Securities and Exchange Commission (the ''Commission'') may recognize, as generally accepted for purposes of the securities laws, any accounting principles established by a standard-setting body that meets certain criteria. Section 109 of SOX provides that all of the budget of such a standard-setting body shall be payable from an annual accounting support fee assessed and collected against each issuer, as may be necessary or appropriate to pay for the budget and provide for the expenses of the standard-setting body, and to provide for an independent, stable source of funding, subject to review by the Commission. Under Section 109(f) of the Act, the amount of fees collected for a fiscal year shall not exceed the ''recoverable budget expenses'' of the standard-setting body. Section 109(h) of SOX amends Section 13(b)(2) of the Securities Exchange Act of 1934 to require issuers to pay the allocable share of a reasonable annual accounting support fee or fees, determined in accordance with Section 109 of the Act.

On April 25, 2003, the Commission issued a policy statement concluding that the Financial Accounting Standards Board (''FASB'') and its parent organization, the Financial Accounting Foundation (''FAF''), satisfied the criteria for an accounting standard-setting body under the Act, and recognizing the FASB's financial accounting and reporting standards as ''generally accepted'' under Section 108 of the Act.[1] Accordingly, the Commission undertook a review of the FASB's accounting support fee for calendar year 2021.[2] In connection with its review, the Commission also reviewed the budget for the FAF and the FASB for calendar year 2021.

Section 109 of SOX provides that, in addition to the accounting support fee, the standard-setting body can have additional sources of revenue for its activities, such as earnings from sales of publications, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual or perceived independence of the standard setter. In this regard, the Commission also considered the interrelation of the operating budgets of the FAF, the FASB, and the Governmental Accounting Standards Board (''GASB''), the FASB's sister organization, which sets accounting standards used by state and local government entities. The Commission has been advised by the FAF that neither the FAF, the FASB, nor the GASB accept contributions from the accounting profession.

The Commission understands that the Office of Management and Budget (''OMB'') has determined the FASB's spending of the 2021 accounting support fee is sequestrable under the Budget Control Act of 2011.[3] So long as sequestration is applicable, we anticipate that the FAF will work with the Commission and Commission staff as appropriate regarding its implementation of sequestration.

After its review, the Commission determined that the 2021 annual accounting support fee for the FASB is consistent with Section 109 of the Act. Accordingly,

It is ordered, pursuant to Section 109 of SOX, that the FASB may act in accordance with this determination of the Commission.

By the Commission.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–02171 Filed 2–1–21; 8:45 am]

BILLING CODE P

[1] Financial Reporting Release No. 70.

[2] The Financial Accounting Foundation's Board of Trustees approved the FASB's budget on November 17, 2020. The FAF submitted the approved budget to the Commission on November 23, 2020.

[3] See ''OMB Report Pursuant to the Sequestration Transparency Act of 2012'' (Pub. L. 112–155), page 16 of 17 at: *https://www.whitehouse.gov/wp-content/uploads/2020/02/JC-sequestration_report_FY21_2-10-20.pdf*

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90999; File No. SR–CboeBYX–2021–003]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Eliminate Certain Routing Fee Codes

January 27, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 13, 2021, 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.

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

[2] 17 CFR 240.19b–4.

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

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the fee schedule applicable to Members and non-Members of the Exchange pursuant to BYX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon 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/*), 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 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 amend its fee schedule by eliminating certain routing fee codes.[3]

The Exchange first 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. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly

[3] The Exchange initially filed the proposed fee changes January 4, 2021 (SR–CboeBYX–2021–001). On January 13, 2021, the Exchange withdrew that filing and submitted this proposal.

available information,[4] no single registered equities exchange has more than 16% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Exchange assesses fees in connection with orders routed away to various exchanges. As a result of minimal use in the last months, the Exchange proposes to eliminate the following routing fee codes currently under the Fee Codes and Associated Fees section of the Fee Schedule:

- Fee code 8, which is appended to Members' orders routed to NYSE American that adds liquidity and assesses a charge of $0.00020 per contract; and
- Fee code MX, which is appended to Members' orders routed to NYSE American using the SLIM[5] routing strategy and assesses a charge of $0.00020 per contract.

