of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comments to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: April 2, 2019.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–06679 Filed 4–4–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85482; File No. SR–CboeEDGX–2019–012]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Introduce Retail Priority

April 2, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 18, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II 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 EDGX Exchange, Inc. (''EDGX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to introduce order book priority for equity orders submitted on behalf of retail investors. The text of the proposed rule change is attached as Exhibit 5 [sic].

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 purpose of the proposed rule change is to introduce order book priority for equity orders submitted on behalf of retail investors. Forty three million U.S. households hold a retirement or brokerage account,[3] and these investors are increasingly turning to the equities markets to fund important life goals. It is therefore critical that our markets are sensitive to the needs of the investing public. The Exchange continuously strives to innovate and improve market structure in ways that facilitate ordinary investors achieving their investment goals. The proposed introduction of retail priority is designed with this objective in mind. The Exchange believes that introducing retail priority may provide retail investors with better execution quality and better position the Exchange as the ''home'' for retail limit orders. This, in turn, will further allow retail liquidity to contribute to overall price formation and attract more market participants to the Exchange, creating a richer and more diverse ecosystem with deeper liquidity. Retail priority would therefore be consistent with the goals of the Commission to encourage markets that are structured to benefit ordinary investors,[4] while facilitating order interaction and price discovery to the benefit of all market participants.

Background

As defined in EDGX Rule 11.21, a ''Retail Order'' is an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03[5] that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.[6] A ''Retail Member Organization'' or ''RMO'' is a Member (or a division thereof) that has been approved by the Exchange under EDGX Rule 11.21 to submit Retail Orders. Pursuant to EDGX Rule 11.21(b), which describes the qualification and application process for becoming a Retail Member Organization, any member may qualify as a Retail Member Organization if it conducts a retail business or routes retail orders on behalf of another broker-dealer.

Today, the Exchange operates based on a price/display/time priority execution algorithm that is similar to those employed by most other U.S. equities exchanges.[7] As such, the first Displayed[8] order resting on the EDGX Book[9] at a particular price has priority over the next order and so on based on the time of order entry. Non-

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

[2] 17 CFR 240.19b–4.

[3] *See* The Evolving Market for Retail Investment Services and Forward-Looking Regulation—Adding Clarity and Investor Protection while Ensuring Access and Choice, Chairman Jay Clayton, Commission (May 2, 2018), available at *https://www.sec.gov/news/speech/speech-clayton-2018-05-02.*

[4] *See e.g.,* U.S. Securities and Exchange Commission, Strategic Plan, Fiscal Years 2018–2022, available at *https://www.sec.gov/files/SEC_Strategic_Plan_FY18–FY22_FINAL_0.pdf* (''Commission Strategic Plan'').

[5] FINRA Rule 5320.03 clarifies that an RMO may enter Retail Orders on a riskless principal basis, provided that (i) the entry of such riskless principal orders meet the requirements of FINRA Rule 5320.03, including that the RMO maintains supervisory systems to reconstruct, in a time-sequenced manner, all Retail Orders that are entered on a riskless principal basis; and (ii) the RMO submits a report, contemporaneously with the execution of the facilitated order, that identifies the trade as riskless principal.

[6] Retail Member Organizations will only be able to designate their orders as Retail Orders on either an order-by-order basis using FIX ports or by designating certain of their FIX ports at the Exchange as ''Retail Order Ports.'' Unless otherwise instructed by the Retail Member Organization, a Retail Order will be identified as Retail when routed to an away Trading Center. *See* EDGX Rule 11.21(d).

[7] *See* EDGX Rule 11.12.

[8] ''Displayed'' is an instruction the User may attach to an order stating that the order is to be displayed by the System on the EDGX Book. *See* EDGX Rule 11.6(e)(1).

[9] ''EDGX Book'' means the System's electronic file of orders. *See* EDGX Rule 1.5(d)

Displayed [10] orders at that price are further categorized into a number of priority bands, with orders within each priority band prioritized again based on the time of order entry, as provided in EDGX Rule 11.9. The generally applicable allocation bands for orders executed on the Exchange are described in EDGX Rule 11.9(a)(2)(A), and similar allocation bands applicable to orders executed at the midpoint of the NBBO are described in EDGX Rule 11.9(a)(2)(B).[11] The price time allocation model has provided significant benefits to the equities markets as it encourages increased efficiency by rewarding market participants that are the first to provide liquidity at a particular price. At the same time, because this allocation methodology preferences speed, retail investors may have a more limited ability to secure an execution for their non-marketable orders under this model. The Exchange believes that retail priority would improve trading outcomes for Retail Orders and could perhaps encourage even more retail order flow to be entered into the displayed market.

