

should be submitted on or before March 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82642; File No. SR-CboeBZX-2018-007]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Cboe BZX Exchange, Inc.

February 6, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 31, 2018, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. 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

The Exchange filed a proposal to amend the fee schedule applicable to Members<sup>5</sup> and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's website at [www.markets.cboe.com](http://www.markets.cboe.com), at the principal office of the Exchange, 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 parts of such statements.

##### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform ("BZX Equities") to amend the criteria necessary to qualify for the enhanced rebate provided by the Single MPID Investor Tier 1 under footnote 4. The Exchange currently offers two Single MPID Investor Tiers under footnote 4, which provide an enhanced rebate of \$0.0031 or \$0.0027 per share for qualifying orders which yield fee codes B,<sup>6</sup> V,<sup>7</sup> or Y.<sup>8</sup> The distinction between the tiers under footnote 4 and other tiers offered by the Exchange, is that the volume measured to determine whether a Member qualifies is performed on a Member Participant Identifier ("MPID") by MPID basis. The Exchange proposes to modify the criteria necessary to achieve the Tier 1 under footnote 4 as described below. Currently, under Tier 1 a Member may receive an enhanced rebate of \$0.0031 per share where their MPID has: (i) An ADAV<sup>9</sup> as a percentage of TCV<sup>10</sup>  $\geq 0.35\%$ ; and (ii) an ADAV as a

percentage of ADV<sup>11</sup>  $\geq 90\%$ . The Exchange proposes to ease the first prong of the tier's criteria to now require that the Member's MPID an ADAV as a percentage of TCV  $\geq 0.30\%$ , rather than 0.35%. The Exchange does not propose to amend their tier's enhanced rebate or the second prong of the tier's required criteria.

The Exchange proposes to implement the above change to its fee schedule on February 1, 2018.

###### 2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,<sup>12</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>13</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. Furthermore, the Exchange notes that routing through the Exchange's affiliate, Bats Trading, is voluntary.

The Exchange believes that the proposed modification to the tiered pricing structure is reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive or incentives provided to be insufficient. The proposed structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

Volume-based pricing such as that proposed herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." See Exchange Rule 1.5(n).

<sup>6</sup> Fee code B is appended to displayed orders which add liquidity to Tape B and is provided a rebate of \$0.0025 per share.

<sup>7</sup> Fee code V is appended to displayed orders which add liquidity to Tape A and is provided a rebate of \$0.0020 per share.

<sup>8</sup> Fee code Y is appended to displayed orders which add liquidity to Tape C and is provided a rebate of \$0.0020 per share.

<sup>9</sup> "ADAV" means average daily added volume calculated as the number of shares added per day and "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. See the BZX Equities fee schedule available at [http://markets.cboe.com/us/equities/membership/fee\\_schedule/bzx/](http://markets.cboe.com/us/equities/membership/fee_schedule/bzx/).

<sup>10</sup> "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. *Id.*

<sup>11</sup> See *supra* note 9.

<sup>12</sup> 15 U.S.C. 78f.

<sup>13</sup> 15 U.S.C. 78f(b)(4).

higher volumes of orders into the price and volume discovery processes.

The proposed modification of the Single MPID Investor Tier 1 under footnote 4 should further incentive Members to send a higher level of orders to the Exchange in order to meet the tier's decreased criteria. The Exchange believes that by decreasing the tier's criteria, although modestly, it will encourage those Members who could not achieve the tier previously to increase their order flow as a means to receive the tier's enhanced rebate on an MPID basis. Thus, the Exchange believes that the proposed modification is reasonable and equitable because it should provide Members who viewed the current criteria as too high and did not previously attempt to achieve the tier's criteria with an incentive to add order flow to reach the new lower threshold. The proposed modification is non-discriminatory because it applies and is available to all Members.

*(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 does not believe that the proposed change to the its tiered pricing structure burdens competition, but instead, enhances competition as it is intended to increase the competitiveness of BZX by modifying pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The Exchange does not believe the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

**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<sup>14</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>15</sup> 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.

**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](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBZX-2018-007 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-CboeBZX-2018-007. 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-CboeBZX-2018-007 and should be submitted on or before March 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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**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:*

Rule 206(3)-2, SEC File No. 270-216, OMB Control No. 3235-0243

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 (the "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.

Rule 206(3)-2, (17 CFR 275.206(3)-2) which is entitled "Agency Cross Transactions for Advisory Clients," permits investment advisers to comply with section 206(3) of the Investment Advisers Act of 1940 (the "Act") (15 U.S.C. 80b-6(3)) by obtaining a client's blanket consent to enter into agency cross transactions (*i.e.*, a transaction in which an adviser acts as a broker to both the advisory client and the opposite party to the transaction), provided that certain disclosures are made to the client. Rule 206(3)-2 applies to all registered investment advisers. In relying on the rule, investment advisers must provide certain disclosures to their clients. Advisory clients can use the disclosures to monitor agency cross transactions that affect their advisory account. The Commission also uses the information required by Rule 206(3)-2 in connection with its investment adviser inspection program to ensure that advisers are in compliance with the

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f).

<sup>16</sup> 17 CFR 200.30-3(a)(12).