

Interested persons are invited to submit written data, views, and arguments regarding whether the Proposed Rule Change should be approved or disapproved by May 17, 2024. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by May 31, 2024.

The Commission asks that commenters address the sufficiency of OCC's statements in support of the Proposed Rule Change, which are set forth in the Notice of Filing,<sup>24</sup> in addition to any other comments they may wish to submit about the Proposed Rule Change.

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](mailto:rule-comments@sec.gov). Please include file number SR-OCC-2024-001 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-OCC-2024-001. 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 (<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 such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

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-OCC-2024-001 and should be submitted on or before May 17, 2024. Rebuttal comments should be submitted by May 31, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2024-08948 Filed 4-25-24; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-100001; File No. SR-CboeEDGX-2024-020]**

### **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**

April 22, 2024.

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 9, 2024, 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 Equities") 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/](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.

<sup>25</sup> 17 CFR 200.30-3(a)(31).

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

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

#### **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.<sup>3</sup>

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.<sup>4</sup> The physical ports may

<sup>3</sup> The Exchange initially filed the proposed fee changes on July 3, 2023 (SR-CboeEDGX-2023-044). On September 1, 2023, the Exchange withdrew that filing and submitted SR-CboeEDGX-2023-057. 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-2023-62). On October 13, 2023, the Exchange withdrew that filing and on business date October 16, 2023 submitted SR-CboeEDGX-2023-065. On December 12, the Exchange withdrew that filing and submitted SR-CboeEDGX-2023-079. On December 20, the Exchange withdrew that filing and submitted SR-CboeEDGX-2023-081. On February 12, 2024, the Exchange withdrew that filing and submitted SR-CboeEDGX-2024-013. On April 9, 2024, the Exchange withdrew that filing and submitted this filing.

<sup>4</sup> See e.g., The Nasdaq Stock Market LLC ("Nasdaq"), General 8, Connectivity to the

<sup>24</sup> See Notice of Filing, *supra* note 4.

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 options platform (EDGX Options), Cboe BZX Exchange, Inc. (options and equities platforms), Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe C2 Exchange, Inc., ("Affiliate Exchanges").<sup>5</sup>

## 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>6</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>7</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>8</sup> 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)<sup>9</sup> of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members 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 Gb physical ports. Further, the current 10 Gb

physical port fee has remained unchanged since June 2018.<sup>10</sup> Since its last increase over 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 Gb physical port was last modified.<sup>11</sup> 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, and in any event, in this instance the increase is well below the cumulative rate.

Additionally, the Exchange believes the proposed fee increase is reasonable in light of recent and anticipated connectivity-related upgrades and changes. The Exchange and its affiliated exchanges recently launched a multi-year initiative to improve Cboe Exchange Platform performance and capacity requirements to increase competitiveness, support growth and advance a consistent world class platform. The goal of the project, among other things, is to provide faster and more consistent order handling and matching performance for options, while ensuring quicker processing time and supporting increasing volumes and capacity needs. For example, the Exchange recently performed switch hardware upgrades. Particularly, the Exchange replaced existing customer access switches with newer models, which the Exchange believes resulted in increased determinism. The recent switch upgrades also increased the Exchange's capacity to accommodate more physical ports by nearly 50%. Network bandwidth was also increased nearly two-fold as a result of the upgrades, which among other things, can lead to reduce message queuing. The Exchange also believes these newer models result in less natural variance in the processing of messages. The Exchange notes that it incurred costs associated with purchasing and upgrading to these newer models, of

which the Exchange has not otherwise passed through or offset.

As of April 1, 2024, market participants also having the option of connecting to a new data center (*i.e.*, Secaucus NY6 Data Center ("NY6")), in addition to the current data centers at NY4 and NY5. The Exchange made NY6 available in response to customer requests in connection with their need for additional space and capacity. In order to make this space available, the Exchange expended significant resources to prepare this space, and will also incur ongoing costs with respect to maintaining this offering, including costs related to power, space, fiber, cabinets, panels, labor and maintenance of racks. The Exchange also incurred a large cost with respect to ensuring NY6 would be latency equalized, as it is for NY4 and NY5.

