

liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages LMMs, to send orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. The proposed new incremental credit would be applicable to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange. The Exchange believes the proposed EIP Program would enhance competition as it is intended to increase the Exchange's competitiveness in NYSE Arca-listed ETPs, and all ETP Holders would be able to participate in the program uniformly. Accordingly, the Exchange does not believe that the proposed change will impair the ability of ETP Holders to maintain their competitive standing.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of intraday trading (*i.e.*, excluding auctions) was 7.6% in November 2019. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section

19(b)(3)(A)²⁶ of the Act and subparagraph (f)(2) of Rule 19b-4²⁷ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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 shall institute proceedings under Section 19(b)(2)(B)²⁸ of the Act 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-NYSEArca-2020-03 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-NYSEArca-2020-03. 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-NYSEArca-2020-03, and should be submitted on or before February 12, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Release No. 34-87976; File No. SR-CboeEDGX-2020-001]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Its Rules Governing the Give Up of a Clearing Member by a User on Exchange Transactions

January 15, 2020.

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 January 2, 2020, Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") 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 Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

²⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

²⁶ 15 U.S.C. 78s(b)(3)(A).

²⁷ 17 CFR 240.19b-4(f)(2).

²⁸ 15 U.S.C. 78s(b)(2)(B).

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

Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX Options") proposes to amend its rules governing the give up of a Clearing Member by a User on Exchange transactions. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 21.12, which governs the give up of a Clearing Member⁵ by a User⁶ on Exchange transactions, to substantially conform to existing Cboe Exchange, Inc. ("Cboe Options") Rule 5.10, proposed Cboe C2 Exchange, Inc. ("C2 Options") Rule 6.30, and proposed Cboe BZX Exchange, Inc. ("BZX Options") Rule 21.12.⁷

Background

By way of background, Exchange Rule 21.12 provides that when a User executes a transaction on the Exchange, it must give up the name of the Clearing Member (the "Give Up") through which the transaction will be cleared. Rule

21.12 also provides that a User may only give up a "Designated Give Up"⁸ or its "Guarantor."⁹ This limitation is enforced by the Exchange's trading systems.¹⁰

A "Designated Give Up" of a User refers to a Clearing Member identified to the Exchange by that User as a Clearing Member the User requests the ability to give up and that has been processed by the Exchange as a Designated Give Up.¹¹ To designate a "Designated Give Up" every User (other than a Market-Maker) must submit written notification, in a form and manner prescribed by the Exchange.¹² Specifically, the Exchange uses a standardized form ("Notification Form") that a User needs to complete and submit to the Exchange's Membership Services Department ("MSD").¹³ The Exchange notes that a User may currently designate any Clearing Member as a Designated Give Up.¹⁴ Additionally, there is no minimum or maximum number of Designated Give Ups that a User must identify. Paragraph (d) of Rule 21.12 also requires that the Exchange notify a Clearing Member, in writing and as soon as practicable, of each User that has identified it as a Designated Give Up. The Exchange however, will not accept any instructions from a Clearing Member to prohibit a User from designating the Clearing Member as a Designated Give Up. Additionally, there is no subjective evaluation of a User's list of proposed Designated Give Ups by the Exchange.

For purposes of Rule 21.12, a "Guarantor" of an executing User refers to a Clearing Member that has issued a Letter of Guarantee for the executing User under the Rules of the Exchange that are in effect at the time of the execution of the applicable trade.¹⁵ An executing User may give up its Guarantor without having to first designate it to the Exchange as a "Designated Give Up."¹⁶ Additionally, the Exchange notes that a Market-Maker is only enabled to give up the Guarantor of the Market-Maker pursuant to Exchange Rule 22.8 and also does not need to identify any Designated Give Ups.¹⁷

⁸ See Exchange Rule 21.12(b)(1).

⁹ See Exchange Rule 21.12(b)(2).

¹⁰ See Exchange Rule 21.12(c).

¹¹ *Supra* note 7.

¹² See Exchange Rule 21.12(b)(3).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Supra* note 8.

¹⁶ The Exchange already knows each User's Guarantor and as such, no further designation or identification is required of Users to enable their respective Guarantors. See Exchange Rule 21.12(b)(6).

¹⁷ See Exchange Rule 21.12(b)(5).

