

(iii) the proposed changes will be implemented by February 28, 2020 on a date to be announced via a DTC Important Notice and (iv) upon implementation, this legend would automatically be removed from these Procedures.

## 2. Statutory Basis

DTC believes that this proposal is consistent with the requirements of the Act,<sup>32</sup> as described below.

Section 17A(b)(3)(F) of the Act<sup>33</sup> requires, *inter alia*, that the Rules be designed to assure the safeguarding of securities which are in the custody or control of DTC or for which it is responsible. As mentioned above, DTC scans certificates, that are deposited through the Deposits service or the Custody service and then held in DTC's secure vault, to create images that are made available to a Participant in an electronic format. The proposed rule change would migrate the distribution of images of certificates of Securities, to a more flexible application designed to use a web-based platform that would facilitate the accessibility of images to Participants by providing for enhanced compatibility with modern systems used by Participants to obtain the images. In this regard, the proposed rule change would allow DTC to continue to provide images of certificates in an electronic format that is readily accessible to Participants, without the need to remove a certificate from the vault to be able to make and provide a copy to the Participant. Therefore, DTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,<sup>34</sup> because it is designed to assure the safeguarding of securities which are in the custody and control of DTC or for which it is responsible, by facilitating an accessible means for Participants to obtain copies of Securities certificates deposited by them without removal of the certificates from DTC's secure vault.

### *(B) Clearing Agency's Statement on Burden on Competition*

DTC does not believe that the proposed rule change will have any impact on competition because neither the decommissioning of IFE nor the elimination of access to the Imaging Function through PTS would affect Participants' ability to access the Imaging Function, as Participants will be able direct their imaging requests through Image Viewer.

### *(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments relating to this proposed rule change have not been solicited or received. DTC will notify the Commission of any written comments received by DTC.

## 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>35</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>36</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-DTC-2020-003 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.
- All submissions should refer to File Number SR-DTC-2020-003. 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 DTC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). 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-DTC-2020-003 and should be submitted on or before March 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>37</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88160; File No. SR-CboeBYX-2020-006]

### Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the BYX Fee Schedule To Correct an Inadvertent Drafting Error Introduced in a Previous Rule Filing

February 11, 2020.

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, 2020, Cboe BYX Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission (the "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.

<sup>32</sup> 15 U.S.C. 78q-1.

<sup>33</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>34</sup> *Id.*

<sup>35</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>36</sup> 17 CFR 240.19b-4(f).

<sup>37</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.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange (the "Exchange" or "BYX") is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to amend the BYX Fee Schedule to correct an inadvertent drafting error introduced in a previous rule filing. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/equities/regulation/rule\\_filings/byx/](http://markets.cboe.com/us/equities/regulation/rule_filings/byx/)), 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 amend the BYX Fee Schedule to correct an inadvertent drafting error introduced in a previous rule filing that adopted the definition of "Step-Up Add TCV".

On January 2, 2020, the Exchange filed a proposed rule change to replace the Non-Displayed Liquidity Incentives with Step-Up Tiers.<sup>3</sup> The purpose of that filing was to offer Step-Up Tiers that would provide Members an opportunity to receive a discounted rate from the standard fee assessment for displayed liquidity adding orders that yield fee codes "B",<sup>4</sup> "V",<sup>5</sup> or "Y".<sup>6</sup> Specifically, to qualify for Tier 1, a

Member must have a "Step-Up Add TCV" from December 2019 of greater than or equal to 0.05%. Accordingly, the Exchange also adopted a definition of "Step-Up Add TCV" to the Fee Schedule which would mean add ADV as a percentage of TCV in the relevant baseline month subtracted from current add ADV as a percentage of TCV. In its adoption of the definition of "Step-Up Add TCV", the Exchange inadvertently referenced the terms "add ADV" rather than "ADAV".<sup>7</sup> Therefore, the Exchange now proposes to amend the definition of Step-Up Add TCV to reference the term ADAV rather than add ADV. The Exchange notes that the proposed definition is substantially consistent with the definition in the Fee Schedules of the Exchange's affiliated exchanges.<sup>8</sup>

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>10</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. Specifically, the Exchange believes that the proposed rule change is reasonable, equitable, and not unfairly discriminatory as it does not change the fees or rebates assessed by the Exchange, but rather corrects an inadvertent error to a definition noted in the Fee Schedule. The Exchange believes that amending the terms "add ADV" to "ADAV" in the definition of "Step-Up Add TCV" would reduce confusion around the Exchange's charges and ensure that these fees are appropriately referenced on the Fee Schedule.

### 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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to reduce potential confusion to the definition of "Step-Up Add TCV" referenced in the Fee Schedule by

amending the terms "add ADV" to "ADAV". The Exchange believes that this change would increase transparency to the benefit of members and investors without having any impact on competition.

