payable for 3 years following certain distress and involuntary plan terminations. PBGC's regulations on Premium Rates (29 CFR part 4006) and Payment of Premiums (29 CFR part 4007) implement the termination premium. Sections 4007.3 and 4007.13(b) of the premium payment regulation require the filing of termination premium information and payments with PBGC. PBGC has issued Form T and its corresponding instructions for paying the termination premium. In this renewal, PBGC is updating the email address listed in the filing instructions for Form T and making a clarifying edit.

In general, the termination premium applies where a single-employer plan terminates in a distress termination under section 4041(c) of ERISA (unless contributing sponsors and controlled group members meet the bankruptcy liquidation requirements of section 4041(c)(2)(B)(i)) or in an involuntary termination under section 4042 of ERISA, and the termination date under section 4048 of ERISA is after 2005.

The termination premium is payable for 3 years. The same amount is payable each year. The termination premium is due on the 30th day of each of 3 consecutive 12-month periods. The first 12-month period generally begins shortly after the termination date or after the conclusion of bankruptcy proceedings in certain cases. The termination premium and related information must be filed by a person liable for the termination premium. The persons liable for the termination premium are contributing sponsors and members of their controlled groups, determined on the day before the plan termination date. Section 4007.10 of the premium payment regulation requires the retention of records supporting or validating the computation of premiums paid and requires that the records be made available to PBGC.

OMB has approved the termination premium collection of information (Form T and instructions) under control number 1212–0064 through April 30, 2023. PBGC intends to request that OMB extend approval of this collection of information for 3 years, with minor changes. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that, during the next 3 years, it will receive an average of 1 filing of Form T per year. PBGC estimates that the total annual burden for the collection of information will be 5 minutes and $67.

PBGC is soliciting public comments to—

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2022–26924 Filed 12–9–22; 8:45 am]

BILLING CODE 7709–02–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96459; File No. SR–NYSEARCA–2022–65]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Withdrawal of a Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule Concerning the Options Regulatory Fee

December 7, 2022.

On September 28, 2022, NYSE Arca, Inc. (''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Fee Schedule regarding its Options Regulatory Fee. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule change was published for comment in the **Federal Register** on October 19, 2022.[4] On November 14, 2022, NYSE Arca withdrew the proposed rule change (SR–NYSEARCA–2022–65).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–26948 Filed 12–9–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96450; File No. SR–CBOE–2022–060]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

December 6, 2022.

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 November 23, 2022, 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 amend its Fees Schedule. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release No. 96068 (October 13, 2022), 87 FR 63551.

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 amend its Fees Schedule to modify the fee for the SPX (and SPXW) Floor Market-Maker Tier Appointment Fee.[3]

By way of background, Exchange Rule 5.50(g)(2) provides that the Exchange may establish one or more types of tier appointments and Exchange Rule 5.50(g)(2)(B) provides such tier appointments are subject to such fees and charges the Exchange may establish. In 2010, the Exchange established the SPX Tier Appointment and adopted an initial fee of $3,000 per Market-Maker trading permit, per month.[4] The SPX (and SPXW) Tier Appointment fee for Floor Market-Makers currently applies to any Market-Maker that executes any contracts in SPX and/or SPXW on the trading floor.[5] The Exchange now seeks to increase the fee for the SPX/SPXW Floor Market-Maker Tier Appointment from $3,000 per Market-Maker Floor Trading Permit to $5,000 per Market-Maker Floor Trading Permit.

In connection with the proposed change, the Exchange also proposes to update Footnote 24 in the Fees Schedule, as well as remove the reference to Footnote 24 in the Market-Maker Tier Appointment Fee Table. By way of background, in June 2020, the Exchange adopted Footnote 24 to describe pricing changes that would apply for the duration of time the Exchange trading floor was being operated in a modified manner in connection with the COVID–19 pandemic.[6] Among other changes, Footnote 24 provided that the monthly fee for the SPX/SPXW Floor Market-Maker Tier Appointment Fee was to be increased to $5,000 per Trading Permit from $3,000 per Trading Permit. As the Exchange now proposes to maintain the $5,000 rate on a permanent basis (*i.e.,* regardless of whether the Exchange is operating in a modified state due to COVID–19 pandemic), the Exchange proposes to eliminate the reference to the SPX/SPXW Floor Market-Maker Tier Appointment Fee in Footnote 24.[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 believes its proposal to increase the SPX (and SPXW) Floor Market-Maker Tier Appointment fee is reasonable because the proposed amount is not significantly higher than was previously assessed (and is the same amount that has been assessed under Footnote 24 for the last two years). Additionally, the Exchange believes its proposal to increase the fee is reasonable as the fee amount has not been increased since it was adopted over 12 years ago in July 2010.[11] For example, since its adoption 12 years ago, there has been notable inflation. Indeed, the dollar has had an average inflation rate of 2.6% per year between 2010 and today, producing a cumulative price increase of approximately 37% inflation since 2010, when the SPX and SPXW Floor Market-Maker Tier Appointment was first adopted.[12] Additionally, for nearly ten years, Market-Makers were only subject to the original rate that was adopted in 2010 (*i.e.,* $3,000) notwithstanding an average inflation rate of 2.64% per year. The Exchange believes the proposed increase is also reasonable in light of increased costs of services since 2010, including those relating to facility and technology upgrades associated with the new trading floor, which new floor provides a state-of-the-art environment and technology. Although the Exchange recently adopted new, and/or updated current, fees associated with the new trading floor, it did not pass-through other costs incurred in connection with the new trading floor, including design, construction and other on-going maintenance costs. Further, the Exchange has not modified many of its facilities fees in several years. The Exchange notes in particular that the trading pit for SPX is the largest trading pit on the new trading floor and represents a significant amount of space on the new trading floor. Accordingly, the Exchange believes the proposed change is reasonable because it allows the Exchange to recoup additional fees associated with the costs of operating a modern and cutting-edge trading floor from market participants that utilize the most space and resources on said trading floor.