Beginning in early 2018, certain Clearing Members (in conjunction with the Securities Industry and Financial Markets Association ("SIFMA")) expressed concerns related to the process by which executing brokers on U.S. options exchanges (the "Exchanges") are allowed to designate or 'give up' a clearing firm for purposes of clearing particular transactions. The SIFMA-affiliated Clearing Members have recently identified the current give up process as a significant source of risk for clearing firms. SIFMA-affiliated Clearing Members subsequently requested that the Exchanges alleviate this risk by amending Exchange rules governing the give up process.¹⁸

Proposed Rule Change

Based on the above, the Exchange now seeks to amend its rules regarding the current give up process in order to allow a Clearing Member to "opt in", at the Options Clearing Corporation ("OCC") clearing number level, to a feature that, if enabled by the Clearing Member, will allow the Clearing Member to specify which Users are authorized to give up that OCC clearing number. As proposed, Rule 21.12 will continue to require that Users identify to the Exchange, via the Notification Form, all Clearing Members that the User would like to have the ability to give up (*i.e.*, Designated Give Ups).¹⁹ However, the Exchange proposes to modify the language of paragraph (a) to provide that a User may indicate, at the time of the trade or through post trade allocation, any OCC number of the

¹⁸ Cboe Options recently modified its give up procedure under rule 5.10 to allow clearing trading permit holders to "Opt In" such that the clearing trading permit holder ("TPH") may specify which Cboe Options TPH organizations are authorized to give up that clearing trading permit holder. See Securities and Exchange Act Release No. 86401 (July 17, 2019), 84 FR 35433 (July 23, 2019) (SR-CBOE-19-036) ("Cboe Options Rule 5.10 Amendment"). Nasdaq PHLX LLC ("PHLX"), NYSE Arca, Inc., ("NYSE Arca"), and NYSE American LLC ("NYSE American") also recently modified their respect give up rules to adopt an "Opt In" process. See also Securities and Exchange Act Release No. 85136 (February 14, 2019), 84 FR 5526 (February 21, 2019) (SR-PHLX-2018-72), Securities and Exchange Act Release No. 85871 (May 16, 2019), 84 FR 23613 (May 22, 2019) (SR-NYSEArca 2019-32) and Securities and Exchange Act Release 85875 (May 16, 2019), 84 FR 23591 (May 22, 2019) (SR-NYSEAMER-2019-17). The Exchange's proposal leads to the same result of providing its Clearing Member's the ability to control risk and includes PHLX's, NYSE Arca's and NYSE American's "Opt In" process, but it otherwise differs slightly in process from their give up rules. For example, the Exchange intends to maintain its provisions relating to Designated Give Ups and eliminate its provisions relating to the rejection of a trade. The Exchange's proposal is substantially the same as the existing give up process on Cboe Options.

¹⁹ *Id.*

⁵ The term "Clearing Member" means an Options Member that is self-clearing or an Options Member that clears EDGX Options Transactions for other Members of EDGX Options. See Exchange Rule 16.1.

⁶ The term "User" means any Options Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3 (Access). See Exchange Rule 16.1.

⁷ See SR-C2-2020-001 (filed January 2, 2020) and SR-CboeBZX-2020-002 (filed January 2, 2020).

Clearing Member through which the transaction will be cleared.²⁰ The Exchange proposes to also add to Rule 21.12(a) that Clearing Members may elect to “Opt In,” as defined in paragraph (c) of the proposed Rule and described further below, and restrict one or more of its OCC number(s) (“Restricted OCC Number”).²¹ A User may Give Up a Restricted OCC Number provided the User has written authorization as described in paragraph (c)(2) (“Authorized User”).²² The Exchange notes that if a User identifies a particular Clearing Member as a Designated Give Up, but that Clearing Member has restricted its OCC number(s) and has not authorized the User to give it up, then the Exchange will not give effect to the designation on the Notification Form (*i.e.*, the User will not be able to give up that Clearing Member even though it was identified as a Designated Give Up). Similarly, if a Clearing Member authorizes a User to give up its Restricted OCC Number(s), the Exchange will not enable that Clearing Member as a give up for that User until and unless the User identifies that Clearing Member as a Designated Give Up on a Notification Form. In light of Clearing Members having the ability to restrict their OCC numbers from being given up by unauthorized Users, the Exchange also proposes to eliminate the process for Clearing Members to “reject” trades. As such, the Exchange proposes to eliminate subparagraphs (e) and (f) of Rule 21.12 and any other references to the process in Rule 21.12.²³

