

“Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 38a–1 (17 CFR 270.38a–1) under the Investment Company Act of 1940 (15 U.S.C. 80a) (“Investment Company Act”) is intended to protect investors by fostering better fund compliance with securities laws. The rule requires every registered investment company and business development company (“fund”) to: (i) adopt and implement written policies and procedures reasonably designed to prevent violations of the federal securities laws by the fund, including procedures for oversight of compliance by each investment adviser, principal underwriter, administrator, and transfer agent of the fund; (ii) obtain the fund board of directors’ approval of those policies and procedures; (iii) annually review the adequacy of those policies and procedures and the policies and procedures of each investment adviser, principal underwriter, administrator, and transfer agent of the fund, and the effectiveness of their implementation; (iv) designate a chief compliance officer to administer the fund’s policies and procedures and prepare an annual report to the board that addresses certain specified items relating to the policies and procedures; and (v) maintain for five years the compliance policies and procedures and the chief compliance officer’s annual report to the board.

The rule contains certain information collection requirements that are designed to ensure that funds establish and maintain comprehensive, written internal compliance programs. The information collections also assist the Commission’s examination staff in assessing the adequacy of funds’ compliance programs.

The Commission staff estimates that 13,628 funds are subject to rule 38a–1. Based on these estimates, the total annual burden hours associated with Rule 38a–1 is 476,980 hours. The estimated total annual burden hours associated with rule 38a–1 have increased 25,572 hours, from 451,408 hours to 476,980 hours and external costs increased from \$19,608,000 to \$23,876,256. These changes in burden hours and external costs reflect changes in the number of affected entities and in the external cost associated with the information collection requirements. These changes reflect revised estimates.

The estimate of average burden hours is made solely for the purposes of the

Paperwork Reduction Act. The estimate is based on communications with industry representatives and is not derived from a comprehensive or even a representative survey or study. Responses will not be kept confidential. Other information provided to the Commission in connection with staff examinations or investigations is kept confidential subject to the provisions of applicable law. If information collected pursuant to rule 38a–1 is reviewed by the Commission’s examination staff, it is accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by July 8, 2024.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov.

Dated: May 2, 2024.

J. Matthew DeLesDernier,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100051; File No. SR–CboeEDGA–2024–003]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change To Amend Rule 11.6(n)(4) and Rule 11.10(a)(4)(D) To Permit the Use of the Post Only Order Instruction at Prices Below \$1.00

May 2, 2024.

I. Introduction

On January 19, 2024, Cboe EDGA Exchange, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to permit the use of the Post Only order instruction (“EDGA Post Only Orders”) at prices below \$1.00. The proposed rule change was published for comment in the **Federal Register** on February 7, 2024.³ On March 19, 2024, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer 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.⁵ The Commission did not receive any comments. The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change⁷

The Exchange proposes to amend Rule 11.6(n)(4) and Rule 11.10(a)(4)(D) to modify the treatment of EDGA Post Only Orders priced below a dollar on the Exchange. EDGA Post Only Orders priced at or above \$1.00 will only remove liquidity if the value of the execution when removing liquidity equals or exceeds the value of such

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 99458 (February 1, 2024), 89 FR 8460 (“Notice”).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 99765, 89 FR 20721 (March 25, 2024) (designating May 7, 2024, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ For a more detailed description of the proposed rule change, including examples, refer to the Notice, *supra* note 3.

execution if the order instead posted to the EDGA Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. Currently, all EDGA Post Only Orders priced below \$1.00 are automatically treated as orders that remove liquidity. Under the proposed rule change, EDGA Post Only Orders priced below \$1.00 will be treated in the same manner as EDGA Post Only Orders priced at or above \$1.00 in that EDGA Post Only Orders priced below \$1.00 will only remove liquidity if the value of the overall execution (taking into account all applicable fees and rebates) make it economically beneficial for the order to remove liquidity.

The Exchange also proposes to amend Rule 11.10(a)(4)(D) to permit Non-Displayed Orders⁸ and orders subject to display-price sliding (collectively, “Resting Orders”) which are not executable at their most aggressive price due to the presence of a contra-side EDGA Post Only Order to be executed at one minimum price variation less aggressive than the order’s most aggressive price.⁹ Currently, Rule 11.10(a)(4)(D) states that, for securities priced at or above \$1.00, incoming orders that are Market Orders¹⁰ or Limit Orders¹¹ priced more aggressively than an order displayed on the EDGA Book, the Exchange will execute the incoming order at, in the case of an incoming sell order, one-half minimum price variation less than the price of the displayed order, and, in the case of an incoming buy order, at one-half minimum price variation more than the price of the displayed order. The Exchange proposes

⁸ See Rule 11.6(e)(2). A User may attach a “Non-Displayed Order” instruction to an order stating that the order is not to be displayed by the System on the EDGA Book.

⁹ See Securities Exchange Act Release No. 75700 (August 14, 2015), 80 FR 50689 (August 20, 2015), SR-EDGA-2015-33 (“EDGA Order Handling Filing”). See also Securities Exchange Act Release No. 64475 (May 12, 2011), 76 FR 28830 (May 18, 2011), SR-BATS-2011-015 (“Resting Order Execution Filing”). The Resting Order Execution Filing introduced an order handling change for certain Non-Displayed Orders and orders subject to display-price sliding that are not executable at prices equal to displayed orders on the opposite side of the market (the “locking price”) on the Exchange’s affiliate, BZX (BATS) Exchange in 2011 and is incorporated by reference in the EDGA Order Handling Filing. The Resting Order Execution Filing permits Resting Orders priced at or above \$1.00 to be executed at one-half minimum price variation less aggressive than the locking price (for bids) and one-half minimum price variation more aggressive than the locking price (for offers), under certain circumstances.

