

OMB APPROVAL

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SECURITIES AND EXCHANGE COMMISSION
 WASHINGTON, D.C. 20549
 Form 19b-4

File No.* SR - 2019 - * 046

Amendment No. (req. for Amendments *)

Filing by Cboe EDGX Exchange, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Security-Based Swap Submission pursuant
to the Securities Exchange Act of 1934

Section 806(e)(1) *

☐

Section 806(e)(2) *

☐

Section 3C(b)(2) *

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Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document



Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

The Exchange proposes to to update Rule 16.1 to include the definition of capacity, as well as amend its fee schedule to reflect this update.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Rebecca Last Name * Tenuta
 Title * Counsel
 E-mail * rtenuta@cboe.com
 Telephone * (312) 786-7068 Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date 07/17/2019

By Rebecca Tenuta

(Name *)

Counsel

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

rtenuta@cboe.com

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

Item 1. Text of the Proposed Rule Change

- (a) Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX Options”)

proposes to update Rule 16.1 to include the definition of capacity, as well as amend its fee schedule to reflect this update. The text of the proposed rule change is provided in Exhibit 5.

- (b) Not applicable.

- (c) Not applicable.

Item 2. Procedures of the Self-Regulatory Organization

- (a) The Exchange’s President (or designee) pursuant to delegated authority approved the proposed rule change on June 20, 2019. The Exchange intends to implement the proposed rule change on September 3, 2019.

(b) Please refer questions and comments on the proposed rule change to Pat Sexton, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7467, or Rebecca Tenuta, (312) 786-7068, Cboe EDGX Exchange, Inc., 400 South LaSalle, Chicago, Illinois 60605.

Item 3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

- (a) Purpose

The Exchange proposes to add “capacity” as a defined term under Rule 16.1 (Definitions). The proposed change intends to codify the definition of capacity in its rules, which is currently referenced in its technical specifications¹ and in certain rules². This proposed change is also a harmonizing change intended to conform to the capacity

¹ See Cboe Options Exchanges Binary Order Entry Specification, available at http://cdn.batstrading.com/resources/membership/US_Options_BOE_Specification.pdf.

² See Rule 18.2, Rule 20.7(b), and Rule 21.10.

definition under the rules of its affiliated exchange, Cboe C2 Exchange, Inc. (“C2”). The Exchange also proposes to update a term under Rule 20.7 (Audit Trail) to reflect the proposed capacity definition. In addition to this, the Exchange proposes to conform certain definitions under its fee schedule to this proposed definition.

Currently, the System³ allows for a User to mark its order with various capacity codes which correspond to the capacity of the User (i.e. a customer, a Market Maker, etc.)⁴, and, pursuant to current Exchange Rules, Users are required to submit orders with the proper capacity identification.⁵ The current Exchange Rules, however, do not provide for a specific definition of the capacity in which a User may submit an order nor for the corresponding codes for different User capacity types. Additionally, the current fee schedule provides that a Member’s transaction is assigned a fee code and defines the various types (i.e. capacity type) of Members to which the corresponding fee codes are assigned. Specifically, the Member type definitions apply to any transaction identified by such Member. For example, “Market Maker” applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker.

The Exchange now proposes to amend Rule 16.1 to codify the definition of “capacity”. The Exchange proposes to define “capacity” to mean the capacity in which a User submits an order, which the User specifies by applying the corresponding code to the order. The proposed corresponding codes and capacity types include: “B” to an order for the

³ The automated trading system used by EDGX Options for the trading of options contracts. See Rule 16.1.

⁴ See Cboe Options Exchanges Binary Order Entry Specification, available at http://cdn.batstrading.com/resources/membership/US_Options_BOE_Specification.pdf.

⁵ See Rule 20.7.

account of a broker dealer, including a foreign broker dealer; “C” to an order for the account of a Priority Customer; “F” to an order for the proprietary account of an OCC clearing member firm; “J” to an order for a joint back office account; “M” to an order for the account of a registered Market Maker; “N” to an order for the account of a market maker, i.e. an Away Market Maker; and “U” to an order for the account of a Professional.⁶