Proposed Rule 21.12(c) provides that Clearing Members may request the Exchange restrict one or more of their OCC clearing numbers (“Opt In”) from being given up unless otherwise authorized.²⁴ If a Clearing Member Opt In, the Exchange will require written authorization from the Clearing Member permitting a User to give up a Clearing Member’s Restricted OCC Number.²⁵ An Opt In would remain in effect until the Clearing Member terminates the Opt In as described in proposed subparagraph

(3).²⁶ If a Clearing Member does not Opt In, that Clearing Member’s OCC number may be subject to being given up by any User that has designated it as a Designated Give Up.²⁷ Proposed Rule 21.12(c)(1) will set forth the process by which a Clearing Member may Opt In.²⁸ Specifically, a Clearing Member may Opt In by sending a completed “Clearing Member Restriction Form” listing all Restricted OCC Numbers and Authorized Users.²⁹ A copy of the proposed form is included in Exhibit 3. A Clearing Member may elect to restrict one or more OCC clearing numbers that are registered in its name at OCC.³⁰ The Clearing Member would be required to submit the Clearing Member Restriction Form to the Exchange’s MSD as described on the form.³¹ Once submitted, the Exchange requires ninety days before a Restricted OCC Number is effective within the System.³² This time period is to provide adequate time for the Users of that Restricted OCC Number who are not initially specified by the Clearing Member as Authorized Users to obtain the required written authorization from the Clearing Member for that Restricted OCC Number. Such Users would still be able to give up that Restricted OCC Number during this ninety day period (*i.e.*, until the number becomes restricted within the System).

Proposed Rule 21.12(c)(2) will set forth the process for Users to give up a Clearing Member’s Restricted OCC Number.³³ Specifically, a User desiring to give up a Restricted OCC Number must become an Authorized User.³⁴ The Clearing Member will be required to authorize a User as described in subparagraph (1) or (3) of Rule 21.12(c) (*i.e.*, through a Clearing Member Restriction Form), unless the Restricted OCC Number is already subject to a Letter of Guarantee that the User is a party to, as set forth in Rule 21.12(b)(6).³⁵ Pursuant to proposed Rule 21.12(c)(3), a Clearing Member may

amend the list of its Authorized Users or Restricted OCC Numbers by submitting a new Clearing Member Restriction Form to the Exchange’s MSD indicating the amendment as described on the form.³⁶ Once a Restricted OCC Number is effective within the System pursuant to Rule 21.12(c)(1), the Exchange may permit the Clearing Member to authorize, or remove authorization for, a User to give up the Restricted OCC Number intra-day only in unusual circumstances, and on the next business day in all regular circumstances.³⁷ The Exchange will promptly notify Users if they are no longer authorized to give up a Clearing Member’s Restricted OCC Number.³⁸ If a Clearing Member removes a Restricted OCC Number, any User may give up that OCC clearing number once the removal has become effective on or before the next business day, provided that Clearing Member has been designated as a Designated Give Up.³⁹

The Exchange also proposes to amend current subparagraph (c) (System) (to be relettered to paragraph (d)) of Rule 21.12 to clarify that in addition to the Exchange’s system not accepting orders that identify a give up that is not at the time a Designated Give Up or a Guarantor, the System will also reject any order that designates a Restricted OCC Number for which the User is not an Authorized User.⁴⁰

The Exchange proposes to amend current paragraph (d) (Notice to Clearing Members) (to be relettered to paragraph (e)) of Rule 21.12 to provide that the Exchange will provide notice to Users that they are authorized or unauthorized by Clearing Members.⁴¹

The Exchange also proposes to amend current paragraph (g) (Other Give Up Changes) (to be relettered to subparagraph (f)) of Rule 21.12 to provide that a User may change the give up on the trade to another Designated Give Up, provided it’s an Authorized User for any Restricted OCC Number, or to its Grantor.⁴² Additionally, the Exchange seeks to define a specific “Trade Date Cutoff Time”⁴³ and “T+1

²⁶ *Id.*

²⁷ *Id.*

²⁸ See proposed Exchange Rule 21.12(c)(1); see also Cboe Options Rule 5.10(c)(1).

²⁹ This form will be available on the Exchange’s website. The Exchange will also maintain, on its website, a list of the Restricted OCC Numbers, which will be updated on a regular basis, and the Clearing Member’s contact information to assist Users (to the extent they are not already Authorized Users) with requesting authorization for a Restricted OCC Number. The Exchange may utilize additional means to inform its Members of such updates on a periodic basis.

³⁰ *Supra* note 29.