The Exchange also has made various other improvements since the current physical port rates were adopted in 2018. For example, the Exchange has updated its customer portal to provide more transparency with respect to firms' respective connectivity subscriptions, enabling them to better monitor, evaluate and adjust their connections based on their evolving business needs. The Exchange also performs proactive audits on a weekly basis to ensure that all customer cross connects continue to fall within allowable tolerances for Latency Equalized connections. Accordingly, the Exchange expended, and will continue to expend, resources to innovate and modernize technology so that it may benefit its Members and continue to compete among other equities markets. The ability to continue to innovate with technology and offer new products to market participants allows the Exchange to remain competitive in the equities space which currently has 16 equities markets and potential new entrants.

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.<sup>12</sup> Indeed, the Exchange believes assessing fees that are a lower rate than fees assessed by other exchanges for analogous connectivity

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.

<sup>5</sup> The Affiliate Exchanges are also submitting contemporaneous identical rule filings.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> *Id.*

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> *See* Securities and Exchange Release No. 83450 (June 15, 2018), 83 FR 28884 (June 21, 2018) (SR-CboeEDGX-2018-016).

<sup>11</sup> *See* <https://www.officialdata.org/us/inflation/2010?amount=1>.

<sup>12</sup> *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.

(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, Members 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 Gb physical ports and charging a higher fee as compared to the 1 Gb physical port is equitable as the 1 Gb physical port is 1/10th the size of the 10 Gb 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 Gb alternative is lower than the value of the 10 Gb alternative, when measured based on the type of Exchange access it offers. Moreover, market participants that purchase 10 Gb physical ports utilize the most bandwidth and therefore consume the most resources from the network. The Exchange also anticipates that firms that utilize 10 Gb ports will benefit the most from the Exchange's investment in offering NY6 as the Exchange anticipates there will be much higher quantities of 10 Gb physical ports connecting from NY6 as compared to 1 Gb ports. Indeed, the Exchange notes that 10 Gb physical ports account for approximately 90% of physical ports across the NY4, NY5, and NY6 data centers, and to date, 80% of new port connections in NY6 are 10 Gb ports. As such, the Exchange believes the proposed fee change for 10 Gb physical ports is reasonable and appropriately allocated.

The Exchange also notes Members and non-Members will continue to choose the method of connectivity based on their specific needs and no broker-dealer is required to become a Member of, let alone connect directly to, the Exchange. There is also no

regulatory requirement that any market participant connect to any one particular exchange. Market participants may voluntarily choose to become a member of one or more of a number of different exchanges, of which, the Exchange is but one choice. Additionally, any Exchange member that is dissatisfied with the proposal is free to choose not to be a member of the Exchange and send order flow to another 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 equities exchanges that a market participant may connect to in lieu of the Exchange and/or trading of any equities product, such as within the Over-the-Counter (OTC) markets which do not require connectivity to the Exchange. Indeed, there are currently 16 registered equities exchanges that trade equities (12 of which are not affiliated with Cboe), some of which have similar or lower connectivity fees.<sup>13</sup> Based on publicly available information, no single equities exchange has more than approximately 16% of the market share.<sup>14</sup> 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, in 2020 alone, three new exchanges entered the market: Long Term Stock Exchange (LTSE), Members Exchange (MEMX), and Miami International Holdings (MIAX Pearl).