Retail Priority Proposal

The Exchange proposes to introduce retail priority in order to ensure that non-marketable orders submitted on behalf of retail investors can more readily compete for execution with orders entered by sophisticated market participants that may be better equipped to optimize their place in the intermarket queue. Retail priority would be in place during all trading sessions, and would also be available to orders entered for participation in the Exchange's opening process and the re-opening process following a halt.

As proposed, the portion of a Retail Order with a Displayed instruction would be given allocation priority ahead of all other available interest on the EDGX Book. This would be true of both orders executed pursuant to the regular priority bands described in EDGX Rule 11.9(a)(2)(A), and orders priced at the midpoint of the NBBO pursuant to EDGX Rule 11.9(a)(2)(B) where Retail Orders subject to Display-Price Sliding [12] would have priority ahead of limit orders entered with such an instruction as well as any other orders resting at the midpoint of the NBBO.[13] In addition, since Reserve Orders contain a Displayed instruction but include both Displayed and Non-Displayed shares, the Reserve Quantity [14] of Retail Orders would be given priority ahead of the Reserve Quantity of other limit orders on the EDGX Book.

Retail Orders that are not willing to be displayed, or are only willing to be displayed at a less aggressive price than the execution price, would not receive any special priority. For example, a Retail Order that is entered as a MidPoint Peg Order,[15] which by definition is Non-Displayed, would be prioritized along with all other MidPoint Peg Orders notwithstanding the fact that it is a Retail Order. Similarly, a MidPoint Discretionary Order (''MDO'') [16] executed within its Discretionary Range would receive the same priority as other orders entered with a Discretionary Range instruction, regardless of whether the MDO is displayed at its pegged price.

The following examples illustrate the proposed implementation of retail priority: [17]

Example 1: Displayed Retail Order has Priority at a Given Price.

NBBO: $10.00 × $10.10
Order 1: Buy 100 shares @ $10.00—Displayed, Non-Retail Order
Order 2: Buy 100 shares @ $10.00—Displayed, Retail Order
Order 3: Sell 100 shares @ $10.00

A Retail Order entered with a Displayed instruction would have priority over Non-Retail Orders at the same price. As a result, Order 3 would trade with Order 2 for 100 shares @ $10.00, securing a timely execution for the retail investor.

Example 2: Better Priced Non-Retail Order has Priority.

NBBO: $10.00 × $10.10
Order 1: Buy 100 shares @ $10.00—Retail Order
Order 2: Buy 100 shares @ $10.01—Non-Retail Order
Order 3: Sell 100 shares @ $10.00

Allocations would continue to be prioritized based on price. Although Retail Orders entered with a Displayed instruction would have priority over Non-Retail Orders at the same price, they would not have priority over Non-Retail Orders at a better price. As a result, Order 3 would trade with the better priced Order 2 for 100 shares @ $10.01.

Example 3: No Retail Priority for Non-Displayed Orders.

NBBO: $10.00 × $10.10
Order 1: Buy 100 shares @ $10.01—Non-Displayed, Non-Retail Order
Order 2: Buy 100 shares @ $10.01—Non-Displayed, Retail Order
Order 3: Sell 100 shares @ $10.00

A Retail Order entered with a Non-Displayed instruction is not eligible for retail priority. As a result, Order 3 trades with Order 1 for 100 shares @ $10.01 based on time priority. Retail Orders would need to be submitted with a Displayed or Reserve instruction to qualify for the benefits of retail priority, which should encourage displayed retail liquidity.

Example 4: No Retail Priority in Discretionary Range.

NBBO: $10.00 × $10.10
Order 1: Buy 100 shares @ $10.00 + $0.03 Discretion—Non-Retail Order
Order 2: Buy 100 shares @ $10.00 + $0.03 Discretion—Retail Order
Order 3: Sell 100 shares @ $10.02

Retail Orders would only have priority if willing to be displayed at the execution price. Although orders entered with a Discretionary Range instruction may be displayed at their ranked price, the execution would occur at a non-displayed price within the Discretionary Range. As a result, Order 3 trades with Order 1 for 100 shares @ $10.02 based on time priority.[18]

Example 5: Retail Reserve Order has Displayed and Non-Displayed Priority.