³¹ *Id.*

³² *Id.*

³³ See proposed Exchange Rule 21.12(c)(2); see also Cboe Option Rule 5.10(c)(2).

³⁴ *Id.*

³⁵ *Id.*

³⁶ See proposed Exchange Rule 21.12(c)(3); see also Cboe Options Rule 5.10(c)(3).

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ See proposed Exchange Rule 21.12(d); see also Cboe Options Rule 5.10(d).

⁴¹ See proposed Exchange Rule 21.12(e); see also Cboe Options Rule 5.10(e).

⁴² See proposed Exchange Rule 21.12(f); see also Cboe Options Rule 5.10(f).

⁴³ The “Trade Date Cutoff Time” is established by the Clearing Corporation (or 15 minutes thereafter if the Exchange receives and is able to process a request to extend its time of final trade submission to the Clearing Corporation). See proposed

²⁰ The Exchange notes that Cboe Options plans to amend paragraph (a) of Rule 5.10 to conform to proposed paragraph (a) of EDGX Options Rule 21.12 and C2 Options Rule 6.30 with a slight modification as it relates to floor trading on Cboe Options.

²¹ See proposed Exchange Rule 21.12(a); see also Cboe Options Rule 21.12(a).

²² *Id.*

²³ The Exchange notes that Cboe Options similarly eliminated the process for which Clearing Trading Permit Holders may “reject” trades in Rule 5.10. See the Cboe Options Rule 5.10 Amendment.

²⁴ See proposed Exchange Rule 21.12(c); see also Cboe Options Rule 5.10(c).

²⁵ *Id.*

Cutoff Time” in the rule text of proposed paragraph (f).⁴⁴

The Exchange proposes to amend current paragraph (h) (Responsibility) (to be relettered to paragraph (g)) of Rule 21.12 to eliminate any applicable reference to current paragraph (e) or (f) of the Rule and to conform with Cboe Options Rule 5.10(g).

The Exchange also proposes to adopt subparagraph (h) of Rule 21.12 to provide that an intentional misuse of this Rule is impermissible, and may be treated as a violation of Rule 3.1, titled “Business Conduct of Members.”⁴⁵ This language will make clear that the Exchange will regulate an intentional misuse of this Rule, and that such behavior would be a violation of Exchange rules. The proposed language is similar to corresponding provisions in other exchanges’ give up rules.⁴⁶

Lastly, the Exchange proposes to amend its current Member Notification of Designated Give Ups Form (“Designated Give Ups Form”). As of October 7, 2019 the Exchange and each of its affiliated options exchanges (*i.e.*, C2 Options, BZX Options, and Cboe Options (collectively, “Cboe Markets”)) are on the same technology platform. To provide further harmonization across the Cboe Markets and provide more seamless administration of the Give up rule, the Exchange proposes to eliminate the current Designated Give Ups Form and adopt a new form which would be applicable to all Cboe Markets going forward. The proposed Designated Give Ups Form is included in Exhibit 3.

Implementation Date

The Exchange proposes to announce the implementation date of the proposed rule change in an Exchange Notice, to be published no later than thirty (30) days following the operative date. The implementation date will be no later than sixty (60) days following the operative date.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of

Section 6(b) of the Act.⁴⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁴⁸ 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 facilitation 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)⁴⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Particularly, as discussed above, several clearing firms affiliated with SIFMA have recently expressed concerns relating to the current give up process, which permits Users to identify any Clearing Member as a Designated Give Up for purposes of clearing particular transactions, and have identified the current give up process (*i.e.*, a process that lacks authorization) as a significant source of risk for clearing firms. The Exchange believes that the proposed changes to Rule 21.12 help alleviate this risk by enabling Clearing Members to “Opt In” to restrict one or more of its OCC clearing numbers (*i.e.*, Restricted OCC Numbers), and to specify which Authorized Users may give up those Restricted OCC Numbers. As described above, all other Users would be required to receive written authorization from the Clearing Member before they can give up that Clearing Member’s Restricted OCC Number. The Exchange believes that this authorization provides proper safeguards and protections for Clearing Members as it provides controls for Clearing Members to restrict access to their OCC clearing numbers, allowing access only to those Authorized Users upon their request. The Exchange also believes that its proposed Clearing Member Restriction Form allows the Exchange to receive in a uniform fashion, written and transparent authorization from Clearing Members, which ensures seamless administration of the Rule.

