



## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90509; File No. SR-CboeEDGX-2020-056]

### **Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend its Early Trading Session**

November 24, 2020.

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 November 16, 2020, Cboe EDGX Exchange, Inc. (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II, 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 EDGX Exchange, Inc. (the “Exchange” or “EDGX”) proposes to extend its Early Trading Session. 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

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

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

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 extend its Early Trading Session hours. The Exchange currently offers four distinct trading sessions where the Exchange accepts orders for potential execution: (1) the “Early Trading Session,” which begins at 7:00 a.m. Eastern Time (“ET”) and continues until 8:00 a.m. ET;<sup>3</sup> (2) the “Pre-Opening Session,” which begins at 8:00 a.m. ET and continues until 9:30 a.m. ET;<sup>4</sup> (3) “Regular Trading Hours,” which begin at 9:30 a.m. ET and continue until 4:00 p.m. ET;<sup>5</sup> and (4) the “Post-Closing Trading Session,” which begins at 4:00 p.m. ET and continues until 8:00 p.m. ET.<sup>6</sup> Users<sup>7</sup> may designate when their orders are eligible for execution by selecting their desired Time-in-Force instruction.<sup>8</sup> The proposed rule change amends Rule 1.5(ii), which defines the Early Trading Session, to allowing trading to begin at 4:00 a.m. ET. In addition to this, the proposed rule change amends the time when orders may start to be entered into the System prior to the Early Trading Session in Rule 11.1(a)(1), from 6:00 a.m. ET to 3:30 a.m. ET. The proposed rule change also updates Rule 11.1(a)(1) and Rule 14.1(c)(2) to reflect the proposed Early Trading Session and order acceptance times, where applicable. Orders entered for participation in the Early Trading Session will continue to be handled in the same manner as they are today. The proposed

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<sup>3</sup> “Early Trading Session” means the time between 7:00 a.m. and 8:00 a.m. ET. See Rule 1.5(ii).

<sup>4</sup> “Pre-Opening Session” means the time between 8:00 a.m. and 9:30 a.m. ET. See Rule 1.5(s).

<sup>5</sup> “Regular Trading Hours” means the time between 9:30 a.m. and 4:00 p.m. ET. See Rule 1.5(y).

<sup>6</sup> “Post-Closing Trading Session” means the time between 4:00 p.m. and 8:00 p.m. ET. See Rule 1.5(r).

<sup>7</sup> “User” means any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3. See Rule 1.5(ee).

<sup>8</sup> See Rule 11.8.

rule change merely permits the Exchange to begin order acceptance and commence trading at earlier times, thereby providing additional time for market participants to source and access liquidity on the Exchange outside of Regular Trading Hours. The Exchange therefore believes that amending Rule 1.5(ii) to extend the Exchange’s trading hours will be benefit investors that will now be able to trade on the Exchange earlier in the day.

The Exchange notes that the extended Early Trading Session hours are consistent with the early trading session hours currently in place on other equities exchanges. For example, NYSE Arca Rule 7.34-E (a)(1) provides that NYSE Arca’s early trading session begins 4:00 a.m. ET and concludes at the commencement of NYSE Arca’s regular trading hours at 9:30 a.m. ET, and Nasdaq Stock Market LLC (“Nasdaq”) Rule 4701(g) provides that Nasdaq’s early trading session begins at 4:00 a.m. and continues until the 9:30 a.m. commencement of Nasdaq’s regular trading hours. Additionally, NYSE Arca Rule 7.34-E(a)(1) provides that the exchange begins accepting orders 30 minutes before its early trading session (i.e., 3:30 a.m. ET).

## 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>9</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</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

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

is consistent with the Section 6(b)(5)<sup>11</sup> 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 to extend the Exchange's Early Trading Session hours will remove impediments to and perfect the mechanism of a free and open market and national market system and will benefit investors by providing market participants with additional opportunities to source and access liquidity for their orders on the Exchange. All orders entered during the proposed acceptance period and extended Early Trading Session hours will continue to be handled in the same manner as they are today. In addition to this, the proposed rule change will not affect the protection of investors as it is consistent with early trading session hours, as well as the System acceptance time, already in place under the rules of other equities exchanges, as previously filed with the Commission. Finally, the Exchange notes that updating the references to Early Trading Session operation times in Rule 11.1 and 14.1 will also remove impediments to and perfect the mechanism of a free and open market and national market system and benefit investors because the updates ensure that the Exchange Rules properly reflect the proposed changes to the Early Trading Session hours.

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 Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because all Members will be able to enter orders earlier in the day for System acceptance and for execution in the lengthened Early Trading Session. As stated, the proposed rule change does not alter the manner in which a User's orders are handled. The Exchange also does not believe that the proposed rule change will impose any burden on

intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, and may promote competition, because the proposed trading hours are identical to those of early trading sessions currently in place on other equities exchanges.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup> Because the 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, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>16</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>17</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

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

immediately. The Exchange asserts that the proposed rule change does not introduce any new or novel issues. Rather, the Exchange states that it is proposing extend its Early Trading Session hours to the same as those on other equities exchanges. The Exchange represents that this proposal would not alter the manner in which Users' orders will be handled for acceptance or execution in the Early Trading Session. The Exchange further states that waiving the operative delay will allow it to implement these extended hours as soon as practicable, with a target implementation date of December 7, 2020. Based on the foregoing, the Commission believes that waiving the 30-day operative delay 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.<sup>18</sup>

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 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

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

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeEDGX-2020-056 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CboeEDGX-2020-056. 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 the filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeEDGX-2020-056, 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.<sup>19</sup>

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<sup>19</sup> 17 CFR 200.30-3(a)(12).

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020-26406 Filed: 11/30/2020 8:45 am; Publication Date: 12/1/2020]