

19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b-4(f)(6)(iii)¹¹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative on October 1, 2018 to coincide with the effective date of FINRA's proposed rule change on which the proposal is based.¹² The waiver of the operative delay would make the Exchange's qualification requirements consistent with those of FINRA, as of October 1, 2018. Therefore, the Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposal operative on October 1, 2018.¹³

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. Please include File Number SR-MIAX-2018-26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-MIAX-2018-26. 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 submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2018-26 and should be submitted on or before November 1, 2018.

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

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934; Release No. 34-84370/October 4, 2018]

In the Matter of the NYSE Arca, Inc. For an Order of Disapproval of Proposed Rule Change Relating To Listing and Trading of the Direxion Daily Bitcoin Bear 1X Shares, Direxion Daily Bitcoin 1.25X Bull Shares, Direxion Daily Bitcoin 1.5X Bull Shares, Direxion Daily Bitcoin 2X Bull Shares, and Direxion Daily Bitcoin 2X Bear Shares Under NYSE Arca Rule 8.200-E (File No. SR-NYSEArca-2018-02); Order Scheduling Filing of Statements on Review

On January 4, 2018, 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 ("Exchange Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares of the following exchange-traded products under NYSE Arca Rule 8.200-E, Commentary .02: Direxion Daily Bitcoin Bear 1X Shares, Direxion Daily Bitcoin 1.25X Bull Shares, Direxion Daily Bitcoin 1.5X Bull Shares, Direxion Daily Bitcoin 2X Bull Shares, and Direxion Daily Bitcoin 2X Bear Shares. The proposed rule change was published for comment in the **Federal Register** on January 24, 2018.³

On March 1, 2018, pursuant to Section 19(b)(2) of the Exchange Act, 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 approve or disapprove the proposed rule change.⁴ On April 23, 2018, the Commission instituted proceedings under Section 19(b)(2)(B) of the Exchange Act⁵ to determine whether to approve or disapprove the proposed rule change.⁶ On July 18, 2018, the Commission extended the period for consideration of the proposed rule change to September 21, 2018.⁷

On August 22, 2018, the Division of Trading and Markets, pursuant to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 82484 (Jan. 11, 2018), 83 FR 2704 (Jan. 18, 2018).

⁴ See Securities Exchange Act Release No. 82759 (Feb. 22, 2018), 83 FR 8719 (Feb. 28, 2018).

⁵ 15 U.S.C. 78s(b)(2)(B).

⁶ See Securities Exchange Act Release No. 82995 (Apr. 5, 2018), 83 FR 15425 (Apr. 10, 2018).

⁷ See Securities Exchange Act Release No. 83661 (July 18, 2018), 83 FR 35040 (July 24, 2018).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² See *supra* note 3.

¹³ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 17 CFR 200.30-3(a)(12).

delegated authority,⁸ issued an order disapproving the proposed rule change.⁹ On August 23, 2018, the Secretary of the Commission notified NYSEArca that, pursuant to Commission Rule of Practice 431,¹⁰ the Commission would review the Division's action pursuant to delegated authority and that the Division's action pursuant to delegated authority had been automatically stayed.¹¹

Accordingly, *it is ordered*, pursuant to Commission Rule of Practice 431, that by November 5, 2018, any party or other person may file a statement in support of, or in opposition to, the action made pursuant to delegated authority.

It is further *ordered* that the order disapproving proposed rule change SR–CboeBZX–2018–001 shall remain in effect pending the Commission's review.

By the Commission.

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84363; File No. SR–FINRA–2018–035]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend CAB Rule 331 (Anti-Money Laundering Compliance Program) To Conform to FinCEN's Final Rule on Customer Due Diligence Requirements for Financial Institutions

October 4, 2018.

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 September 20, 2018, 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. FINRA has designated the proposed rule change as constituting a “non-controversial”

⁸ 17 CFR 200.30–3(a)(12).

⁹ See Securities Exchange Act Release No. 83913 (Aug. 22, 2018), 83 FR 43923 (Aug. 28, 2018) (SR–CboeBZX–2018–001).

¹⁰ See 17 CFR 201.431.

¹¹ See Letter from Secretary of the Commission to Eugene Schlanger, Counsel, NYSE Group, Inc. (Aug. 23, 2018), available at <https://www.sec.gov/rules/sro/nysearca/2018/34-83912-letter-from-secretary.pdf>.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

rule change under paragraph (f)(6) of Rule 19b–4 under the Act,³ which renders the proposal effective upon receipt of this filing by 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

FINRA is proposing to amend Capital Acquisition Broker (“CAB”) Rule 331 (Anti-Money Laundering Compliance Program) to reflect the Financial Crimes Enforcement Network's (“FinCEN”) adoption of a final rule on Customer Due Diligence Requirements for Financial Institutions (“CDD Rule”). Specifically, the proposed amendments would conform CAB Rule 331 to the CDD Rule's amendments to the minimum regulatory requirements for CABs' anti-money laundering (“AML”) compliance programs by requiring such programs to include risk-based procedures for conducting ongoing customer due diligence. This ongoing customer due diligence element for AML programs includes: (1) Understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and (2) conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.

The text of the proposed rule change is available at the Commission's Public Reference Room, on FINRA's website at <http://www.finra.org>, and at the principal office of FINRA.

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.

³ 17 CFR 240.19b–4(f)(6).

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

1. Purpose

a. Background

FINRA Capital Acquisition Broker Rules

On August 18, 2016, the SEC approved⁴ a separate set of FINRA rules for firms that meet the definition of a “capital acquisition broker” and that elect to be governed under this rule set. CABs are member firms that engage in a limited range of activities, essentially advising companies and private equity funds on capital raising and corporate restructuring, and acting as placement agents for sales of unregistered securities to institutional investors under limited conditions. Member firms that elect to be governed under the CAB rule set are not permitted, among other things, to carry or maintain customer accounts, handle customers' funds or securities, accept customers' trading orders, or engage in proprietary trading or market making.

The CAB Rules became effective on April 14, 2017. In order to provide new CAB applicants with lead time to apply for FINRA membership and obtain the necessary qualifications and registrations, CAB Rules 101–125 became effective on January 3, 2017.⁵

FinCEN Customer Due Diligence Rule

The Bank Secrecy Act⁶ (“BSA”), among other things, requires financial institutions,⁷ including broker-dealers that have elected CAB status, to develop and implement AML programs that, at a minimum, meet the statutorily enumerated “four pillars.”⁸ These four pillars currently require broker-dealers to have written AML programs that include, at a minimum:

- The establishment and implementation of policies, procedures and internal controls reasonably

⁴ See Securities Exchange Act Release No. 78617 (August 18, 2016), 81 FR 57948 (August 24, 2016) (SR–FINRA–2015–054) (Order Approving Rule Change as Modified by Amendment Nos. 1 and 2 To Adopt FINRA Capital Acquisition Broker Rules).

⁵ On September 29, 2017, the SEC approved CAB Rule 203 (Engaging in Distribution and Solicitation Activities with Government Entities) and CAB Rule 458 (Books and Records Requirements for Government Distribution and Solicitation Activities), which applied established “pay-to-play” and related recordkeeping rules to the activities of CABs. See Securities Exchange Act Release No. 81781 (September 29, 2017), 82 FR 46559 (October 5, 2017) (Order Approving File No. SR–FINRA–2017–027). CAB Rules 203 and 458 became effective on December 6, 2017.

⁶ 31 U.S.C. 5311 *et seq.*

⁷ See 31 U.S.C. 5312(a)(2) (defining “financial institution”).

⁸ 31 U.S.C. 5318(h)(1).