This definition is substantially similar to that of the definition under C2 Rule 1.1. The Exchange notes only slight differences between its proposed rule and that of its affiliated exchange, C2. First, the Exchange provides that capacity code “C” applies to orders for the account of a Priority Customer, whereas capacity code “C” under C2 Rule 1.1 applies to orders for the account of Public Customer. This difference accounts for the fact that C2 does not have a defined term for Priority Customer, which pursuant to Rule 16.1, means any person or entity that is not a broker or dealer in securities or a Professional. The Exchange believes that incorporating this term, as opposed to Public Customer, maintains consistency with the Exchange’s fee schedule, which already excludes brokers or dealers and Professionals from the definition of the term Customer for purposes of pricing on the Exchange, and provides that Professional capacity types are to be separately marked as such. Second, the Exchange provides that capacity code “N” is assigned to an order for the account of a market maker on another options exchange, and is otherwise known as an Away Market Maker. C2 does not provide in its definition that this capacity type is otherwise known as an Away Market Maker. The Exchange’s fee schedule currently defines

⁶ See Rule 16.1(a)(47) (proposed Rule 16.1). A Professional means any person or entity that is not a broker or dealer in securities and places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). All Professional orders shall be appropriately marked by Options Members.

Away Market Maker to mean the same as this proposed rule definition. Therefore, the Exchange believes that incorporating this language is a non-substantive addition that does not alter the capacity type definition attached to capacity code “N” in any way, but rather maintains consistency with the Exchange’s fee schedule. The Exchange also notes that it does not add capacity code “L” like that of C2 for non-trading permit holder affiliates as this capacity code is only applicable to participants on C2.⁷

The Exchange also proposes to update Rule 20.7 (Audit Trail) to reflect the proposed capacity definition under Rule 16.1(a). Specifically, current Rule 20.7(b) provides that order records relating to EDGX Options must contain certain information, including Member capacity pursuant to subparagraph (b)(6). The Exchange now proposes to update subparagraph (b)(6) to User capacity, which is in line with the proposed capacity definition under proposed Rule 16.1.

The Exchange also proposes to update the capacity type definitions of “Away Market Maker”, “Customer”, “Firm”, “Joint Back Office”, “Market Maker” and “Professional” in its fee schedule to reflect the proposed capacity definition and types under proposed Rule 16.1. Specifically, the Exchange notes the proposed change to the current language providing that the capacity types apply to transactions identified by a Member for clearing in the respective capacity type range at the OCC. The Exchange updates this language to provide that the defined capacity types apply to orders for the account of the respective capacity type.⁸ This change reflects the proposed capacity type definitions under

⁷ See supra note 1.

⁸ Though the Exchange proposes to remove the OCC clearing range language in order to better align these fee schedule definitions with those under proposed 16.1 and C2 Rule 1.1, this does not alter the manner in which each capacity type clears at the OCC.

proposed Rule 16.1 and is in line with the capacity codes applicable to participants on the Exchange's affiliated exchange, C2. The Exchange also believes that changing the definition of the capacity types to apply to an order for the account of the respective capacity types better aligns with the order identification requirements under Rule 20.7. Under Rule 20.7 a Member must submit proper order information when entering orders and maintain Customer order records that must contain, among other things, User capacity (as proposed). The Exchange believes that codifying in the Rules the codes that Users must apply to orders for the accounts of the various capacity types will provide additional transparency to Members regarding the appropriate order marking requirements.

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.⁹

Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁰ 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

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

the Section 6(b)(5)¹¹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed change to adopt the definition of capacity, including types and codes, will remove impediments to and perfect the mechanism of a free and open market and a national market system by providing Users with rules that accurately reflect and add detail to current System capacity code specifications for which a User must use to appropriately mark its orders. As a result, the proposed change will help facilitate understanding of and compliance with the rules. In addition to this, the Exchange believes that by harmonizing the definition of capacity types and codes, with that of its affiliated exchange, C2, will result in increased understanding of the Exchange's Rules and that of its affiliated exchange rules for those participating across the two affiliated exchanges.

Additionally, the Exchange believes that the proposed change to reflect the proposed capacity definition throughout the corresponding definitions in the fee schedule will provide Members with clearer definitions of capacity types that will better align with the Exchange Rules as well as provide detail to the System specifications already in place. As a result, the proposed change will mitigate any confusion surrounding the fee schedule capacity definitions and applicable codes. As such, increased User understanding of the Exchange's fee schedule definitions as they correspond to the Exchange Rules will serve to remove impediments to and perfect the mechanism of a free and open market, and thereby protect investors. Likewise, the Exchange believes that the proposed change to Rule 20.7(b)(6) to more accurately reflect the proposed definition of

¹¹ Id.

capacity will also serve to remove impediments to and perfect the mechanism of a free and open market by aligning the Exchange Rules, in turn bolstering Member understanding, and thus, facilitating less burdensome regulatory compliance with the audit trail rules.