NBBO: $10.00 × $10.10
Order 1: Buy 500 @ $10.00—Non-Retail Reserve Order, 100 shares displayed
Order 2: Buy 500 @ $10.00—Retail Reserve Order, 100 shares displayed
Order 3: Sell 300 @ $10.00

[10] ''Non-Displayed'' is an instruction the User may attach to an order stating that the order is not to be displayed by the System on the EDGX Book. *See* EDGX Rule 11.6(e)(2).

[11] In addition, EDGX Rule 11.9(a)(2)(C) describes the sequence in which orders are timestamped when re-ranked by the System upon clearance of a locking quotation.

[12] Display-Price Sliding is an order instruction provided for compliance with Rule 610(d) of Regulation NMS. *See* EDGX Rule 11.6(l)(B).

[13] The midpoint of the NBBO is a non-displayed price, and therefore orders entered with Display-Price Sliding, which are willing to be displayed at the applicable locking or crossing price are given priority pursuant to current EDGX Rule 11.9(a)(2)(B).

[14] ''Reserve Quantity'' is the portion of an order that includes a Non-Displayed instruction in which a portion of that order is also displayed on the EDGX Book. *See* EDGX Rule 11.6(m).

[15] A ''MidpPoint Peg Order'' is a non-displayed Market Order or Limit Order with an instruction to execute at the midpoint of the NBBO, or, alternatively, pegged to the less aggressive of the midpoint of the NBBO or one minimum price variation inside the same side of the NBBO as the order. *See* EDGX Rule 11.8(d).

[16] A ''MidPoint Discretionary Order'' is a Limit Order that is executable at the NBB for an order to buy or the NBO for an order to sell while resting on the EDGX Book, with discretion to execute at prices to and including the midpoint of the NBBO. *See* EDGX Rule 11.8(g).

[17] In each example, orders are shown in the order in which they are entered.

[18] If Order 3 was to sell 100 shares @ $10.00 then retail priority would be observed at the displayed price and Order 3 would trade with Order 2 for 100 shares @ $10.00.

A Retail Order entered as a Reserve Order would have retail priority for both displayed and non-displayed size. However, any Reserve Quantity would be executed after other orders with a higher priority, including the displayed size available from Non-Retail Orders. As a result, Order 3 would trade 100 shares @ $10.00 with Order 2 based on retail priority, then would trade 100 shares @ $10.00 with Order 1. After exhausting the available displayed size, Order 3 would trade the remaining 100 shares @ $10.00 with Order 2 based on retail priority.

Example 6: Display-Price Sliding Retail Orders are Eligible for Priority at Midpoint.

NBBO: $10.00 × $10.01
EDGX BBO: $10.00 × $10.02
Order 1: Buy 100 shares @ $10.01—Book Only, Display-Price Sliding, Non-Retail Order
Order 2: Buy 100 shares @ $10.01—Book Only, Display-Price Sliding, Retail Order
Order 3: Sell 100 shares @ $10.01—Post Only
Order 4: Sell 100 shares @ $10.00

Due to the Display-Price Sliding instruction, both Order 1 and Order 2 are originally ranked at $10.01 and displayed at $10.00 to avoid locking the National Best Offer at $10.01.[19] Then, because of the Post Only instruction, Order 3 posts and displays on the EDGX Book at $10.01. Since there is displayed interest now resting on the same side of the order book, Order 4 is eligible for execution on entry at the midpoint price of $10.005—*i.e.,* one-half minimum price variation better than Order 3.[20] At the midpoint of the NBBO, a Retail Order subject to Display-Price Sliding that is willing but unable to display at or better than the execution price would have priority over other orders. As a result, Order 4 would trade with Order 2 for 100 shares @ $10.005, securing a timely execution for the retail investor.