Additionally, over the last decade the Exchange has made, and continues to make, further investments to encourage growth trends in SPX volume, including investments in marketing, sales teams, global coverage teams, and new product

[3] The Exchange initially filed the proposed fee change, among other changes, on June 1, 2022 (SR–CBOE–2022–026). On June 10, 2022, the Exchange withdrew that filing and submitted SR–CBOE–2022–029. On August 5, 2022, the Exchange withdrew that filing and submitted SR–CBOE–2022–042. On September 26, 2022, the Exchange withdrew that filing and submitted SR–CBOE–2022–050 to address the proposed fee change relating to the SPX/SPXW Floor Market-Maker Tier Appointment Fee. On November 23, 2022, the Exchange withdrew that filing and submitted this filing.

[4] *See* Securities Exchange Act Release No. 62386 (June 25, 2010), 75 FR 38566 (July 2, 2010) (SR–CBOE–2010–060).

[5] The Exchange notes that the fee is not assessed to a Market-Maker Floor Permit Holder who only executes SPX (including SPXW) options transactions as part of multi-class broad-based index spread transactions. *See* Cboe Options Fees Schedule, Market-Maker Tier Appointment Fees, Notes.

[6] *See* Securities Exchange Act Release No. 89189 (June 30, 2020), 85 FR 40344 (July 6, 2020) (SR–CBOE–2020–058).

[7] The Exchange notes that since its transition to a new trading floor facility on June 6, 2022, it has not been operating in a modified manner. As such Footnote 24 (*i.e.,* the modified fee changes it describes) does not currently apply.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *See* Securities Exchange Act Release No. 62386 (June 25, 2010), 75 FR 38566 (July 2, 2010) (SR–CBOE–2010–060).

[12] *See https://www.officialdata.org/us/inflation/2010?amount=1.*

innovations (such as adding additional weekly expirations and LEAPS). The Exchange notes that the SPX (and SPXW) Tier Appointment fee helps fund these efforts. Moreover, although the SPX (and SPXW) Tier Appointment fee has not increased since 2010, SPX volume, including volume on the trading floor, has increased significantly since that time. The Exchange therefore believes the proposed fee increase is reasonable because it allows the Exchange to recoup fees associated with the costs of maintaining and growing SPX and SPXW, which products can help market participants achieve broad market protection.

The Exchange next notes that it operates in a highly competitive environment. The SEC Division of Trading and Markets' Fee Guidance provides that in determining whether a proposed fee is constrained by significant competitive forces, the Commission will consider whether there are reasonable substitutes for the product or service that is the subject of a proposed fee.[13] As described in further detail below, the Exchange believes substitutable products are in fact available to market participants, including in the Over-the-Counter (OTC) markets. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 17% of the market share as of November 21, 2022.[14] Further, low barriers to entry mean that new exchanges may rapidly and inexpensively enter the market and offer additional substitute platforms to further compete with the Exchange and the products it offers. For example, there are 3 exchanges that have been added in the U.S. options markets in the last 5 years (*i.e.,* Nasdaq MRX, LLC, MIAX Pearl, LLC, and MIAX Emerald LLC) and one additional options exchange that is expected to launch in 2023 (*i.e.,* MEMX LLC).

The Exchange believes that competition in the marketplace constrains the ability of exchanges to charge supracompetitive fees for access to its products exclusive to that market (''proprietary products''). Notably, just as there is no regulatory requirement to become a member of any one options exchange, there is also no regulatory requirement for any market participant to trade any particular product, nor is there any requirement that any Exchange create or indefinitely maintain any particular product.[15] The Exchange also highlights that market participants may trade an exchange's proprietary products through a third-party without directly or indirectly connecting to the exchange. Further, market participants, including Market-Makers, may trade the Exchange's products, including proprietary products, on or off the Exchange's trading floor (*i.e.,* all products are available both electronically and via open outcry on the Exchange's trading floor). Indeed, market participants are not obligated to trade on the Exchange's trading floor and therefore a market participant, including Market-Makers, can choose to trade a product electronically instead of on the Exchange's trading floor at any time and for any reason, including due to an assessment of the reasonableness of fees charged.