Item 4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change is not designed to address any competitive issues but is only intended to provide clarity with respect to the definition of capacity types and consistency throughout its Rules and fee schedule with respect to capacity codes. The Exchange does not believe that the proposed change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because all Users are already required to submit orders with the appropriate capacity code, and the same capacity codes are available to all Members. The Exchange also believes that the proposed rule change reduces the regulatory compliance burden on all Members by better aligning the Rules and fee schedule with the existing audit trail requirements. Moreover, the Exchange does not believe that the proposed change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted, the proposed rule change is not intended as a competitive change, but rather to provide Members with added detail and clarity regarding the capacity codes applicable to their orders submitted to the Exchange.

Item 5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

Item 6. Extension of Time Period for Commission Action

Not applicable.

Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

(a) The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A) of Act¹² and Rule 19b-4(f)(6)¹³ thereunder.

(b) The Exchange designates that the proposed rule change effects a change that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Additionally, the Exchange has given 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 does not believe the proposed rule change will significantly affect the protection of investors or the public interest because it serves to add detail and clarity to the rules regarding existing System codes specifications that require Members to apply

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

capacity codes to their orders. As a result, the proposed change will benefit investors by providing additional transparency regarding marking orders with the appropriate capacity codes. The proposed change will also harmonize the Exchange's definition of capacity with that of C2 Rule 1.1, previously filed with the Commission. This benefits investors by increasing understanding for Members across the affiliated exchanges' rules. In addition to this, the Exchange believes the proposed change to Rule 20.7(b) to reflect the proposed changes to Rule 16.1(a) will also facilitate better understanding of and consistency throughout the Rules and the fee schedule as a whole, thus facilitating less burdensome regulatory compliance with the audit trail rules.

The Exchange does not believe that the proposed rule change will impose any significant burden on competition as the proposed rule change is not intended to address competitive issues, but rather, intends to harmonize the Exchange's rules with that of its affiliated exchange, C2, and codify requirements regarding capacity types and codes applicable to different types of market participants.

For the foregoing reasons, this rule filing qualifies as a "non-controversial" rule change under Rule 19b-4(f)(6), which renders the proposed rule change effective upon filing with the Commission. At any time within 60 days of the filing of this 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.

(c) Not applicable.

(d) Not applicable.

Item 8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change to Rule 16.1(a) is substantially similar to the definition of capacity under Rule 1.1 of its affiliated exchange, C2. As explained in detail above, the Exchange maintains language regarding Priority Customers and Away Market Makers and does not add capacity code “L” which accounts for the differences between its Rules and that of C2.

Item 9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

Item 10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

Item 11. Exhibits

Exhibit 1. Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 5. Proposed rule text.

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CboeEDGX-2019-046]

[Insert date]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Update Rule 16.1 to Include the Definition of Capacity, as well as Amend its Fee Schedule to Reflect this Update

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 [insert date], 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.

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 update Rule 16.1 to include the definition of capacity, as well as amend its fee schedule to reflect this update. 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/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 add "capacity" as a defined term under Rule 16.1 (Definitions). The proposed change intends to codify the definition of capacity in its rules, which is currently referenced in its technical specifications⁵ and in certain rules⁶. This proposed change is also a harmonizing change intended to conform to the capacity definition under the rules of its affiliated exchange, Cboe C2 Exchange, Inc. ("C2"). The Exchange also proposes to update a term under Rule 20.7 (Audit Trail) to reflect the proposed capacity definition. In addition to this, the Exchange proposes to conform certain definitions under its fee schedule to this proposed definition.

⁵ See Cboe Options Exchanges Binary Order Entry Specification, available at http://cdn.batstrading.com/resources/membership/US_Options_BOE_Specification.pdf.

⁶ See Rule 18.2, Rule 20.7(b), and Rule 21.10.

Currently, the System⁷ allows for a User to mark its order with various capacity codes which correspond to the capacity of the User (i.e. a customer, a Market Maker, etc.)⁸, and, pursuant to current Exchange Rules, Users are required to submit orders with the proper capacity identification.⁹ The current Exchange Rules, however, do not provide for a specific definition of the capacity in which a User may submit an order nor for the corresponding codes for different User capacity types. Additionally, the current fee schedule provides that a Member's transaction is assigned a fee code and defines the various types (i.e. capacity type) of Members to which the corresponding fee codes are assigned. Specifically, the Member type definitions apply to any transaction identified by such Member. For example, "Market Maker" applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker.

The Exchange now proposes to amend Rule 16.1 to codify the definition of "capacity". The Exchange proposes to define "capacity" to mean the capacity in which a User submits an order, which the User specifies by applying the corresponding code to the order. The proposed corresponding codes and capacity types include: "B" to an order for the account of a broker dealer, including a foreign broker dealer; "C" to an order for the account of a Priority Customer; "F" to an order for the proprietary account of an OCC clearing member firm; "J" to an order for a joint back office account; "M" to an order for the account

⁷ The automated trading system used by EDGX Options for the trading of options contracts. See Rule 16.1.

