



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103040; File No. SR-CBOE-2025-033]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Implement an Excessive Mass Cancel and Purge Fee for SPXW

May 14, 2025.

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 May 1, 2025, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) 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 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 Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to implement an Excessive Mass Cancel and Purge Fee for SPXW. 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://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 amend its Fee Schedule to adopt an Excessive Mass Cancel and Purge Fee for SPXW (the “Fee”). The proposed Fee will be charged to market participants registered as Market Makers on Cboe based on a Market Maker’s mass cancel³ and purge⁴ activity, relative to the Market Maker’s volume added, in SPXW during Regular Trading Hours (9:30 A.M. EST – 4:15 PM EST).⁵ The Market Maker’s volumes in both its mass cancel and purge activity as well as its volume added will be combined with any of its Affiliates.⁶ The Fee will be calculated on a daily basis and will be assessed to Market Maker’s at the end of the month. The Fee is calculated as follows: (i) all quotes and orders for SPXW cancelled via mass cancels or purges sent to the Exchange by the Market Maker and its Affiliate are added together (the “Total Mass Cancels and Purges”) to determine the Daily Charge based on the below Table 1 and (ii) the Daily Charge is then multiplied by the Daily Multiplier that is found by dividing the Total Mass Cancel and Purge Count by the daily simple electronic non-auction volume added in SPXW which excludes AIM orders and responses to complex quote requests by the Market Maker and its Affiliate (“SPXW MM Add Volume”) and is based on the below Table 2.

³ The Mass Cancel feature decreases workflow and saves time when multiple orders need to be canceled. With Mass Cancel, all orders on a specific session that are associated to a specific underlying symbol can be canceled using a single BOE or FIX message. See Cboe US Options Exchange Risk Management Tools.

⁴ Purge messages provide TPHs the ability to submit a cancellation for all open orders, or a subset thereof, across multiple sessions under the same Firm ID and/or more granular levels of EFID(s), Underlyer(s), or CustomGroupID(s). Purge requests are initiated by sending a single message over an individual (FIX or BOE) Purge Port, per Exchange. See https://cdn.cboe.com/resources/features/Cboe_USO_PurgePortsFAQs.pdf

⁵ See Rule 5.1(b).

⁶ Affiliate is defined as having at least 75% common ownership with the Market Maker as reflected in each entity’s Form BD, Schedule A. The Exchange proposes to add this definition to its Fee Schedule.

Table 1

<u>Tier</u>	<u>Total Mass Cancels and Purges</u>	<u>Daily Charge</u>
Tier 1	$\geq 75,000,000 \leq 149,999,999$	\$3,000
Tier 2	$\geq 150,000,000 \leq 349,999,999$	\$10,000
Tier 3	$\geq 350,000,000 \leq 999,999,999$	\$30,000
Tier 4	$\geq 1,000,000,000$	\$50,000

Table 2

<u>Tier</u>	<u>Total Mass Cancels and Purges to SPXW MM Simple Add Volume Ratio</u>	<u>Daily Multiplier</u>
Tier 1	$0 \leq 100$	0.00
Tier 2	$> 100 \leq 500$	0.30
Tier 3	$> 500 \leq 3,000$	1.00
Tier 4	$> 3,000$	1.50

For example, a Market Maker has 150,000,000 Total Mass Cancels and Purges on a particular day when the Market Maker also added 30,000 SPXW contracts through the simple electronic order book. The Market Maker's Daily Charge is \$10,000, as their Total Mass Cancel and Purge Volume is between 150,000,000 and 349,000,000. The Total Mass Cance and Purge Volume (150,000,000) divided by the volume added (30,000) is 5,000, which is greater than 3,000 and makes the Daily Charge Multiplier 1.50. Their \$10,000 Daily Charge multiplied by their 1.50 Daily Charge Multiplier, makes the Market Maker's Fee \$15,000 for the day.

The Exchange notes that market participants with incrementally higher mass cancel and purge volumes have the potential residual effect of exhausting System resources, bandwidth, and capacity. Higher mass cancel and purge volumes may therefore, in turn, create latency and impact other market participants' ability to receive timely executions. In fact, the Exchange has recently seen an unprecedented increase in mass cancel and purge volumes in SPXW

specifically. As a result, the Exchange has noticed increased strain on its System, particularly, as it relates to activity in SPXW. With this in mind, the Exchange has proposed this fee specifically for activity in SPXW in order to encourage more efficient behavior among its Market Makers as it relates to their mass cancel and purge activity.

