

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82387; File No. SR–BatsBZX–2017–72]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the Innovator S&P 500 15% Shield Strategy ETF Series, Innovator S&P 500 –5% to –35% Shield Strategy ETF Series, Innovator S&P 500 Enhance and 10% Shield Strategy ETF Series, and Innovator S&P 500 Ultra Strategy ETF Series Under Rule 14.11(i)

December 21, 2017.

On November 7, 2017, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to list and trade shares of the Innovator S&P 500 15% Shield Strategy ETF Series, Innovator S&P 500 –5% to –35% Shield Strategy ETF Series, Innovator S&P 500 Enhance and 10% Shield Strategy ETF Series, and Innovator S&P 500 Ultra Strategy ETF Series under BZX Rule 14.11(i). The proposed rule change was published for comment in the **Federal Register** on November 22, 2017.³ The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act⁴ provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this filing is January 6, 2018.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time

to consider the Exchange’s proposal. Accordingly, pursuant to Section 19(b)(2) of the Act,⁵ the Commission designates February 20, 2018, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File No. SR–BatsBZX–2017–72).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82385; File No. 4–715]

Self-Regulatory Organizations; MIAx PEARL, LLC; Order Declaring Effective a Minor Rule Violation Plan

December 21, 2017.

On November 16, 2017, MIAx PEARL, LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed minor rule violation plan (“MRVP” or “Plan”) pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19d–1(c)(2) thereunder.² The proposed MRVP was published for comment on November 28, 2017.³ The Commission received no comments on the proposal. This order declares the Exchange’s proposed MRVP effective.

The Exchange’s MRVP specifies the rule violations which will be included in the Plan and will have sanctions not exceeding \$2,500. Any violations which are resolved under the MRVP would not be subject to the provisions of Rule 19d–1(c)(1) of the Act,⁴ which requires that a self-regulatory organization (“SRO”) promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.⁵ In accordance with

¹ 15 U.S.C. 78s(b)(2).

² 17 CFR 200.30–3(a)(31).

³ 15 U.S.C. 78s(d)(1).

⁴ 17 CFR 240.19d–1(c)(2).

⁵ See Securities Exchange Act Release No. 82146 (November 22, 2017), 82 FR 56280 (“Notice”).

⁶ 17 CFR 240.19d–1(c)(1).

⁷ The Commission adopted amendments to paragraph (c) of Rule 19d–1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to a plan filed with and declared effective

Rule 19d–1(c)(2) under the Act,⁶ the Exchange proposed to designate certain specified rule violations as eligible for consideration as minor rule violations, and requested that it be relieved of the prompt reporting requirements regarding such violations, provided it gives notice of the violations to the Commission on a quarterly basis.

The Exchange proposed to include in its MRVP the procedures and violations currently included in Exchange Rule 1014 (“Imposition of Fines for Minor Rule Violations”).⁷ According to the Exchange’s proposed MRVP, under Exchange Rule 1014, the Exchange may impose a fine (not to exceed \$2,500) on any Member, or person associated with or employed by a Member, for any rule listed in Rule 1014(d).⁸ The Exchange shall serve the person against whom a fine is imposed with a written statement setting forth the rule or rules violated, the act or omission constituting each such violation, the fine imposed, and the date by which such determination becomes final or by which such determination must be contested. If the person against whom the fine is imposed pays the fine, the payment shall be deemed to be a waiver of the person’s right to a disciplinary proceeding and any review of the matter under the Exchange rules. Any person against whom a fine is imposed may contest the Exchange’s determination by filing with the Exchange a written answer, at which point the matter shall

by the Commission is not considered “final” for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

⁶ 17 CFR 240.19d–1(c)(2).

⁷ The Exchange received its grant of registration on December 13, 2016, which included approving the rules that govern the Exchange. See Securities Exchange Act Release No. 79543 (December 13, 2016), 81 FR 92901 (December 20, 2016).

⁸ While Rule 1014 allows the Exchange to administer fines up to \$5,000, the Exchange is only seeking relief from the reporting requirements of paragraph (c)(1) of Rule 19d–1 for fines administered under Rule 1014(d) that do not exceed \$2,500.

Under the proposed MRVP, violations of the following rules would be appropriate for disposition under the MRVP: Rule 307 (Position Limits); Rule 803 (Focus Reports); Rule 804 (Requests for Trade Data); Rule 520 (Order Entry); Rule 605 (Execution of Orders in Appointed Options); Rule 314 (Mandatory Systems Testing); Rule 700 (Exercise of Option Contracts); Rule 309 (Exercise Limits); Rule 310 (Reports Related to Position Limits); Rule 403 (Trading in Restricted Classes); Rule 605 (Market Maker Quotations); and Rules 1301, 1302, and 1303 (Failure to Timely File Amendments to Form U4, Form U5, and Form BD). According to the Exchange, Conduct and Decorum Policies under Rule 1014(d)(4) are excluded from the proposed MRVP. See Notice, *supra* note 3.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 82097 (November 16, 2017), 82 FR 55689.

⁴ 15 U.S.C. 78s(b)(2).

proceed under the rules governing formal disciplinary proceedings.

Once the Exchange's MRVP is effective, the Exchange will provide to the Commission a quarterly report for any actions taken on minor rule violations under the MRVP. The quarterly report will include: The disposition date, the name of the firm/individual, the Exchange's internal enforcement number, the review period, the nature of the violation type, the number of the rule that was violated, the number of times the violation occurred, and the sanction imposed.⁹

The Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,¹⁰ because the MRVP will permit the Exchange to carry out its oversight and enforcement responsibilities as an SRO more efficiently in cases where formal disciplinary proceedings are not necessary due to the minor nature of the particular violation.