Retail Attribution

A Retail Member Organization on EDGX has the option of designating Retail Orders to be identified as such on the EDGX Book Feed,[21] which may increase potential execution opportunities for that order. Today, pursuant to EDGX Rule 11.21(f), this designation may be made on either an order-by-order or port-by-port basis,[22] thereby giving members flexibility in how they would like their Retail Orders attributed on the Exchange. To support the introduction of retail priority, the Exchange proposes to instead provide that Retail Orders will always be designated as such on the EDGX Book Feed.[23] Although Retail Member Organizations have the choice today to determine which Retail Orders would be marked as such on market data, the Exchange believes that it is important to ensure that orders given retail priority would be considered attributable. Designating Retail Orders on the EDGX Book Feed will increase transparency by informing market participants when there is retail investor interest available to trade on the Exchange, thereby allowing market participants to make informed routing decisions, including the decision to route contra-side interest to trade with such Retail Orders. Although the Exchange would remove the optionality previously available under EDGX Rule 11.21(f), based on the Exchange's experience with attribution, this approach has the potential to increase execution opportunities for Retail Orders (and other non-marketable orders) by encouraging additional order flow to be routed to the Exchange to trade with resting Retail Orders.[24]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[25] in general, and Section 6(b)(5) of the Act,[26] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission has consistently emphasized the need to ensure that the U.S. capital markets are structured with the interests of retail investors in mind, and recently highlighted its focus on the ''long-term interest of Main Street Investors'' as the agency's number one strategic goal for fiscal years 2018 to 2022.[27] The Exchange believes that retail priority is consistent with the goals of the Commission to ensure that the equities markets continue to serve the needs of the investing public. Specifically, introducing retail priority would protect investors and the public interest by giving retail investors the tools needed to compete for executions on non-marketable order flow submitted to a national securities exchange. The Exchange is committed to innovation that improves the quality of the equities markets, and believes that retail priority may increase the attractiveness of the Exchange for the execution of Retail Orders submitted on behalf of the millions of ordinary investors that rely on these markets for their investment needs.

Although the Commission has approved other allocation methodologies for equities trading,[28] most equities exchanges, including EDGX, continue to determine priority based on a price/display/time allocation model today. This has contributed to deep and liquid markets for equity securities as liquidity providers compete to be the first to establish a particular price. At the same time, ordinary investors may not be able to compete with market makers and other automated liquidity providers to be the first to set a new price. Importantly, retail investors, in contrast to their professional counterparts, tend to have longer investment time horizons and are not in the business of optimizing queue placement under a time based allocation model. Thus, in order to facilitate the needs of these ordinary investors, the Exchange believes that an alternative approach is needed.

The proposed introduction of retail priority is designed, first and foremost, to benefit retail investors by increasing both the likelihood and speed with which their non-marketable orders are executed. Unlike marketable retail order flow that is routinely executed in full on

[19] An order with a Display-Price Sliding instruction that would be a locking quotation on entry is instead ranked at the locking price and displayed at a price that is one minimum price variation less aggressive than the locking price. *See* EDGX Rule 11.6(l)(B).

[20] *See* EDGX Rule 11.6(l)(1)(B)(v); EDGX Rule 11.10(a)(4)(D).

[21] *See* EDGX Rule 13.8.

[22] A Retail Member Organization that instructs the Exchange to identify all its Retail Orders as Retail on a Retail Order Port is able to override such setting and designate any individual Retail Order from that port as Attributable or as Non-Attributable, as set forth in Rule 11.6(a). *See* EDGX Rule 11.21(f).

[23] The retail indicator on the EDGX Book Feed would indicate that the order is a Retail Order and would not provide the market participant identifier (''MPID'') of the entering firm. Members may separately include an Attributable instruction on their orders pursuant to Rule 11.6(a) if they would also like MPID attribution.

[24] Prior to the original introduction of retail attribution, the Exchange conducted a study that found that Retail Orders received an 18% higher execution rate when members used Attributable Orders to include their MPID in the published quote on the EDGX Book Feed. *See* Securities Exchange Act Release No. 72016 (April 24, 2014), 79 FR 24463 (April 30, 2014) (SR–EDGX–2014–13).

