

to make available publicly. All submissions should refer to File Number SR-MIAX-2019-37, and should be submitted on or before September 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Jill M. Peterson,**

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86661; File No. SR-CboeEDGX-2019-025]

### Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Clarify Portions of Its Rules Under Chapter 14 (Securities Traded) Related to the Applicability of Certain Disclosure Requirements

August 14, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 31, 2019, 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 Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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”) proposes to clarify portions of its rules under Chapter 14 (Securities Traded) related to the applicability of certain disclosure requirements. 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.

#### 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 clarify portions of the rules under Chapter 14 (Securities Traded) related to the applicability of certain disclosure requirements.

Currently, under Rule 14.1 (Unlisted Trading Privileges), Rule 14.2 (Investment Company Units), and Rule 14.8 (Portfolio Depository Receipts) a Member is required to provide to all purchasers a written description of the terms and characteristics of the applicable securities (or a “product description”). In addition, Members also have a separate prospectus delivery requirement under Section 24(d) of the Investment Company Act of 1940 (“1940 Act”). A Member, however, is not required to send a Section 24(d) prospectus for a security if such security is subject of an order by the Securities and Exchange Commission (“Commission”) exempting it from Section 24(d) prospectus delivery requirements, and is not otherwise subject to prospectus delivery requirements under the Securities Act of 1933 (“1933 Act”). As such, the Exchange provides rules requiring Members to deliver a product description for securities exempt from the prospectus delivery requirements. The Exchange notes that a product description is a written description of the terms and characteristics of a security in a form prepared or approved by the Exchange, whereas a prospectus is a legal document required by and filed with the Commission which contains detailed disclosures about a security.

Currently, Rule 14.1(c)(3)(A), Rule 14.2(d)(1), and Rule 14.8(j)(1) provide govern the written description requirements for derivative securities traded under unlisted trading privileges (“UTP Derivative Securities”), series of Investment Company Units, and series of Portfolio Depository Receipts, respectively. As written, these subparagraphs under their respective Rules do not make it explicit to Members that the product description requirement is applicable only to prospectus-exempt products. Furthermore, current Rules 14.2(d)(1) and 14.8(j)(1) do not contain a provision (like that of 14.1(c)(3)(B)) that the Exchange will inform its Members by means of an information circular when the product description delivery requirements apply. Therefore, in order to provide Members with better understanding of the provisions in connection with these requirements, the Exchange now proposes to amend its rules to explicitly state that the product description delivery requirements apply only to the respective products that are exempt from the 1940 Act prospectus delivery requirements and are not otherwise subject to the prospectus delivery requirements under the 1933 Act. The Exchange also proposes to add language to Rule 14.2(d)(1) and Rule 14.8(j)(1) to inform Members that the Exchange will announce the applicability of the product description delivery requirements to particular series of Portfolio Depository Receipts or Investment Company Units via information circular. This change is intended to provide clarity to Members regarding when and how the Exchange will notify Members of their product delivery obligations. The Exchange notes that Rule 14.1(c)(3)(B) currently provides that the Exchange informs its Members of the application of product description delivery requirements related to UTP Derivative Securities by means of information circular. The Exchange also notes that the proposed amendments are substantially similar to the disclosure requirement provision currently applicable to Managed Fund Shares on its affiliated exchange, Cboe BZX Exchange, Inc. (“BZX”).<sup>5</sup>

The Exchange proposes to update the heading of Rule 14.1(c)(3)(A), which currently states “Prospectus Delivery”, to “Scope of Product Description” as it believes this better aligns with the requirements provided for under paragraph (c)(3), thus provides further clarity regarding the product description requirements contained within this paragraph.

<sup>5</sup> See BZX Rule 14.11(i)(6).

<sup>27</sup> 17 CFR 200.30-3(a)(12).

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

## 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)(1) of the Act, which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Members and persons associated with its Members with the Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the Exchange believes that this proposal benefits and protects investors because it is designed to bolster Member understanding of its rules and the applicability of the subparagraphs providing for written description disclosure requirements to certain products. Because such current subparagraphs (Rule 14.1(c)(3)(A), Rule 14.2(d)(1), and Rule 14.8(j)(1)) do not explicitly state under what circumstances they will apply to the respective products under each subparagraph, the Exchange has found that it is unclear to Members that the subparagraphs in connection with the required written description only apply to securities or series that are exempt from the Section 24(d) prospectus delivery requirements, and otherwise not subject to prospectus delivery requirements under the 1933 Act. The Exchange thus believes this proposed

change will enhance Members' understanding with respect to when and to which products the relevant subparagraphs are applicable, thereby protecting investors and the public interest. The Exchange notes that this proposal does not alter any of the disclosure requirements applicable to market participants, but merely intends to make explicit when the written disclosure provisions apply, as well as establish that the Exchange will notify Members via information circular of their product description obligations for particular series of Portfolio Depository Receipts and Investment Company Units. Additionally, the Exchange believes that providing clear rules regarding the applicability of provisions requiring written product description deliveries will enable the Exchange to be organized and have the capacity to enforce compliance its Members with the Act and the rules of Exchange.