In declaring the Exchange's MRVP effective, the Commission does not minimize the importance of compliance with Exchange rules and all other rules subject to the imposition of sanctions under Exchange Rule 1014. Violation of an SRO's rules, as well as Commission rules, is a serious matter. However, Exchange Rule 1014 provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects the Exchange to continue to conduct surveillance and make determinations based on its findings, on a case-by-case basis, regarding whether a violation requires formal disciplinary action or whether a sanction under the MRVP is appropriate.

It is therefore ordered, pursuant to Rule 19d-1(c)(2) under the Act,¹¹ that the proposed MRVP for MIAX PEARL, LLC, File No. 4-715, be, and hereby is, declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Brent J. Fields,
Secretary.

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⁹ The Exchange attached a sample form of the quarterly report with its submission to the Commission.

¹⁰ 17 CFR 240.19d-1(c)(2).

¹¹ *Id.*

¹² 17 CFR 200.30-3(a)(44).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82374; File No. SR-NYSEArca-2017-36]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Withdrawal of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt NYSE Arca Rule 8.900-E To Permit Listing and Trading of Managed Portfolio Shares and To List and Trade Shares of the Royce Pennsylvania ETF, Royce Premier ETF, and Royce Total Return ETF Under Proposed NYSE Arca Rule 8.900-E

December 21, 2017.

On April 14, 2017, NYSE Arca, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to: (1) Adopt NYSE Arca Rule 8.900-E (Managed Portfolio Shares); and (2) list and trade shares of the Royce Pennsylvania ETF, Royce Premier ETF, and Royce Total Return ETF under proposed NYSE Arca Rule 8.900-E. The proposed rule change was published for comment in the **Federal Register** on May 4, 2017.³ On June 15, 2017, pursuant to Section 19(b)(2) of the Exchange Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ The Commission received four comments on the proposed rule change.⁶ On July 31, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 80553 (April 28, 2017), 82 FR 20932.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 80935, 82 FR 28152 (June 20, 2017). The Commission designated August 2, 2017, as the date by which it should approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

⁶ See Letter from Gary L. Gastineau, President, ETF Consultants.com, Inc., to Brent J. Fields, Secretary, Commission, dated May 24, 2017; Letter from Todd J. Broms, Chief Executive Officer, Broms & Company LLC, to Brent J. Fields, Secretary, Commission, dated May 25, 2017; Letter from James J. Angel, Associate Professor of Finance, Georgetown University, McDonough School of Business, to the Commission, dated May 25, 2017; and Letter from Terence W. Norman, Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated July 18, 2017. The comment letters are available on the Commission's website at: <https://www.sec.gov/comments/sr-nysearca-2017-36/nysearca201736.htm>.

Exchange Act⁷ to determine whether to approve or disapprove the proposed rule change.⁸ Thereafter, the Commission received eight additional comments on the proposed rule change.⁹ On October 30, 2017, the Commission designated a longer period for action on the proposed rule change.¹⁰ On December 5, 2017, the Exchange filed Amendment No. 1 to the proposed rule change ("Amendment No. 1"), which replaced and superseded the proposed rule change in its entirety.¹¹ Thereafter, the Commission received three additional comment letters on the proposed rule change, as modified by Amendment No. 1.¹²

On December 20, 2017, the Exchange withdrew the proposed rule change (SR-NYSEArca-2017-36), as modified by Amendment No. 1.

⁷ 15 U.S.C. 78s(b)(2)(B).

⁸ See Securities Exchange Act Release No. 81267, 82 FR 36510 (August 4, 2017).

⁹ See Letter from Mark Criscitello, Chairman, Precidian Funds LLC, to Brent J. Fields, Secretary, Commission, dated October 11, 2017; Letter from Daniel J. McCabe, Chief Executive, Precidian Investments, to Brent J. Fields, Secretary, Commission, dated October 12, 2017; Letter from Joseph A. Sullivan, Chairman and Chief Executive Officer, Legg Mason, Inc., to Brent J. Fields, Secretary, Commission, dated October 12, 2017; Letter from Andrew M. Gross, Jr., to Jay Clayton, Chairman, Commission, dated October 16, 2017; Letter from Terence W. Norman, Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated October 31, 2017; Letter from Simon P. Goulet, Co-Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated November 16, 2017; Letter from Simon P. Goulet, Co-Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated November 22, 2017; and Letter from Terence W. Norman, Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated November 29, 2017. The comment letters are available on the Commission's website at: <https://www.sec.gov/comments/sr-nysearca-2017-36/nysearca201736.htm>.

¹⁰ See Securities Exchange Act Release No. 81977, 82 FR 51311 (November 3, 2017). The Commission designated December 30, 2017, as the date by which the Commission must either approve or disapprove the proposed rule change.

¹¹ Amendment No. 1 to the proposed rule change is available at <https://www.sec.gov/comments/sr-nysearca-2017-36/nysearca201736-2759313-161597.pdf>.

¹² See Letter from Terence W. Norman, Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated December 12, 2017; Letter from Kevin S. Haerberle, Associate Professor of Law, William & Mary Law School, to Brent J. Fields, Secretary, Commission, dated December 15, 2017; and Letter from Gary L. Gastineau, President, ETF Consultants.com, Inc., to Brent J. Fields, Secretary, Commission, dated December 18, 2017. The comment letters are available on the Commission's website at: <https://www.sec.gov/comments/sr-nysearca-2017-36/nysearca201736.htm>.