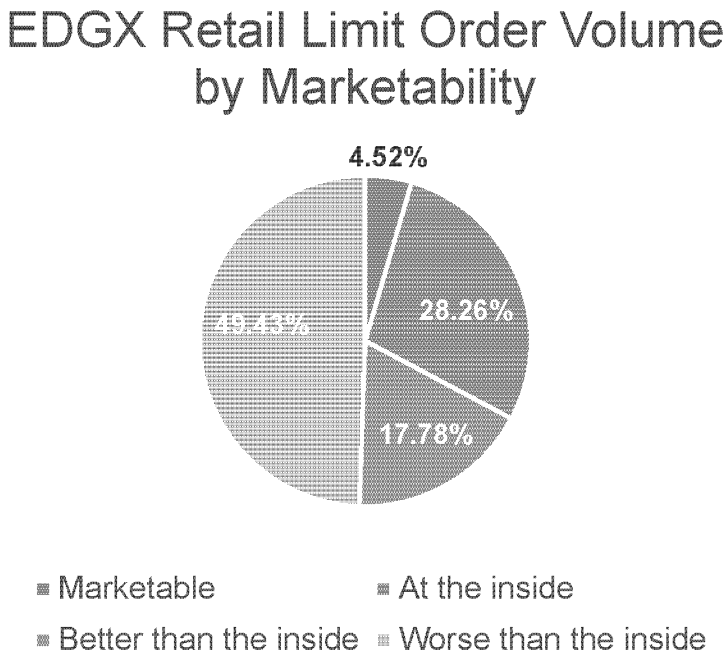
[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

[27] *See* Commission Strategic Plan, supra note 4.

[28] Nasdaq PSX, for example, operates with a price setter pro rata model that rewards liquidity providers that set the best price and then rewards other market participants that enter larger sized orders. *See* Securities Exchange Act Release No. 72250 (May 23, 2014), 79 FR 31147 (May 30, 2014) (SR–Phlx–2014–24).

entry at the national best bid or offer or better, non-marketable retail order flow has to compete for execution with orders entered by sophisticated market participants that may be quicker to establish a new price. As shown in the chart below,[29] the Exchange has found that in 2018, of volume executed from retail limit orders, 28.3% joined the national best bid or offer (''NBBO'') on entry, 17.8% were priced better than the inside, and 49.4% were priced worse than the inside.



Although potentially beneficial for all Retail Orders that do not trade immediately on entry, the Exchange believes that retail priority would be particularly beneficial to Retail Orders that join the NBBO, as there would often already be a queue at this price. Introducing retail priority would thus give retail investors the ability to compete for an execution for these orders, and may therefore improve trading outcomes. As such, the Exchange believes that the proposed rule change is consistent with the goals of the Exchange, and of the Commission, to ensure that market structure evolves in ways that protect ordinary investors that participate in the capital markets. Furthermore, since retail priority is designed to improve trading outcomes for ordinary investors, the Exchange also believes that it may encourage retail brokers to route additional non-marketable retail order flow to the EDGX Book, which may broaden execution opportunities for other market participants. If successful in attracting retail order flow to the Exchange, the proposed rule change would benefit market participants by increasing the diversity of order flow with which other they can interact on a national securities exchange, thereby increasing order interaction and contributing to price formation.

Giving queue priority to ordinary investors is not a novel concept in the securities markets. In fact, customer priority has a long tradition in the options market where orders entered on behalf of non-broker dealer public customers have historically been afforded priority over orders submitted by registered broker dealers. Today, most options exchanges, including the Exchange's equity options platform (''EDGX Options''),[30] employ a customer priority execution algorithm where orders submitted by a subset of public customers with more limited trading activity (*i.e.,* ''Priority Customers'') [31] are provided order book priority ahead of orders submitted by broker-dealers or other market professionals at the same price. This allocation model, which was first introduced by the International Securities Exchange LLC (''ISE'') in its current retail focused form a decade ago,[32] ensures that orders from Priority Customers are executed ahead of similarly priced interest from sophisticated market participants. The Exchange believes that the time has come to introduce a similar concept for the equities market in order to facilitate the needs of retail investors that increasingly rely on these markets.

The Commission has approved other equities proposals to introduce meaningful market structure benefits for retail investors in recent years. For example, in 2012, the Commission approved proposals filed by the New York Stock Exchange LLC (''NYSE'') and its affiliate NYSE Amex LLC (''Amex'') to introduce retail price improvement programs.[33] Those programs were designed to provide price improvement opportunities for retail investors on a national securities exchange by allowing liquidity providers to give sub-penny price improvement to their orders pursuant to an exemption granted from Rule 612 of Regulation NMS. Similar programs now exist on a number of exchanges, including the Exchange's affiliate, Cboe BYX Exchange, Inc.