Additionally, the proposed changes are substantially similar to the rule of affiliated exchange, BZX, for disclosure requirements currently applicable to Managed Fund Shares.<sup>9</sup>

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. On the contrary, the proposed rule change is not designed to address any competitive issues but is only intended to bolster Member understanding of its rules with respect to the applicability of certain disclosure requirement provisions.

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

No comments were solicited or received 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:

- A. Significantly affect the protection of investors or the public interest;
- B. impose any significant burden on competition; and

C. 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

Act<sup>10</sup> and Rule 19b-4(f)(6)<sup>11</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 (<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-CboeEDGX-2019-025 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-2019-025. 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

<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> See supra note 5.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

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-2019-025 and should be submitted on or before September 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86676; File No. SR-CboeEDGA-2019-013]

### Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce a Small Retail Broker Distribution Program

August 14, 2019.

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 August 1, 2019, Cboe EDGA Exchange, Inc. (“Exchange” or “EDGA”) 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 EDGA Exchange, Inc. (“EDGA” or the “Exchange”) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to introduce a Small Retail Broker Distribution Program. The text of the proposed changes to the fee schedule are enclosed [sic] as Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (<http://markets.cboe.com/us/>

[equities/regulation/rule\\_filings/edga/](http://markets.cboe.com/us/equities/regulation/rule_filings/edga/)), 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 purpose of the proposed rule change is to introduce a pricing program that would allow small retail brokers that purchase top of book market data from the Exchange to benefit from discounted fees for access to such market data. The Small Retail Broker Distribution Program (the “Program”) would reduce the distribution and consolidation fees paid by small broker-dealers that operate a retail business. In turn, the Program may increase retail investor access to real-time U.S. equity quote and trade information, and allow the Exchange to better compete for this business with competitors that offer similar optional products.

###### Current Fees

The Cboe One Summary Feed is a top of book data feed that provides real-time U.S. equity quote and trade information to investors based on equity orders submitted to the Exchange and its affiliated equities exchanges—*i.e.*, Cboe EDGX Exchange, Inc., Cboe BZX Exchange, Inc., and Cboe BYX Exchange, Inc. Specifically, the Cboe One Summary Feed is a data feed that contains the aggregate best bid and offer of all displayed orders for securities traded on the Exchange and its affiliated exchanges. The Cboe One Summary Feed also contains the individual last sale information for the Exchange and each of its affiliated exchanges, and consolidated volume for all listed equity securities. The fee for external distribution of the Cboe One Summary Feed is \$5,000 per month, and external distributors are also liable for a Data

Consolidation Fee of \$1,000 per month, and User fees equal to \$10 per month for each Professional User, and \$0.25 per month for each Non-Professional User.<sup>3</sup>

###### Small Retail Broker Eligibility Requirements

The Exchange proposes to introduce a Program that would reduce costs for small retail brokers that provide top of book data to their clients. In order to be approved for the Small Retail Broker Distribution Program, Distributors would have to provide Cboe One Summary Feed Data to a limited number of clients with which the firm has established a brokerage relationship, and would have to provide such data primarily to Non-Professional Data Users. Specifically, distributors would have to attest that they meet the following criteria: (1) Distributor is a broker-dealer distributing Cboe One Summary Feed Data to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship; (2) More than 50% of the Distributor’s total Data User population must consist of Non-Professional Data Users, inclusive of those not receiving Cboe One Summary Feed Data; and (3) Distributor distributes Cboe One Summary Feed Data to no more than 5,000 Non-Professional Data Users.

These proposed requirements for participating in the Program are designed to ensure that the benefits provided by the Program inure to the benefit of small retail brokers that provide Cboe One Summary Feed Data to a limited number of subscribers. As explained later in this filing, distributors that provide EDGA Exchange Data to a larger number of subscribers can benefit from the current pricing structure through scale, due to subscriber fees that are significantly lower than those charged by the Exchange’s competitors, and an Enterprise license that caps the total fees to be paid by firms that distribute market data to a sizeable customer base. The Exchange believes that offering similarly attractive pricing to small retail brokers, including regional firms both inside and outside of the U.S. that may not have the same established client base as the larger retail brokers, would make the Exchange’s data a more competitive alternative for those firms, and would help ensure that such information is widely available to a

<sup>3</sup> The Exchange also offers an Enterprise license for the Cboe One Summary Feed at a cost of \$50,000 per month. An Enterprise license permits distribution to an unlimited number of Professional and Non-Professional Users, keeping costs down for firms that provide access to a large number of subscribers.

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

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

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