### 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 is effective upon filing pursuant to Section 19(b)(3)(A)<sup>11</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>12</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>13</sup> of the Act to determine whether the proposed rule change 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

- 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 No. SR-CboeBYX-2020-006 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.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

<sup>13</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>7</sup> "ADAV" means average daily 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.

<sup>8</sup> See Cboe BZX U.S. Equities Exchange Fee Schedule, Definitions; Cboe EDGX U.S. Equities Exchange Fee Schedule, Definitions.

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>3</sup> See Securities Exchange Act Release No. 34-87960 (January 14, 2020) 85 FR 3437 (January 21, 2020) (SR-CboeBYX-2020-0001[sic]).

<sup>4</sup> "B" is appended to displayed orders that add liquidity to BYX (Tape B).

<sup>5</sup> "V" is appended to displayed orders that add liquidity to BYX (Tape A).

<sup>6</sup> "Y" is appended to displayed order that add liquidity to BYX (Tape C).

All submissions should refer to File No. SR–CboeBYX–2020–006. 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 No. SR–CboeBYX–2020–006, and should be submitted on or before March 10, 2020.

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

**J. Matthew DeLesDernier,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88172; File No. SR–NYSECHX–2020–02]

### Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing of Proposed Rule Change To Establish a Schedule of Wireless Connectivity Fees and Charges With Wireless Connections

February 11, 2020.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934

(“Act”),<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that on January 30, 2020, the NYSE Chicago, Inc. (“NYSE Chicago” or “Exchange”) 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 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

The Exchange proposes to establish a schedule of Wireless Connectivity Fees and Charges (the “Wireless Fee Schedule”) with wireless connections between the Mahwah, New Jersey data center and other data centers. The proposed change is available on the Exchange's website at [www.nyse.com](http://www.nyse.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 self-regulatory organization 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 those 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 establish the Wireless Fee Schedule with wireless connections between the Mahwah, New Jersey data center and three data centers that are owned and operated by third parties unaffiliated with the Exchange: (1) Carteret, New Jersey, (2) Secaucus, New Jersey, and (3) Markham, Canada (collectively, the “Third Party Data Centers”). Market participants that purchase such a wireless connection (a “Wireless Connection”) are charged an initial and monthly fee. In addition, the Exchange proposes to include a General Note to the Wireless Fee Schedule.

The Exchange does not believe that the present proposed change is a change to the “rules of an exchange”<sup>4</sup> required to be filed with the Commission under the Act. The definition of “exchange” under the Act includes “the market facilities maintained by such exchange.”<sup>5</sup> Based on its review of the relevant facts and circumstances, and as discussed further below, the Exchange has concluded that the Wireless Connections are not facilities of the Exchange within the meaning of the Act, and therefore do not need to be included in its rules.

The Exchange is making the current proposal solely because the Staff of the Commission has advised the Exchange that it believes the Wireless Connections are facilities of the Exchange and so must be filed as part of its rules.<sup>6</sup> The Staff has not set forth the basis of its conclusion beyond verbally noting that the Wireless Connections are provided by an affiliate of the Exchange and a market participant could use a Wireless Connection to trade on, or receive the market data of, the Exchange.<sup>7</sup>

The Exchange expects the proposed change to be operative 60 days after the present filing becomes effective.

##### The Exchange and the ICE Affiliates

To understand the Exchange's conclusion that the Wireless Connections are not facilities of the

<sup>4</sup> See 15 U.S.C. 78c(a)(27) (defining the term “rules of an exchange”).

<sup>5</sup> 15 U.S.C. 78c(a)(1). See 15 U.S.C. 78c(a)(2) (defining the term “facility” as applied to an exchange).

<sup>6</sup> Telephone conversation between Commission staff and representatives of the Exchange, December 12, 2019.

<sup>7</sup> *Id.* The Commission has previously stated that services were facilities of an exchange subject to the rule filing requirements without fully explaining its reasoning. In 2010, the Commission stated that exchanges had to file proposed rule changes with respect to co-location because “[t]he Commission views co-location services as being a material aspect of the operation of the facilities of an exchange.” The Commission did not specify why it reached that conclusion. See Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3594 (January 21, 2010) (concept release on equity market structure), at note 76.

In addition, in 2014, the Commission instituted proceedings to determine whether to disapprove a proposed rule change by The NASDAQ Stock Market LLC (“Nasdaq”) on the basis that Nasdaq's “provision of third-party market data feeds to co-located clients appears to be an integral feature of its co-location program, and co-location programs are subject to the rule filing process.” Securities Exchange Act Release No. 72654 (July 22, 2014), 79 FR 43808 (July 28, 2014) (SR–NASDAQ–2014–034). In its order, the Commission did not explain why it believed that the provision of third party data was an integral feature of co-location, or if it believed that it was a facility of Nasdaq, although the Nasdaq filing analyzed each prong of the definition of facility in turn. See Securities Exchange Act Release No. 71990 (April 22, 2014), 79 FR 23389 (April 28, 2014) (SR–NASDAQ–2014–034).

<sup>14</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.