⁸ See Cboe Options Exchanges Binary Order Entry Specification, available at http://cdn.batstrading.com/resources/membership/US_Options_BOE_Specification.pdf.

⁹ See Rule 20.7.

of a registered Market Maker; “N” to an order for the account of a market maker, i.e. an Away Market Maker; and “U” to an order for the account of a Professional.¹⁰

This definition is substantially similar to that of the definition under C2 Rule 1.1. The Exchange notes only slight differences between its proposed rule and that of its affiliated exchange, C2. First, the Exchange provides that capacity code “C” applies to orders for the account of a Priority Customer, whereas capacity code “C” under C2 Rule 1.1 applies to orders for the account of Public Customer. This difference accounts for the fact that C2 does not have a defined term for Priority Customer, which pursuant to Rule 16.1, means any person or entity that is not a broker or dealer in securities or a Professional. The Exchange believes that incorporating this term, as opposed to Public Customer, maintains consistency with the Exchange’s fee schedule, which already excludes brokers or dealers and Professionals from the definition of the term Customer for purposes of pricing on the Exchange, and provides that Professional capacity types are to be separately marked as such. Second, the Exchange provides that capacity code “N” is assigned to an order for the account of a market maker on another options exchange, and is otherwise known as an Away Market Maker. C2 does not provide in its definition that this capacity type is otherwise known as an Away Market Maker. The Exchange’s fee schedule currently defines Away Market Maker to mean the same as this proposed rule definition. Therefore, the Exchange believes that incorporating this language is a non-substantive addition that does not alter the capacity type definition attached to capacity code “N” in any way, but rather

¹⁰ See Rule 16.1(a)(47) (proposed Rule 16.1). A Professional means any person or entity that is not a broker or dealer in securities and places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). All Professional orders shall be appropriately marked by Options Members.

maintains consistency with the Exchange's fee schedule. The Exchange also notes that it does not add capacity code "L" like that of C2 for non-trading permit holder affiliates as this capacity code is only applicable to participants on C2.¹¹

The Exchange also proposes to update Rule 20.7 (Audit Trail) to reflect the proposed capacity definition under Rule 16.1(a). Specifically, current Rule 20.7(b) provides that order records relating to EDGX Options must contain certain information, including Member capacity pursuant to subparagraph (b)(6). The Exchange now proposes to update subparagraph (b)(6) to User capacity, which is in line with the proposed capacity definition under proposed Rule 16.1.

The Exchange also proposes to update the capacity type definitions of "Away Market Maker", "Customer", "Firm", "Joint Back Office", "Market Maker" and "Professional" in its fee schedule to reflect the proposed capacity definition and types under proposed Rule 16.1. Specifically, the Exchange notes the proposed change to the current language providing that the capacity types apply to transactions identified by a Member for clearing in the respective capacity type range at the OCC. The Exchange updates this language to provide that the defined capacity types apply to orders for the account of the respective capacity type.¹² This change reflects the proposed capacity type definitions under proposed Rule 16.1 and is in line with the capacity codes applicable to participants on the Exchange's affiliated exchange, C2. The Exchange also believes that changing the definition of the capacity types to apply to an order for the account of the

¹¹ See supra note 5.

¹² Though the Exchange proposes to remove the OCC clearing range language in order to better align these fee schedule definitions with those under proposed 16.1 and C2 Rule 1.1, this does not alter the manner in which each capacity type clears at the OCC.

respective capacity types better aligns with the order identification requirements under Rule 20.7. Under Rule 20.7 a Member must submit proper order information when entering orders and maintain Customer order records that must contain, among other things, User capacity (as proposed). The Exchange believes that codifying in the Rules the codes that Users must apply to orders for the accounts of the various capacity types will provide additional transparency to Members regarding the appropriate order marking requirements.

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.¹³

Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ 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)¹⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ Id.

In particular, the Exchange believes that the proposed change to adopt the definition of capacity, including types and codes, will remove impediments to and perfect the mechanism of a free and open market and a national market system by providing Users with rules that accurately reflect and add detail to current System capacity code specifications for which a User must use to appropriately mark its orders. As a result, the proposed change will help facilitate understanding of and compliance with the rules. In addition to this, the Exchange believes that by harmonizing the definition of capacity types and codes, with that of its affiliated exchange, C2, will result in increased understanding of the Exchange's Rules and that of its affiliated exchange rules for those participating across the two affiliated exchanges.