The proposed fee structure has multiple thresholds, and the proposed fees are incrementally greater at higher mass cancel and purge rates because the potential impact on Exchange Systems, bandwidth and capacity becomes greater with increased mass cancel and purge rates. The proposal contemplates that a Market Maker would have to both (i) exceed the high Total Mass Cancel and Purge Count of 75,000,000 and (ii) have a Total Mass Cancel and Purge Count to Add Volume Ratio of over 100 before that market participant would be charged a fee under the proposed respective tiers. The Exchange believes that it is in the interests of all market participants who access the Exchange to not allow other market participants to exhaust System resources, but to encourage efficient usage of network and System capacity. The Exchange also believes this proposal (and in particular the proposed fee amounts associated with higher mass cancel and purge counts without adequate added volume) will reduce the incentive for market participants to engage in excessive mass cancellation and purge activity that will encourage such activity to be submitted in good faith for legitimate purposes.

The Exchange also represents that the proposed fees are not intended to raise revenue; rather, as noted above, it is intended to encourage efficient behavior so that market participants do not exhaust System resources. This is demonstrated by the Exchange (i) targeting the offending behavior and (ii) limiting this to only be for SPXW (where the Exchange is noticing inefficient use of the System). Moreover, the Exchange intends to provide Market Makers with daily reports, free of charge, which will detail their activity in order for those firms to be fully aware of all mass cancel and purge activity they (and their Affiliates) are sending to the Exchange. This will allow Market Makers to monitor their behavior and determine whether it needs to change its behavior moving forward to avoid triggering the proposed fees.

The Exchange lastly notes that other exchanges have adopted various fee programs that assess incrementally higher fees to members in order to encourage efficient messaging and behavior on the exchange.⁷

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.⁸ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁹ 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)¹⁰ 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)(4)¹¹ of the Act, which

⁷ See, e.g., Securities Exchange Act Release No. 60102 (June 11, 2009), 74 FR 29251 (June 19, 2009) (SR-NYSEArca-2009-50) (adopting fees applicable to Members based on the number of orders entered compared to the number of executions received in a calendar month). It appears that Nasdaq assesses a penalty charge to its members that exceed certain “weighted order-to-trade ratios”. See *Price List—Trading Connectivity*, NASDAQ, available at <https://www.nasdaqtrader.com/trader.aspx?id=pricelisttrading2>. See also Securities Exchange Act Release No. 91406 (March 25, 2021), 86 FR 16795 (March 31, 2023) (SR-EMERALD-2021-10) (adopting an “Excessive Quoting Fee” to ensure that Market Makers do not over utilize the exchange’s System by sending messages to the MIAX Emerald, to the detriment of all other Members of the exchange). See also Securities Exchange Act Release No. 97262 (March 29, 2023), 88 FR 22509 (April 13, 2023) (SR-CboeEDGX-2023-023) (adopting fees applicable to Market Makers based on the number of orders (including modification messages) entered compared to the number of orders traded in a calendar month).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ Id.

¹¹ 15 U.S.C. 78f(b)(4).

requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities.

The Exchange believes the proposed fees are reasonable as Market Makers that do not both (i) exceed the high Total Mass Cancel and Purge Count of 75,000,000 and (ii) have a Total Mass Cancel and Purge Count to Add Volume Ratio of over 100 will not be charged any fee under the proposed tiers. The Exchange notes that in establishing the proposed thresholds, it evaluated average mass cancel and purge rates over several months during the recent volatile trading periods and the thresholds were designed to protect the Exchange's Matching Engines from being adversely impacted from sustained and excessive mass cancels and purges through the course of a given day as well as throughout the course of the month. The Exchange believes it's reasonable, equitable and not unfairly discriminatory to assess higher fees when a Market Maker has higher mass cancel and purge rates relative to their volume added because the potential impact on Exchange Systems, bandwidth and capacity becomes greater with increased mass cancel and purge rates. The Exchange believes the proposed fee amounts are reasonable as the Exchange believes them to be commensurate with the proposed thresholds. Particularly, the proposed fee amounts that correspond to higher mass cancel and purge rates are designed to incentivize Market Makers to reduce excessive mass cancel and purge activity that the Exchange believes can be detrimental to all market participants at the levels outlined and encourage such activity to be made in good faith and for legitimate purposes. As noted above, the Exchange believes that it is in the interests of all Market Makers and market participants who access the Exchange to not allow Market Makers to exhaust System resources, but to encourage efficient usage of network and System capacity. The Exchange therefore also believes that the proposed fees appropriately reflect the benefits to different firms of being able to send mass cancels and purges into the Exchange's System and also believes the proposed Fee is one method of facilitating the Commission's goal of ensuring that critical market infrastructure has "levels of

capacity, integrity, resiliency, availability, and security adequate to maintain their operational capability and promote the maintenance of fair and orderly markets.”¹²