The Exchange believes that the proposed Opt In process strikes the right balance between the various views and

interests across the industry. For example, although the proposed rule would require Users (other than Authorized Users) to seek authorization from Clearing Members in order to have the ability to give them up, each User will still have the ability to give up a Restricted OCC Number that is subject to a Letter of Guarantee without obtaining any further authorization if that User is party to that arrangement. The Exchange also notes that to the extent the executing User has a clearing arrangement with a Clearing Member (*i.e.*, through a Letter of Guarantee), a trade can be assigned to the executing User’s guarantor. Accordingly, the Exchange believes that the proposed rule change is reasonable and continues to provide certainty that a Clearing Member would be responsible for a trade, which protects investors and the public interest.

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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose an unnecessary burden on intramarket competition because it would apply equally to all similarly situated Members. The Exchange also notes that, should the proposed changes make the Exchange more attractive for trading, market participants trading on other exchanges can always elect to become Members on the Exchange to take advantage of the trading opportunities. Furthermore, the proposed rule change does not address any competitive issues and ultimately, the target of the Exchange’s proposal is to reduce risk for Clearing Members under the current give up model. Clearing firms make financial decisions based on risk and reward, and while it is generally in their beneficial interest to clear transactions for market participants in order to generate profit, it is the Exchange’s understanding from SIFMA and clearing firms that the current process can create significant risk when the clearing firm can be given up on any market participant’s transaction, even where there is no prior customer relationship or authorization for that designated transaction. In the absence of a mechanism that governs a market participant’s use of a Clearing Member’s services, the Exchange’s proposal may indirectly facilitate the ability of a Clearing Member to manage their existing customer relationships while continuing to allow market participant

Exchange Rule 21.12(f)(1); *see also* Cboe Options Rule 5.10(f)(1).

⁴⁴ The “T+1 Cutoff Time” is 1:00 p.m. Eastern Time on T+1; *see* proposed Exchange Rule 21.12(f)(3); *see also* Cboe Options Rule 5.10(f)(3) (which provides a cutoff time of 12:00 p.m. Central Time).

⁴⁵ *See* Cboe Options Rule 5.10(h), which states that intentional misuse of Rule 5.10 may be treated as a violation of Rule 8.1 (Just and Equitable Principles of Trade).

⁴⁶ *See, e.g.*, Cboe Options Rule 5.10(h).

⁴⁷ 15 U.S.C. 78f(b).

⁴⁸ 15 U.S.C. 78f(b)(5).

⁴⁹ *Id.*

choice in broker execution services. While Clearing Members may compete with executing brokers for order flow, the Exchange does not believe this proposal imposes an undue burden on competition. Rather, the Exchange believes that the proposed rule change balances the need for Clearing Members to manage risks and allows them to address outlier behavior from executing brokers while still allowing freedom of choice to select an executing broker.

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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act⁵⁰ and Rule 19b-4(f)(6)⁵¹ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii)⁵² permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing, the Exchange requested that the Commission waive the 30-day operative delay. The Exchange represented that the proposal establishes a rule regarding the give up of a Clearing Member in order to help clearing firms manage risk while continuing to allow market participants choice in broker execution services. The Commission notes that it recently approved a substantially similar proposed rule change from Phlx, after which other options exchanges subsequently adopted substantially similar rules.⁵³ The Commission

believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, because the Exchange's proposal raises no new issues. Further, such waiver will permit the Exchange, without further delay, to begin implementing the new standardized give up process, thus aligning its give up process with that of the other option exchanges. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.⁵⁴

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 shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeEDGX-2020-001 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-CboeEDGX-2020-001. 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

change to establish rules governing give ups). See also *supra* note 18 (citing the filings in which other options exchanges adopted substantially similar rules).

⁵⁴ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-CboeEDGX-2020-001 and should be submitted on or before February 12, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁵

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87982; File No. SR-NASDAQ-2020-001]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To Modify the Delisting Process for Securities With a Bid Price Below \$0.10 and for Securities That Have Had One or More Reverse Stock Splits With a Cumulative Ratio of 250 or More to One Over the Prior Two Year Period

January 15, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 2, 2020, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission

⁵⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁵⁰ 15 U.S.C. 78s(b)(3)(A).

⁵¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁵² 17 CFR 240.19b-4(f)(6)(iii).

⁵³ See Securities Exchange Act Release No. 85136 (February 14, 2019), 84 FR 5526 (February 21, 2019) (Phlx-2018-72) (order approving a proposed rule