Additionally, the Exchange believes that the proposed change to reflect the proposed capacity definition throughout the corresponding definitions in the fee schedule will provide Members with clearer definitions of capacity types that will better align with the Exchange Rules as well as provide detail to the System specifications already in place. As a result, the proposed change will mitigate any confusion surrounding the fee schedule capacity definitions and applicable codes. As such, increased User understanding of the Exchange's fee schedule definitions as they correspond to the Exchange Rules will serve to remove impediments to and perfect the mechanism of a free and open market, and thereby protect investors. Likewise, the Exchange believes that the proposed change to Rule 20.7(b)(6) to more accurately reflect the proposed definition of capacity will also serve to remove impediments to and perfect the mechanism of a free and open market by aligning the Exchange Rules, in turn bolstering Member

understanding, and thus, facilitating less burdensome regulatory compliance with the audit trail rules.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change is not designed to address any competitive issues but is only intended to provide clarity with respect to the definition of capacity types and consistency throughout its Rules and fee schedule with respect to capacity codes. The Exchange does not believe that the proposed change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because all Users are already required to submit orders with the appropriate capacity code, and the same capacity codes are available to all Members. The Exchange also believes that the proposed rule change reduces the regulatory compliance burden on all Members by better aligning the Rules and fee schedule with the existing audit trail requirements. Moreover, the Exchange does not believe that the proposed change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted, the proposed rule change is not intended as a competitive change, but rather to provide Members with added detail and clarity regarding the capacity codes applicable to their orders submitted to the Exchange.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

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 Act¹⁶ and Rule 19b-4(f)(6)¹⁷ 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

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(6).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CboeEDGX-2019-046 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-2019-046. 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, D.C. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeEDGX-2019-046 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to
delegated authority.¹⁸

Secretary

¹⁸ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

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Rules of Cboe EDGX Exchange, Inc.

* * * * *

Rule 16.1. Definitions

* * * * *

Capacity

The term “Capacity” means the capacity in which a User submits an order, which the User specifies by applying the corresponding code to the order, and includes:

<u>Code</u>	<u>Capacity Type</u>
<u>B</u>	<u>For the account of a broker or dealer, including a foreign broker dealer</u>
<u>C</u>	<u>For the account of a Priority Customer</u>
<u>F</u>	<u>For an OCC clearing member firm proprietary account</u>
<u>J</u>	<u>For a joint back office account</u>
<u>M</u>	<u>For the account of a registered Market Maker</u>
<u>N</u>	<u>For the account of a market maker on another options exchange (i.e. an Away Market Maker)</u>
<u>U</u>	<u>For the account of a Professional</u>

* * * * *

Rule 20.7. Audit Trail

(a) No change.

(b) An Options Member must ensure that each options order received from a Customer for execution on EDGX Options is recorded and time-stamped immediately. The order record must be time-stamped again on execution and also at the time of any modification or cancellation of the order by the Customer. Order records relating to EDGX Options must contain the following information at a minimum:

(1)-(5) No change.

(6) [Member]User Capacity;

* * * * *

Cboe EDGX Options Exchange Fee Schedule

Effective [July]September [1]3, 2019

* * * * *

Definitions:

* * * * *

- “Away Market Maker” applies to any [transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is not registered with the Exchange as a Market Maker, but is registered as]order for the account of a market maker on another options exchange.

* * * * *

- “Broker Dealer” applies to any order for the account of a broker dealer, including a foreign broker dealer[, that clears in the Customer range at the Options Clearing Corporation (“OCC”)].
- “Customer” applies to any [transaction identified by a Member for clearing in the]order for the account of a Priority Customer [range at the OCC, excluding any transaction for a Broker Dealer or a “Professional” as defined in Exchange Rule 16.1].
- “Firm” applies to any [transaction identified by]order for the proprietary account of an OCC clearing [M]member[for clearing in the Firm range at the OCC, excluding any Joint Back Office transaction].
- “Joint Back Office” applies to any [transaction identified by a Member for clearing in the Firm range at the OCC that is identified with an origin code as Joint Back Office. A Joint Back Office participant is a Member]order for a joint back office account [that maintains a Joint Back Office arrangement with a clearing broker-dealer].
- “Market Maker” applies to any [transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is]order for the account of a registered [with the Exchange as a] Market Maker [as defined in Rule 16.1(a)(37)].

* * * * *

- “Professional” applies to any [transaction identified by]order for the account of a [Member as such pursuant to Exchange Rule 16.1]Professional.

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