[29] Based on Retail Orders entered by members that have completed a retail attestation.

[30] *See* EDGX Rule 21.8(d)(1).

[31] The term ''Priority Customer'' refers to any person or entity that is not a broker or dealer in securities and does not otherwise qualify as a ''Professional'' by virtue of placing more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See e.g.,* EDGX Rules 16.1(a)(46),(47).

[32] *See* Securities Exchange Act Release No. 59287 (January 23, 2009), 74 FR 5694 (January 30, 2009) (SR–ISE–2006–26).

[33] *See* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (SR–NYSE–2011–55; SR–NYSEAmex–2011–84).

(''BYX''),[34] and have provided millions of dollars of price improvement to ordinary investors.[35] When approving such retail price improvement programs on a pilot basis, the Commission consistently found that the pilots were consistent with the Act because they were ''reasonably designed to benefit retail investors'' and could ''promote competition for retail order flow among execution venues.'' The benefits to retail investors in the form of meaningful price improvement opportunities similarly animated the Commission's recent approval of the NYSE retail liquidity program on a permanent basis.[36] Although retail priority is designed to increase fill rates and speed of execution rather than price improvement, the Exchange believes that it could have a similarly meaningful impact on execution quality for ordinary investors that trade in the public market. Furthermore, retail priority would complement existing retail price improvement programs by offering market structure benefits to non-marketable retail order flow that cannot participate in those programs.

Similarly, in 2017, the Commission approved a proposed rule change by The Nasdaq Stock Market LLC (''Nasdaq'') to introduce the ''Extended Life Priority Order Attribute'' for Retail Orders that were willing to remain on the book unaltered for a period of one second (''Retail Extended Life Order'' or ''Retail ELO'').[37] As proposed, displayed orders entered on Nasdaq with the Retail ELO attribute were to be provided a higher priority than other orders resting on the Nasdaq order book. When the Commission approved this proposed rule change, it opined that the proposal ''should benefit retail investors by providing enhanced order book priority to retail order flow that is not marketable upon entry,'' and that ''[s]uch enhanced order book priority could result in additional or more immediate execution opportunities on the [e]xchange for resting retail orders that otherwise would be farther down in the order book queue, and thereby enhance execution opportunities for retail investors.'' [38] The same is true of the Exchange's retail priority proposal, which would provide similar benefits to retail investors without the additional complexity of requiring that the order be willing to exist unaltered on the order book for a specified period of time. While the Exchange believes that the majority of retail investors have a longer investment time horizon and therefore do not actively manage their trading interest at sub-second time intervals, the Exchange believes that a broader principle of retail priority may be more effective in encouraging retail brokers to route order flow to the Exchange.

The Exchange also believes that it is appropriate and not unfairly discriminatory to provide enhanced priority benefits solely to Retail Orders as the proposal is designed specifically to ensure that retail investors can compete for executions with sophisticated market participants. In today's highly automated and efficient market, retail investors have a more limited opportunity to compete for an execution based purely on the time an order is placed. While sophisticated, latency sensitive market participants can compete to be the first at any particular price, retail investors with longer investment horizons cannot compete in the same fashion. The proposed introduction of retail priority would ensure that non-marketable Retail Orders get filled first when there is available contra-side interest, and thereby improve investment outcomes for ordinary investors. The Commission has consistently held that it is consistent with the Act to offer certain advantages to retail customers,[39] and the proposal follows a line of other initiatives to improve the retail investor experience in the public markets. The Exchange believes that it is an important goal of both the Exchange and the Commission to ensure that our market structure continues to benefit retail investors by providing the tools that they need to invest in the capital markets. Although there are many ways to achieve that goal, the Exchange believes that doing so requires innovation in how Retail Orders are handled on the national securities exchanges in order to attract that order flow back to the displayed market.

