, the ETF shares are not sold (in the case of a long ETF/short call) or purchased (in the case of a short ETF/short put). Thus, favorable moves in the ETF price are not capped at the strike price. As a result, the Exchange believes it is appropriate to no longer apply this requirement to protected options written against ETF holdings.

In connection with this change, the proposed rule change deletes Rule 10.3(c)(5)(C)(iii)(b), as well as the cross-reference to such paragraph and the references to underlying stock basket, index mutual fund, IPR or IPS, as applicable,<sup>15</sup> in current subparagraph (c), as those terms relate specifically to current subparagraph (b). Because this would leave only one section in Rule 10.3(c)(5)(C)(iii), the proposed rule change deletes subparagraph lettering and combines current subparagraph (iii)(a) and current subparagraph (iii)(c) into a single provision as subparagraph

<sup>15</sup> These terms are related only to current subparagraph (b).

(iii) and makes corresponding conforming changes.

The proposed rule change also makes clarifying, nonsubstantive changes in each subparagraph of Rule 10.3(c)(5)(C)(iv) to conform language in those subparagraphs to language used throughout Rule 10.3. Specifically, the proposed rule change amends the provision of each subparagraph to state that the minimum amount of required margin in the circumstances described in each subparagraph applies when the applicable long position is carried “in the same account as” the applicable short position, rather than “also carried.” This language is consistent with the language in, for example, current Rule 10.3(c)(5)(C)(iii), as margin requirements are determined generally based on positions held in the same account.

## 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.<sup>16</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>17</sup> 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)<sup>18</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes the proposed rule change furthers the objectives of Section 6(c)(3) of the Act,<sup>19</sup> which authorizes the Exchange to, among other things, prescribe standards of financial responsibility or operational capability and standards of training, experience and competence for its Trading Permit Holders and person associated with Trading Permit Holders.

In particular, the proposed rule change amends a specific margin treatment related to short index options written against ETFs in the same manner. Given the difference described above between short stock options written against the underlying stock and short index options written against ETFs, the Exchange believes it is reasonable to apply different margin treatments to these different strategies. While the economic outcomes of covered options and protected options are similar, as described above, the Exchange believes it promotes just and equitable principles of trade to apply margin slightly differently to protected options than covered options given the possibility of realizing gains in ETFs above the exercise prices that is not a possibility for covered options. While the proposed rule change may result in lower margin requirements for protected option strategies, the Exchange believes the proposed margin amounts are more reasonable than the current requirements, as they are more tailored to these strategies and reflect the potential deficiencies between the value of the ETF and the value of the index. As a result, the Exchange believes the proposed margin required will still be sufficient for protected option strategies. Given the high correlation between these values, the Exchange believes it is appropriate to require margin in an amount necessary to only cover this deficiency, as ultimately that is the risk against which the margin requirement is protecting. Additionally, the Exchange believes the burdens associated with the current margin requirements for short at- and out-of-the-money index options outweigh the benefits of the likely minimal margin that is required for options that are unlikely to be assigned/exercised. Additionally, as discussed above, the proposed rule change may reduce the operational burden of protected option strategies, which the Exchange believes may make the strategies more beneficial for customers and thus remove impediments to and perfect the mechanism of a free and open market, as well as reduce the margin required for such strategies, which will potentially free up capital that can be put back into the market, which ultimately benefits investors.

The proposed clarifying, nonsubstantive changes provide for more consistent language in similar rule provisions, which will ultimately benefit investors.

### *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 Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as it will apply the same margin treatment to all TPHs. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition, as the Exchange expects FINRA to adopt a similar rule change, and several other options exchanges incorporate by reference the Exchange’s margin rules into their rules (and thus apply them to their members). Additionally, as discussed above, the proposed rule change may reduce the operational burden of protected option strategies, as well as reduce the margin required for such strategies, which may make the strategies more beneficial for customers. The proposed rule change is not intended as a competitive filing, but rather to modify margin requirements for a certain option strategy to be more reasonable and practical.