The Exchange believes adopting the proposed Fee is reasonable as unfettered usage of System capacity and network resource consumption can have a detrimental effect on all market participants who access and use the Exchange. As discussed above, high mass cancel and purge rates may adversely impact System resources, bandwidth, and capacity which may, in turn, create latency and impact other market participants’ ability to receive timely executions. The Exchange believes the proposed Fee is therefore reasonable as they are designed to focus on activity that is truly disproportionate while fairly allocating fees to disincentivize the adverse behavior.

Further, the Exchange believes that the proposed Fee is equitable and not unfairly discriminatory because it will be assessed uniformly to similarly situated users in that all Market Makers that exceed the thresholds in connection with the Fee will be assessed the proposed rates. Regarding mass cancel messages and purge messages, no market participant is assessed any fees unless it exceeds the proposed thresholds. As noted above, the Exchange believes the proposed thresholds are appropriately high rates and have been set out given the volatile market conditions recently observed. The Exchange also believes it’s equitable and not unfairly discriminatory to only assess the proposed fees to Market Makers because only Market Makers have these high levels of mass cancel and purge activity. The Exchange also believes it's equitable and not unfairly discriminatory to aggregate a Market Maker's order flow with its Affiliate even if such affiliated TPH is not a Market Maker in order to prevent Market Makers from shifting their order flow and trading activity to their non-Market Maker Affiliate in order to circumvent the proposed fees.

¹² *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72251 (December 5, 2014) (File No. S7-01-13) (Regulation SCI Adopting Release).

The Exchange believes it's equitable and not unfairly discriminatory to assess incrementally higher fees to Members that have higher mass cancel and purge rates because the potential impact on Exchange Systems, bandwidth and capacity becomes greater with increased mass cancels and purge messages. As noted above, the steep increase in this behavior that has been observed in recent months has taken up extra resources on the Exchange's System.

The Exchange lastly believes that its proposal is reasonable, equitably allocated and not unfairly discriminatory because it is not intended to raise revenue for the Exchange; rather, it is intended to encourage efficient behavior so that Members do not exhaust System resources. Specifically, the Exchange is limiting this to the offending behavior (mass cancels and purges) and to the specific asset class effected. Moreover, as noted above, competing options exchanges similarly assess fees to deter Members from over utilizing the exchange's System by introducing fees that deter inefficient behavior from its market participants.¹³

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. Similarly, the Exchange does not believe that the proposed rule change to adopt the Fee will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act because such fees will apply equally to all similarly situated Market Makers. Particularly, the proposed Fee applies uniformly to all Market Makers, in that any Market Maker who exceeds the thresholds will be subject to a fee under the proposed corresponding tiers. The Exchange believes that the proposed change neither favors nor penalizes one or more categories of market participants in a manner that would impose an undue burden on competition. Rather, the proposal seeks to benefit all market participants by encouraging the efficient utilization of the Exchange's network while taking into account the important liquidity provided by its Market

¹³ See supra note 10.

Makers by considering the volume added ratio when determining the multiplier.¹⁴ As discussed above potential impact on Exchange Systems, bandwidth and capacity becomes greater with increased mass cancel and purge rates. Accordingly, the Exchange believes that the proposed Fee does not favor certain categories of market participants in a manner that would impose a burden on competition.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market, including competition for exchange memberships. Market Participants have numerous alternative venues that they may participate on, including 17 other options exchanges (including 3 other non-Cboe options exchanges), as well as off-exchange venues, where competitive products are available for trading. Indeed, participants can readily choose to submit their order flow to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁵ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ ... As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide

¹⁴ In the event a Market Maker’s Added Volume Ratio is under 101, a Market Maker will not be assessed the fee despite having a Total Mass Cancel and Purge Count that is 75,000,000 or more in a given day.

¹⁵ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”¹⁶ Accordingly, the Exchange does not believe its proposed change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and paragraph (f) of Rule 19b-4¹⁸ 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 (<https://www.sec.gov/rules/sro.shtml>); or

¹⁶ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f).

- Send an email to rule-comments@sec.gov. Please include file number SR-CBOE-2025-033 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-CBOE-2025-033. 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 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-CBOE-2025-033 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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

¹⁹ 17 CFR 200.30-3(a)(12).

Sherry R. Haywood,

Assistant Secretary.

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