execute the corresponding contract at the corresponding exchange.

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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange’s proposed re-categorization of certain exchange groupings is intended to enable the Exchange to recover the costs it incurs to route orders to away markets, particularly Nasdaq MRX. The Exchange does not believe that this proposal imposes any unnecessary burden on competition because it seeks to recoup costs incurred by the Exchange when routing orders to away markets on behalf of Members and notes that at least one other options exchange has a similar routing fee structure.\(^\text{14}\)

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

Written comments were neither solicited nor received.

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)(ii) of the Act,\(^\text{15}\) and Rule 19b–4(f)(2)\(^\text{16}\) thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may 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 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
- Send an email to rule-comments@sec.gov. Please include file number SR–EMERALD–2023–15 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–EMERALD–2023–15. All 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](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–EMERALD–2023–15 and should be submitted on or before August 9, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.\(^\text{17}\)

J. Matthew DeLesDernier, Deputy Secretary.

[FR Doc. 2023–15269 Filed 7–18–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Provide Relief Relating to Specified Option Transactions Under FINRA Rule 4210 (Margin Requirements)


Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) \(^\text{1}\) and Rule 19b–4 thereunder,\(^\text{2}\) notice is hereby given that on June 30, 2023, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to amend FINRA Rule 4210 (Margin Requirements) to provide margin relief for specified index option transactions, known as “protected options,” and to make other minor conforming revisions with regard to the margin relief.

The text of the proposed rule change is available on FINRA’s website at [http://www.finra.org](http://www.finra.org), at the principal office of FINRA 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, FINRA 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. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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\(^{14}\) See supra note 4.


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

1. Purpose

Cboe Exchange, Inc. (“Cboe” or the “Exchange”) filed with the SEC a proposed rule change to amend Cboe Rule 10.3 regarding margin requirements related to cash-settled index options written against exchange-traded funds (“ETF(s)”) that track the same underlying stock basket as the option. The SEC has approved Cboe’s proposed rule change. Cboe Rule 10.3 sets forth margin requirements, and certain exceptions to those requirements, that apply to the customers of Trading Permit Holders (“TPHs”). Cboe stated that, under paragraph (c)(5) of Rule 10.3, TPHs generally are required to obtain from a customer, and maintain, a margin deposit for short cash-settled index options in an amount equal to 100% of the current market value of the option plus 15% (if overlying a broad-based index) or 20% (if overlying a narrow-based index) of the amount equal to the index value multiplied by the index multiplier minus the amount, if any, by which the option is out-of-the-money. Cboe stated the minimum margin required for such an option is 100% of the option current market value plus 10% of the index value multiplied by the index multiplier for a call or 10% of the exercise price multiplied by the index multiplier for a put.

The Cboe rule change establishes a new exception to these requirements that Cboe stated is tailored to a “protected option” strategy, as set forth in new paragraph (c)(5)(C)(iv)(e) under Cboe Rule 10.3. Subject to specified conditions, the exception is applicable to short option positions or warrants on indexes that are offset by positions in an underlying stock basket, non-leveraged index mutual fund, or non-leveraged ETF that is based on the same index option.

2. Discussion

Cboe stated it believes that the rule change will help reduce operational costs for customers that use the protected option strategy, while at the same time providing an effective safeguard against the risk of a short position option. Similarly, in approving Cboe’s rule change, the SEC stated it believes the rule change will facilitate the use of protected options and reduce regulatory burdens. In the interest of regulatory harmony and ensuring that the potential benefits of protected option treatment are available to FINRA members and their customers, FINRA is proposing to conform FINRA’s margin rule to the new provisions adopted by Cboe and to make other minor conforming revisions.

Specifically, FINRA proposes to establish under Rule 4210 new paragraphs (f)(2)(H)(v) and (f)(2)(H)(vi) of “Protected Options.” The new paragraph would provide that when an index call (put) option or warrant is carried “short” (the “protected option or warrant position”) and there is carried in the same account a long (short) position in an underlying stock basket, non-leveraged index mutual fund or non-leveraged ETF (each, referred to as the “protection”) that is based on the same index underlying the option or warrant, the protected option or warrant position is not subject to the requirements set forth in paragraphs (f)(2)(E)(i) and (f)(2)(E)(iii) of Rule 4210 if the aggregate current underlying index value associated with the protection is not less than 100 percent of the aggregate current underlying index value associated with the protected option or warrant position.

3. Proposed Rule Change

In proposing the margin exception for protected options, Cboe noted that the exception is not intended to and does not apply to leveraged instruments. In addition, FINRA is proposing minor revisions to paragraphs (f)(2)(H)(v) through (d) under Rule 4210 to conform with the usage of the term “in the same account” as used in proposed paragraph (f)(2)(H)(v).

Specifically:

- In paragraph (f)(2)(H)(v)a., the phrase “in an account in which there is also carried . . .” would be changed to “in the same account as . . .”
- In paragraphs (f)(2)(H)(v)b. through (d), the phrase “is also carried with . . .” would be changed to “is carried in the same account . . .”

FINRA believes these changes are appropriate because they clarify the rule text and conform with the new proposed protected option provisions. If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice. The effective date will be no later than 30 days following publication of the Regulatory Notice announcing
Commission approval of the proposed rule change.14

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,15 which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that, by conforming FINRA Rule 4210 with Cboe’s new provisions relating to protected options, the proposed rule change would promote regulatory clarity and harmonization with respect to use by customers of the protected option strategy. This would help facilitate the use of protected options and reduce associated costs and burdens while providing effective safeguards, thereby conducing to the protection of investors and the public interest. Further, for the reasons set forth in the Cboe Approval Order, the Commission found that the Cboe rule change is consistent with the provisions of Section 6(b)(5)16 and Section 6(c)(3)17 of the Act. Because the proposed rule change conforms with Cboe’s protected options amendments, FINRA believes the proposed rule change is consistent with the corresponding provisions under Section 15A(b)(6)18 and Section 15A(g)(3)19 of the Act.

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

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

FINRA believes that conforming FINRA Rule 4210 with Cboe’s protected option provisions would benefit FINRA members and their customers. The proposed rule change provides an additional options strategy to investors, allowing them to adopt certain options positions at potentially lower cost than is possible under the current margin requirement. The required protection that is the alternative to the margin requirement incorporates reasonable safeguards against the risks of short open positions, as proposed by Cboe and approved by the Commission. The proposed rule change would also promote competition between FINRA members and any members of Cboe (or any other exchange that adopts the Cboe rule) that are not FINRA members, by allowing FINRA members to use the protected option strategy instead of posting margin.

The proposed rule change would also expand the protected options treatment to unlisted, OTC options, so they are subject to the same conditions as for listed options. FINRA believes that harmonizing the FINRA margin requirements for OTC options with the amended Cboe rule would reduce potential regulatory arbitrage that would favor listing options on Cboe. While FINRA does not have sufficient information on how many investors or members would choose to make use of the protected options treatment for either listed or unlisted options, it believes the number is small and would be limited to institutional investors.

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

Written comments were neither solicited nor received.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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

• Send an email to rule-comments@sec.gov. Please include File Number SR–FINRA–2023–010 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–FINRA–2023–010. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2023–010 and should be submitted on or before August 9, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.20

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2023–15266 Filed 7–18–23; 8:45 am]

BILLING CODE 8011–01–P