### *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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. By order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be 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:

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

<sup>18</sup> *Id.*

<sup>19</sup> 15 U.S.C. 78f(c)(3).

*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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2022-015 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-2022-015. 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-CBOE-2022-015 and should be submitted on or before May 11, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

[FR Doc. 2022-08388 Filed 4-19-22; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-94718; File No. SR-EMERALD-2022-15]

**Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing of a Proposed Rule Change To Amend Its Fee Schedule To Adopt a Tiered-Pricing Structure for Additional Limited Service MIAX Emerald Express Interface Ports; Suspension of and Order Instituting Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change**

April 14, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 1, 2022, MIAX Emerald, LLC ("MIAX Emerald" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II 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 and is, pursuant to Section 19(b)(3)(C) of the Act, hereby: (i) Temporarily suspending the proposed rule change; and (ii) instituting proceedings to determine whether to approve or disapprove the proposed rule change.

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

The Exchange is filing a proposal to amend the MIAX Emerald Options Fee Schedule (the "Fee Schedule") to amend certain port fees.

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings/emerald>, at MIAX's principal office, 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 [sic] 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 the Fee Schedule to adopt a tiered-pricing structure for additional Limited Service MIAX Emerald Express Interface ("MEI") Ports<sup>3</sup> available to Market Makers.<sup>4</sup> The Exchange believes a tiered-pricing structure will encourage Market Makers to be more efficient and economical when determining how to connect to the Exchange. This should also enable the Exchange to better monitor and provide access to the Exchange's network to ensure sufficient capacity and headroom in the System.<sup>5</sup>

The Exchange initially filed the proposed fee changes on August 2, 2021, with the changes being immediately effective ("First Proposed Rule Change").<sup>6</sup> The First Proposed Rule Change was published for comment in the **Federal Register** on August 19, 2021.<sup>7</sup> The Commission received one comment letter on the First Proposed Rule Change.<sup>8</sup> The Exchange withdrew the First Proposed Rule Change on September 27, 2021 and resubmitted its proposal ("Second Proposed Rule Change").<sup>9</sup> On September 28, 2021, the Exchange withdrew the Second Proposed Rule Change and re-submitted the proposal on September 28, 2021, with the proposed fee changes being immediately effective ("Third Proposed Rule Change").<sup>10</sup> The Third Proposed Rule Change was published for comment in the **Federal Register** on October 5,

<sup>3</sup> The MIAX Emerald Express Interface ("MEI") is a connection to the MIAX Emerald System that enables Market Makers to submit simple and complex electronic quotes to MIAX Emerald. See the Definitions Section of the Fee Schedule.

<sup>4</sup> The term "Market Makers" refers to Lead Market Makers ("LMMs"), Primary Lead Market Makers ("PLMMs"), and Registered Market Makers ("RMMs") collectively. See the Definitions Section of the Fee Schedule and Exchange Rule 100.

<sup>5</sup> The term "System" means the automated trading system used by the Exchange for the trading of securities. See the Definitions Section of the Fee Schedule and Exchange Rule 100.

<sup>6</sup> See Securities Exchange Act Release No. 92662 (August 13, 2021), 86 FR 46726 (August 19, 2021) (SR-EMERALD-2021-25).

<sup>7</sup> *Id.*

<sup>8</sup> See Letter from Richard J. McDonald, Susquehanna International Group, LLC ("SIG"), to Vanessa Countryman, Secretary, Commission, dated September 7, 2021 ("SIG Letter 1").

<sup>9</sup> See SR-EMERALD-2021-30.

<sup>10</sup> See Securities Exchange Act Release No. 93188 (September 29, 2021), 86 FR 55052 (October 5, 2021) (SR-EMERALD-2021-31).

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

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

<sup>20</sup> 17 CFR 200.30-3(a)(12).