As noted above, there is no regulatory requirement that any market participant connect to any one equities 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 any one equities exchange whose membership includes every registered broker-dealer. By way of example, while the Exchange has 124 members that trade equities, Cboe BZX has 132 members that trade equities, Cboe EDGA has 103 members and Cboe BYX has 110 members. There is also no firm that is a Member of EDGX Equities only. Further, based on publicly available information regarding a

<sup>13</sup> *Id.*

<sup>14</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (April 4, 2024), available at <https://www.cboe.com/us/equities/statistics/>.

sample of the Exchange's competitors, NYSE has 143 members,<sup>15</sup> IEX has 129 members,<sup>16</sup> and MIAX Pearl has 51 members.<sup>17</sup>

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 12 non-Cboe affiliated equities markets. 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.”<sup>18</sup> Other provisions of the Act confirm that intent. For example, the Act provides that an exchange must design its rules

<sup>15</sup> See <https://www.nyse.com/markets/nyse/membership>.

<sup>16</sup> See <https://www.iexexchange.io/membership>.

<sup>17</sup> See [https://www.miaxglobal.com/sites/default/files/page-files/20230630\\_MIAX\\_Pearl\\_Equities\\_Exchange\\_Members\\_June\\_2023.pdf](https://www.miaxglobal.com/sites/default/files/page-files/20230630_MIAX_Pearl_Equities_Exchange_Members_June_2023.pdf).

<sup>18</sup> See H.R. Rep. No. 94-229, at 92 (1975) (Conf. Rep.) (emphasis added).

“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.”<sup>19</sup> Likewise, the Act grants the Commission authority to amend or repeal “[t]he rules of [an] exchange [that] impose any burden on competition not necessary or appropriate in furtherance of the purposes of this chapter.”<sup>20</sup> In short, the promotion of free and open competition was a core congressional objective in creating the national market system.<sup>21</sup> 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 Members equally (i.e., all market participants that choose to purchase the 10 Gb 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 Gb physical port (which cost is not

changing). 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 Gb 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 12 non-Cboe affiliated equities 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.”<sup>22</sup> 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’ . . . .”<sup>23</sup> 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<sup>24</sup> and paragraph (f) of Rule 19b-4<sup>25</sup> 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](mailto:rule-comments@sec.gov). Please include file number SR-CboeEDGX-2024-020 on the subject line.

<sup>23</sup> *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)).

<sup>24</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>25</sup> 17 CFR 240.19b-4(f).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

<sup>20</sup> 15 U.S.C. 78f(8).

<sup>21</sup> See also 15 U.S.C. 78k-1(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.”).

<sup>22</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

*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-CboeEDGX-2024-020. 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 (<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-CboeEDGX-2024-020 and should be submitted on or before May 17, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2024-08941 Filed 4-25-24; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-100006; File No. SR-FINRA-2024-004]

**Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend FINRA Rule 6730 (Transaction Reporting) To Reduce the 15-Minute TRACE Reporting Timeframe to One Minute**

April 22, 2024.

**I. Introduction**

On January 11, 2024, 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 ("Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend FINRA Rule 6730 to reduce the 15-minute reporting timeframe for transactions reported to FINRA's Trade Reporting and Compliance Engine ("TRACE") system to one minute, with exceptions for FINRA member firms with de minimis reporting activity and for manual trades. The proposed rule change was published for comment in the **Federal Register** on January 25, 2024.<sup>3</sup> The Commission received comments in response to the proposal.<sup>4</sup> On February 29, 2024, the Commission extended until April 24, 2024, the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>5</sup> This order institutes proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act<sup>6</sup> to determine whether to approve or disapprove the proposed rule change.