¹⁰ See Rule 11.8(a). A “Market Order” is an order to buy or sell a stated amount of a security that is to be executed at the NBBO or better when the order reaches the Exchange.

¹¹ See Rule 11.8(b). A “Limit Order” is an order to buy or sell a stated amount of a security at a specified price or better.

that for securities priced below \$1.00, incoming orders that are Market Orders or Limit Orders priced more aggressively than an order displayed on the EDGA Book, the Exchange will execute the incoming order at, in the case of an incoming sell order, one minimum price variation less than the price of the displayed order, and, in the case of an incoming buy order, at one minimum price variation more than the price of the displayed order.

III. Proceedings To Determine Whether To Approve or Disapprove SR- CboeEDGA-2024-003, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act¹² to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission’s analysis of whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,¹³ the Commission is providing notice of the grounds for disapproval under consideration. As described above, the Exchange proposes to permit the use of EDGA Post Only Orders at prices below \$1.00. In addition, as described above, for securities priced below \$1.00, incoming orders that are Market Orders or Limit Orders priced more aggressively than an order displayed on the EDGA Book, the Exchange will execute the incoming order at one minimum price variation less (more) than the price of the displayed order for sell (buy) orders.¹⁴ In contrast, under the current rule for securities priced above \$1.00, the incoming order would execute at one-half minimum price variation less (more) than the price of the displayed order for sell (buy) orders.¹⁵ The Commission is instituting proceedings

¹² 15 U.S.C. 78s(b)(2)(B).

¹³ *Id.*

¹⁴ According to the Exchange, executing an incoming order at the same price as the price as that of a displayed order on the same side of the market would violate the time priority of the displayed order. See Notice *supra* note 3, 89 FR at 8463; see also Exchange Rules 11.9(a) and 11.10(a)(4).

¹⁵ See Exchange Rule 11.10(a)(4)(D).

to allow for additional analysis of, and input from commenters with respect to, the proposed rule change’s consistency with the Act, and in particular, Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.¹⁶ In addition, Sections 6(b)(5) and 6(b)(8) of the Act, respectively, prohibit the rules of an exchange from being designed to permit unfair discrimination between customers, issuers, brokers, or dealers¹⁷ or imposing any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.¹⁸

Under the Commission’s Rules of Practice, the “burden to demonstrate that a proposed rule change is consistent with the [Act] and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change.”¹⁹ The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,²⁰ and any failure of a self-regulatory organization to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.²¹

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change, is consistent with Sections 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ 15 U.S.C. 78f(b)(8).

¹⁹ Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

²⁰ See *id.*

²¹ See *id.*

facilitated by an oral presentation of data, views, and arguments, the Commission will consider, pursuant to Rule 19b-4 under the Act,²² any request for an opportunity to make an oral presentation.²³

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by May 29, 2024. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 12, 2024. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGA-2024-003 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-CboeEDGA-2024-003. 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

²² 17 CFR 240.19b-4.

²³ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94-29 (Jun. 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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-CboeEDGA-2024-003 and should be submitted by May 29, 2024. Rebuttal comments should be submitted by June 12, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

J. Matthew DeLesDernier,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100052; File No. SR-CboeEDGX-2024-007]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change To Amend Rule 11.6(n)(4) and Rule 11.10(a)(4)(D) To Permit the Use of the Post Only Order Instruction at Prices Below \$1.00

May 2, 2024.

I. Introduction

On January 19, 2024, Cboe EDGX Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to permit the use of the Post Only order instruction ("EDGX Post Only Orders") at prices below \$1.00. The proposed rule change was published for comment in the **Federal Register** on February 7, 2024.³ On March 19, 2024, pursuant to Section 19(b)(2) of the Act,⁴ the Commission

²⁴ 17 CFR 200.30-3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 99459 (February 1, 2024), 89 FR 8473 ("Notice").

⁴ 15 U.S.C. 78s(b)(2).

designated a longer 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.⁵ The Commission did not receive any comments. The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change⁷

The Exchange proposes to amend Rule 11.6(n)(4) and Rule 11.10(a)(4)(D) to modify the treatment of EDGX Post Only Orders priced below a dollar on the Exchange. EDGX Post Only Orders priced at or above \$1.00 will only remove liquidity if the value of the execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGX Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. Currently, all EDGX Post Only Orders priced below \$1.00 are automatically treated as orders that remove liquidity. Under the proposed rule change, EDGX Post Only Orders priced below \$1.00 will be treated in the same manner as EDGX Post Only Orders priced at or above \$1.00 in that EDGX Post Only Orders priced below \$1.00 will only remove liquidity if the value of the overall execution (taking into account all applicable fees and rebates) make it economically beneficial for the order to remove liquidity.

The Exchange also proposes to amend Rule 11.10(a)(4)(D) to permit Non-Displayed Orders⁸ and orders subject to display-price sliding (collectively, "Resting Orders") which are not executable at their most aggressive price due to the presence of a contra-side EDGX Post Only Order to be executed at one minimum price variation less aggressive than the order's most aggressive price.⁹ Currently, Rule

⁵ See Securities Exchange Act Release No. 99766, 89 FR 20735 (March 25, 2024) (designating May 7, 2024, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ For a more detailed description of the proposed rule change, including examples, refer to the Notice, *supra* note 3.

⁸ See Rule 11.6(e)(2). A User may attach a "Non-Displayed Order" instruction to an order stating that the order is not to be displayed by the System on the EDGX Book.

⁹ See Securities Exchange Act Release No. 75479 (July 17, 2015), 80 FR 43810 (July 23, 2015), SR-EDGX-2015-33 ("EDGX Order Handling Filing"). See also Securities Exchange Act Release No. 64475