Additionally, market participants may trade any options product, including proprietary products, in the unregulated Over-the-Counter (OTC) markets for which there is no requirement for fees related to those markets to be public. Given the benefits offered by trading options on a listed exchange, such as increased market transparency and heightened contra-party creditworthiness due to the role of the Options Clearing Corporation as issuer and guarantor, the Exchange generally seeks to incentivize market participants to trade options on an exchange, which further constrains fees that an Exchange may assess. Market participants may also access other exchanges to trade other similar or competing proprietary or multi-listed products. Alternative products to the Exchange's proprietary products may include other options products, including options on ETFs or options futures, as well as particular ETFs or futures. Particularly, exclusively listed SPX options (*i.e.,* a proprietary product) may compete with the following products traded on other markets: multiply-listed SPY options (options on the ETF), E-mini S&P 500 Options (options on futures), and E-Mini S&P 500 futures (futures on index). Accordingly, if a market participant views the Exchange's proprietary product as more or less attractive than the competition they can switch between similar products. As such, the Exchange is subject to competition and does not possess anti-competitive pricing power, even with its offering of proprietary products such as SPX.

In connection with a previous proposed amendment to the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'')[16], the Commission discussed the existence of competition in the marketplace generally, and particularly for exchanges with unique business models. The Commission recognized for example that while some exchanges may have a unique business model that is not currently offered by competitors, a competitor could create similar business models if demand were adequate, and if a competitor did not do so, the Commission believes it would be likely that new entrants would do so if the exchange with that unique business model was otherwise profitable.[17] Similarly, although the Exchange may have proprietary products not offered by other competitors, not unlike unique business models, a competitor could create similar products to an existing proprietary product if demand were adequate.

The proposed change is also equitable and not unfairly discriminatory as it applies to all Market-Makers that trade SPX on the trading floor uniformly. The Exchange believes it's reasonable equitable and not unfairly discriminatory to increase the SPX/SPXW floor Market-Maker Tier Appointment fee and not the SPX/SPXW electronic Market-Maker Tier Appointment fee, as Floor Market-Makers are not subject to other costs that electronic Market-Makers are subject to. For example, while all Floor Market-Makers automatically have an appointment to trade open outcry in all classes traded on the Exchange and at no additional cost per appointment, electronic Market-Makers must select an appointment in a class (such as SPX) to make markets electronically and such appointments are subject to fees under the Market-Maker Electronic Appointments Sliding Scale.[18]

[13] *See* Chairman Jay Clayton, Statement on Division of Trading and Markets Staff Fee Guidance, June 12, 2019.

[14] *See* Cboe Global Markets U.S. Options Market Volume Summary (November 21, 2022), available at *https://markets.cboe.com/us/options/market_statistics/*.

[15] If an option class is open for trading on another national securities exchange, the Exchange may delist such option class immediately. For proprietary products, the Exchange may determine to not open for trading any additional series in that option class; may restrict series with open interest to closing transactions, provided that, opening transactions by Market-Makers executed to accommodate closing transactions of other market participants and opening transactions by TPH organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with Rule 6.74(b) or (d) may be permitted; and may delist the option class when all series within that class have expired. *See* Cboe Rule 4.4, Interpretations and Policies .11.

[16] *See* Securities Exchange Act Release No. 86901 (September 9, 2019), 84 FR 48458 (September 13, 2019) (File No. S7–13–19).

[17] *Id.*

[18] *See* Cboe Options Rules 5.50(a) and (e). *See also* Cboe Options Fees Schedule, Market-Maker EAP Appointments Sliding Scale.

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 does not believe that the proposed rule changes will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes would be applied in the same manner to all Floor Market-Makers that trade SPX (and/or SPXW). As noted above, the Exchange believes it's reasonable to increase the SPX/SPWX Tier Appointment Fee for only Floor Market-Makers only as opposed to electronic Market-Makers, because electronic Market-Makers are subject to costs Floor Market-Makers are not, such as the fees under Market-Maker EAP Appointments Sliding Scale.

The Exchange 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 because the proposed rule changes apply only to a fee relating to a product exclusively listed on the Exchange. Additionally, the Exchange operates in a highly competitive market. In addition to Cboe Options, TPHs have numerous alternative venues that they may participate on (which, as described above, list products that compete with SPX options) and direct their order flow, including 15 other options exchanges (four of which also maintain physical trading floors), as well as off-exchange venues, where competitive products are available for trading. Based on publicly available information, no single options exchange has more than 17% of the market share of executed volume of options trades.[19] Therefore, no exchange possesses significant pricing power in the execution of option order flow. 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.'' [20] 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 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'. . . .''.[21] Accordingly, the Exchange does not believe its proposed changes to the incentive programs impose 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 Act [22] and paragraph (f) of Rule 19b–4 [23] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2022–060 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–2022–060. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2022–060 and should be submitted on or before January 3, 2023.

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

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2022–26864 Filed 12–9–22; 8:45 am]

BILLING CODE 8011–01–P

[19] *See* Cboe Global Markets, U.S. Options Market Volume Summary by Month (November 21, 2022), available at *http://markets.cboe.com/us/options/market_share/.*

[20] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

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

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f).

[24] 17 CFR 200.30–3(a)(12).