**II. Summary of the Proposed Rule Change**

As described in more detail in the Notice, FINRA rules currently specify the applicable outer-limit reporting timeframe for different types of TRACE-

Eligible Securities.<sup>7</sup> Most transactions in corporate bonds, agency debt securities,<sup>8</sup> asset-backed securities ("ABS"),<sup>9</sup> and agency pass-through mortgage-backed securities ("MBS") traded to-be-announced ("TBA") for good delivery ("GD")<sup>10</sup> must be reported within 15 minutes.<sup>11</sup> The 15-

<sup>7</sup> "TRACE-Eligible Security" means a debt security that is United States ("U.S.") dollar-denominated and is: (1) issued by a U.S. or foreign private issuer, and, if a "restricted security" as defined in Rule 144(a)(3) under the Securities Act of 1933 ("Securities Act"), sold pursuant to Securities Act Rule 144A; (2) issued or guaranteed by an Agency as defined in Rule 6710(k) or a Government-Sponsored Enterprise as defined in Rule 6710(n); (3) a U.S. Treasury Security as defined in Rule 6710(p); or (4) a Foreign Sovereign Debt Security as defined in Rule 6710(kk). "TRACE-Eligible Security" does not include a debt security that is a Money Market Instrument as defined in Rule 6710(o). See Rule 6710(a).

<sup>8</sup> "Agency Debt Security" means a debt security (i) issued or guaranteed by an Agency as defined in Rule 6710(k); (ii) issued or guaranteed by a Government-Sponsored Enterprise as defined in Rule 6710(n); or (iii) issued by a trust or other entity that was established or sponsored by a Government-Sponsored Enterprise for the purpose of issuing debt securities, where such enterprise provides collateral to the trust or other entity or retains a material net economic interest in the reference tranches associated with the securities issued by the trust or other entity. The term excludes a U.S. Treasury Security as defined in Rule 6710(p) and a Securitized Product as defined in Rule 6710(m), where an Agency or a Government-Sponsored Enterprise is the Securitizer as defined in Rule 6710(s) (or similar person), or the guarantor of the Securitized Product. See Rule 6710(l).

<sup>9</sup> "Asset-Backed Security" means a type of Securitized Product where the Asset-Backed Security is collateralized by any type of financial asset, such as a consumer or student loan, a lease, or a secured or unsecured receivable, and excludes: (i) a Securitized Product that is backed by residential or commercial mortgage loans, mortgage-backed securities, or other financial assets derivative of mortgage-backed securities; (ii) an SBA-Backed ABS as defined in Rule 6710(bb) traded To Be Announced as defined in Rule 6710(u) or in a Specified Pool Transaction as defined in Rule 6710(x); and (iii) a collateralized debt obligation. See Rule 6710(cc).

<sup>10</sup> "Agency Pass-Through Mortgage-Backed Security" means a type of Securitized Product issued in conformity with a program of an Agency as defined in Rule 6710(k) or a Government-Sponsored Enterprise ("GSE") as defined in Rule 6710(n), for which the timely payment of principal and interest is guaranteed by the Agency or GSE, representing ownership interest in a pool (or pools) of mortgage loans structured to "pass through" the principal and interest payments to the holders of the security on a pro rata basis. See Rule 6710(v). "To Be Announced" means a transaction in an Agency Pass-Through Mortgage-Backed Security or an SBA-Backed ABS as defined in Rule 6710(bb) where the parties agree that the seller will deliver to the buyer a pool or pool(s) of a specified face amount and meeting certain other criteria but the specific pool or pool(s) to be delivered at settlement is not specified at the Time of Execution, and includes TBA transactions "for good delivery" and TBA transactions "not for good delivery" ("NGD"). See Rule 6710(u).

<sup>11</sup> See Rule 6730(a). However, a "List or Fixed Offering Price Transaction," as defined in Rule 6710(q), and a "Takedown Transaction," as defined in Rule 6710(r) are required to be reported to

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

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

<sup>3</sup> See Securities Exchange Act Release No. 99404 (January 19, 2024), 89 FR 5034 (January 25, 2024) ("Notice").

<sup>4</sup> Comments received on the proposed rule change are available at: <https://www.sec.gov/comments/sr-finra-2024-004/srfinra2024004.htm>.

<sup>5</sup> See Securities Exchange Act Release No. 99640 (February 29, 2024), 89 FR 16042 (March 6, 2024).

<sup>6</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>26</sup> 17 CFR 200.30-3(a)(12).