

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-91560; File No. SR-C2-2021-006)

April 14, 2021

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Eliminate Existing Rule 3.30 (Qualification and Registration) and Incorporate by Reference Cboe Exchange, Inc. Chapter 3, Section B, in its Entirety

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act” or “Exchange Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 9, 2021, Cboe C2 Exchange, Inc. (the “Exchange” or “C2”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially 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.

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

The Exchange proposes to eliminate existing Rule 3.30 and incorporate by reference Cboe Exchange, Inc. (“Cboe Options”) Chapter 3, Section B, in its entirety. The text of the proposed rule change is provided in Exhibit 5.

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).

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

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

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

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

1. Purpose

The Exchange previously adopted C2 Rule 3.30 (Qualification and Registration), which provides for registration requirements to ensure that associated persons of Trading Permit Holder ("TPH") organizations attain and maintain specified levels of competence and knowledge pertinent to their functions. In general, the current rules: (1) require that persons engaged in a TPH organization's securities business who are to function as representatives or principals register with the Exchange in the category of registration appropriate to their functions by passing one or more qualification examinations⁵ and (2) exempt specified associated persons from the registration requirements.⁶ The Exchange believes that current C2 Rule 3.30 is substantively identical to corresponding Rule 3.30 on its affiliate exchange, Cboe Options.⁷ The

⁵ See C2 Options Rule 3.30(a)(1).

⁶ See C2 Options Rule 3.30(a)(2).

⁷ See Cboe Options Rule 3.30 (Qualification and Registration of Trading Permit Holders

Exchange notes that, other than Cboe Options Rule 3.30, the C2 rulebook incorporates by reference the remaining rules contained in Cboe Options Chapter 3, Section B, as such rules may be in effect from time to time.⁸ However, the Exchange's rulebook is clear that Cboe Options Rule 3.30, which is contained in Cboe Options Chapter 3, Section B, does not apply to C2.

The Exchange no longer wishes to maintain an exception of Cboe Options Rule 3.30 to the incorporation by reference of Chapter 3, Section B as it does not believe it is necessary and may cause potential confusion. Additionally, Cboe Options has filed a proposed rule change to amend its registration rules, including Cboe Options Rule 3.30. The pending rule filing also proposes to adopt new rules under Cboe Options Chapter 3, Section B, related to registration requirements.⁹ As most of Cboe Options Chapter 3, Section B is incorporated by reference into the Exchange's rulebook, the proposed new Cboe Options rules (and amendments to existing Cboe Options rules contained in Chapter 3, Section B other than Cboe Options Rule 3.30) would automatically apply to C2 upon that rule filing becoming operative. Since the Exchange does not incorporate by reference Cboe Options Rule 3.30 however, the proposed amendments to Cboe Options Rule 3.30 would not automatically apply to C2, even though Cboe Options Rule 3.30, as amended, would relate to, and even cross-reference, the proposed new Cboe Options rules that

and Associated Persons).

⁸ See Exchange Act Release No. 91203 (February 24, 2021), 86 FR 12251 (March 2, 2021). As a condition of the exemption approved by the Commission pursuant to Section 36 of the Act, the Exchange agreed to provide written notice to its members whenever Cboe Option proposes a change to its Chapter 3, Section B rules. The Exchange provides such notice via a posting on the same website location where the Exchange posts its own rule filings pursuant to Rule 19b-4 within the timeframe required by such rule. Such notice alerts Exchange members to the proposed Cboe Options rule change and gives them an opportunity to comment on the proposal. The Exchange similarly informs its members in writing when the Commission approves any such proposed change.

⁹ See SR-CBOE-2021-022.

would apply to C2.¹⁰ As such, the Exchange now proposes to eliminate the language that states Cboe Options Rule 3.30 does not apply to C2 and remove C2 Rule 3.30, which is identical to Cboe Options Rule 3.30, thereby incorporating by reference Cboe Options Rule 3.30 (which becomes incorporated by reference under the umbrella of the overall incorporation by reference of Cboe Options Chapter 3, Section B). The Exchange believes Cboe Options Rule 3.30 is within the same category of exchange rules otherwise incorporated into C2 Chapter 3, Section B by reference to Cboe Options Chapter 3, Section B (i.e. rules related to TPH Registration). Further, the incorporation by reference of Cboe Options Rule 3.30 into the Exchange’s Chapter 3, Section B title is regulatory in nature.¹¹ The Exchange believes incorporating by reference the entire Cboe Options Chapter 3, Section B rules maintains consistency between C2 and Cboe Options rules, and helps ensure identical regulation of the Exchange’s TPHs that are also Cboe Options TPHs and also ensures that C2-only TPHs are subject to consistent regulation as Cboe Options TPHs.