The Exchange also believes that it is consistent with the public interest and the protection of investors to provide retail priority exclusively to those orders that contain a Displayed or Reserve instruction. The goals of the proposed rule change are twofold. First, the proposed change is designed to facilitate better trading outcomes for retail investors, which may encourage retail brokers to send additional retail order flow to the Exchange. Second, the proposed change is designed to encourage additional displayed retail liquidity, which could contribute to price discovery and encourage additional order flow and liquidity from other market participants. Although the first purpose could be achieved without limiting retail priority to orders that contain a Displayed component at a particular price, the second is only achieved when such orders are displayed to the broader market. For that reason, recent priority enhancements for retail investors, such as Nasdaq's Retail ELO, have also focused on displayed interest that could improve quote quality and contribute to a vibrant market.

Finally, the Exchange believes that it is consistent with just and equitable principles of trade to require that all Retail Orders that are eligible for retail priority be considered retail attributable as this would allow other market participants to gauge the available size in orders that would be eligible for retail priority. Today, Retail Member Organizations are given the choice as to whether to designate an order on the EDGX Book Feed as attributable to a retail investor, which may improve the chance of securing an execution. Although Retail Member Organizations would no longer have the option to submit eligible Retail Orders as non-attributable, the transparency achieved by so designating these orders is important to the proper functioning of a market where such orders would be eligible for priority. Furthermore, members would ultimately be able to decide which orders to designate into the EDGX Book as Retail Orders, thereby retaining the ability to control which orders are publicly attributed to retail investors. Priority Customer orders entered on the EDGX Options platform are similarly designated as such on the Exchange's market data feeds today, and the Exchange believes that this has contributed positively to the overall market environment.

[34] *See* Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (SR–BYX–2012–019). Nasdaq BX Inc. (''BX'') similarly operates its own retail price improvement program. *See* Securities Exchange Act Release No. 73702 (November 28, 2014), 79 FR 72049 (December 4, 2014) (SR–BX–2014–048).

[35] *See e.g.* Securities Exchange Act Release No. 83831 (August 13, 2018), 83 FR 41128 (August 17, 2018) (SR–CboeBYX–2018–014).

[36] *See* Securities Exchange Act Release No. 85160 (February 15, 2019), 84 FR 5754 (February 22, 2019) (SR–NYSE–2018–28).

[37] *See* Securities Exchange Act Release No. 81097 (July 7, 2017), 82 FR 32386 (July 13, 2017) (SR–NASDAQ–2016–161) (''Retail ELO Approval''). Nasdaq ultimately decided not to implement Retail ELO following Commission approval, and has since introduced a ''Midpoint Extended Life Order'' that is not limited to retail participation.

[38] *Id.*

[39] Where the interest of long-term investors, such as the retail investors whose experience this filing is attempting to improve, diverges from that of short-term professional traders, the Commission ''repeatedly has emphasized that its duty is to uphold the interests of long-term investors.'' *See* Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3593 (January 21, 2010) (File No. S7–02–10) (''Concept Release on Equity Market Structure'').

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to increase inter-market competition for retail order flow, and intra-market competition for orders as market participants compete to transact with Retail Orders entered on the EDGX Book. The proposed rule change represents an effort by the Exchange to enhance the ability for retail investors to participate effectively on a national securities exchange without unnecessarily burdening competition. Although retail priority would be limited to retail investors, the Exchange does not believe that this produces an unnecessary burden on competition as these changes are necessary to attract Retail Orders to a national securities exchange where they may interact with a wide range of market participants. If successful, the Exchange believes that retail priority would enhance competition by encouraging retail brokers to route increased order flow to the public markets, creating a more vibrant and competitive trading environment that benefits all market participants.

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

No comments were solicited or received on the proposed rule change.

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 up to 90 days (i) as the Commission may designate 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 the 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2019–012 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–2019–012. 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–CboeEDGX–2019–012 and should be submitted on or before April 26, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

Eduardo A. Aleman,

Deputy Secretary.

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[40] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Industry Guides, SEC File No. 270–069, OMB Control No. 3235–0069.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Industry Guides are used by registrants in certain industries as disclosure guidelines to be followed in presenting information to investors in Securities Act (15 U.S.C. 77a *et seq.*) and Exchange Act (15 U.S.C. 78a *et seq.*) registration statements and certain other Exchange Act filings. The paperwork burden from the Industry Guides is imposed through the forms that are subject to the disclosure requirements in the Industry Guides and is reflected in the analysis of these documents. To avoid a Paperwork Reduction Act inventory reflecting duplicative burdens, for administrative convenience the Commission estimates the total annual burden imposed by the Industry Guides to be one hour.

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.