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.¹² Specifically, the Exchange believes the proposed rule change is

¹⁰ Id.

¹¹ Cboe Options Chapter 3, Section B rules are categories of rules that are not trading rules. See 17 CFR 200.30-3(a)(76) (contemplating such requests). In addition, several other Self-Regulatory Organizations (“SROs”) incorporate by reference similar regulatory rules of other SROs. See, e.g., Exchange Act Release Nos. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008), 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006); 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004).

¹² 15 U.S.C. 78f(b).

consistent with the Section 6(b)(5)¹³ 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)¹⁴ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change does not make any substantive change to any of C2's rules. The proposed rule change is merely intended to incorporate by reference the entirety of Cboe Options Chapter 3, Section B rules in the C2 rulebook, instead of excluding a single Cboe Options Rule from incorporation (i.e., Cboe Options Rule 3.30) which currently is substantively identical to the corresponding C2 Rule (i.e., C2 Rule 3.30). Indeed, the proposed rule change makes no substantive changes to the C2 rulebook: it does not alter any of the current rules incorporated by reference, and it incorporates by reference a rule (i.e., Cboe Options 3.30), which is substantively identical to an existing rule (i.e., C2 Rule 3.30), which would be removed. As such, the same rules currently applicable to C2 TPHs effectively will apply to TPHs upon effectiveness of this rule filing in the same manner, whether those rules are incorporated by reference to Cboe Options rules or included in C2's rules.

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ Id.

The Exchange also believes the proposed rule change is designed to promote just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest, by consolidating all of its rules related to TPH registration into a single rule set. Incorporating by reference Cboe Options Rule 3.30 into the Exchange's Chapter 3, Section B title will provide an easy reference for Exchange TPHs seeking to comply with registration and qualification requirements of both Cboe Options and C2. The Exchange believes the proposed change makes the Exchange's rulebook easier to read and follow, thus allowing market participants to better understand the rules of the Exchange, which will also result in less burdensome and more efficient regulatory compliance for market participants that are TPHs of both Cboe Options and C2. Also, as discussed, TPHs will be required to continue to comply with the substance of Cboe Options Rule 3.30, since the substance of Cboe Options Rule 3.30 is substantively identical.

Lastly, the Exchange believes that in light of the proposed rule changes to corresponding Cboe Options rules discussed above, incorporating by reference Cboe Options Rule 3.30 will promote efficient use of the Commission's and the Exchange's resources by avoiding duplicative rule filings that would otherwise be needed based on simultaneous changes to identical rule text sought by more than one SRO (i.e., Cboe Options and C2).

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. Particularly, the proposal is not intended to address any competitive issue. Rather, the Exchange is effectively incorporating by reference a Cboe Options rule (i.e., Cboe Options Rule 3.30) to

replace a current substantively identical Exchange rule (i.e., C2 Rule 3.30) that is within the same category of exchange rules otherwise incorporated into C2 Chapter 3, Section B by reference (i.e., Cboe Options Chapter 3, Section B, which contains rules related to TPH Registration). The Exchange is not amending the substance of its registration rules with this proposed rule change and therefore no TPH is impacted.

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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁵ and Rule 19b-4(f)(6) thereunder.¹⁶

The Exchange requested that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective so that the Exchange can immediately update its rulebook to further align with the Cboe Options rulebook. This further alignment of rulebooks will help avoid any potential confusion that may be created by, as discussed above, all Cboe Options rules in Chapter 3, Section B currently being incorporated by reference in the C2 rulebook with the exception of Cboe Options Rule 3.30.

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

Additionally, and as also discussed above, Cboe Options has filed a separate proposed rule change to amend certain registration rules, including Cboe Options Rule 3.30.¹⁷ As a result, waiving the 30-day operative delay period for this proposed rule change will allow the separate proposed rule changes to amend the Cboe Options rulebook to automatically apply to the C2 rulebook. This, in turn, will not only maintain consistency between the C2 and Cboe Options rulebooks, but it will also avoid the need for duplicative proposed rule change filings by two separate, but related, SROs that are based on simultaneous changes to otherwise identical rule text. For these reasons, the Commission believes that waiver of the 30-day operative delay for this proposal is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹⁸

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.

¹⁷ See SR-CBOE-2021-022.

¹⁸ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 e-mail to rule-comments@sec.gov. Please include File Number SR-C2-2021-006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-C2-2021-006. This file number should be included on the subject line if e-mail 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 such 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-C2-2021-006 and should be submitted on or before [date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

J. Matthew DeLesDernier
Assistant Secretary

¹⁹ 17 CFR 200.30-3(a)(12).