The Exchange has observed a minimal amount of volume in recent months in orders yielding fee codes 8 or MX. In particular, over the last six months the Exchange observed that orders yielding fee code MX accounted for approximately only 0.12% of all routed order volume, and no orders yielding fee code 8 have been submitted since 2014. The Exchange believes that, because so few Users elect to route their orders with specifications to which fee codes 8 or MX, the current demand does not warrant the infrastructure and ongoing Systems maintenance required to support these separate fee codes. Therefore, the Exchange now proposes to delete fee codes 8 and MX in the Fee Schedule.

In light of the proposed fee code deletions, the Exchange also proposes to update the description to which fee code X is applicable. Currently, the description for orders yielding fee code X applies to Members' orders routed to a displayed market to remove liquidity using Parallel D, Parallel 2D, ROUT, ROUX or Post to Away routing strategy. Fee code X assesses a charge of $0.0030 per contract. Essentially, fee code X is designed to apply, and currently applies, to all other routed orders that are not otherwise specified under other fee codes in the Fee Schedule. However, as currently written, the description of orders that yield fee code X would not encompass those orders that currently yield fee codes 8 and MX. Therefore, the proposed rule change updates the description of orders that yield fee code X to ''Routed.'' The Exchange notes that the corresponding fee will remain unchanged and is the standard rate routing fee assessed pursuant to the Standard Rates section of the Fee Schedule. As a result of the proposed description, Members will continue to be able to choose to route their orders with the same specifications to which fee codes 8 and MX currently apply—such orders will simply be assessed the fee currently in place for orders yielding fee code X (*i.e.,* routed orders not otherwise specified under other fee codes in the Fee Schedule). The Exchange notes that the proposed description for fee code X does not alter any of the routed orders to which fee code X currently applies. The Exchange also notes that the proposed description for fee code X is consistent with the description associated with corresponding fee code X on the Exchange's affiliated equities exchanges, Cboe EDGX Exchange, Inc. (''EDGX'') and Cboe EDGA Exchange Inc. (''EDGA'').

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[6] in general, and furthers the objectives of Section 6(b)(4),[7] 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. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule changes are reasonable, equitable and not unfairly discriminatory. The Exchange first notes that routing through the Exchange is optional. The Exchange believes the proposed rule change to remove fee codes 8 and MX is reasonable as the Exchange has observed a minimal amount of volume in orders yielding these fee codes and, therefore, the continuation of these fee codes does not warrant the infrastructure and ongoing Systems maintenance required to support separate fee codes for specific routed orders. As such, the Exchange also believes that is reasonable and equitable to assess routed orders which meet the specifications to which fee codes 8 and MX are currently applicable the slightly higher standard routing fee currently in place for all other routed orders that are not otherwise specified under other fee codes in the Fee Schedule—via fee code X, as amended. The Exchange believes it is reasonable to update the description for orders that yield fee code X in a manner that reflects the intent of fee code X, which is to apply to routed orders not otherwise specified under other fees codes in the Fee Schedule, and will thus apply to routed orders that currently yield fee codes 8 and MX. The Exchange believes that the proposed updated description is reasonable because it does not alter any of the routed orders to which fee code X currently applies and will allow Members to continue to be able to choose to route their orders with the same specifications to which fee codes 8 and MX currently apply. The Exchange again notes that the proposed description for fee code X is consistent with the description associated with corresponding fee code X on the Exchange's affiliated equities exchanges.

The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because Members will continue to have the option to elect to route their orders in the same manner (*i.e.,* routed to NYSE American that add liquidity and routed to NYSE American using the SLIM

[4] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (December 29, 2020), available at *https://markets.cboe.com/us/equities/market_statistics/.*

[5] The SLIM routing strategy is a routing strategy in which an order checks the System for available shares if so instructed by the entering User and then is sent to destinations on the applicable System routing table. *See* Rule 11.13(b)(3)(G); *see also* Cboe Routing Strategies, FIX/BOE Routing Tags and Instructions, available at: *https://cdn.cboe.com/resources/features/Cboe_USE_RoutingStrategies.pdf.*

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78f.(b)(5).

routing strategy), which will be automatically and uniformly be assessed the applicable standard rates in place for generally all other routed orders under fee code X. Further, if members do not favor the Exchange's pricing for routed orders, they can send their routable orders directly to away markets instead of using routing functionality provided by the Exchange. Routing through the Exchange is optional, and the Exchange operates in a competitive environment where market participants can readily direct order flow to competing venues or providers of routing services if they deem fee levels to be excessive. The Exchange believes that the updated description for orders that yield fee code X is equitable and not unfairly discriminatory because it does not impact the routed orders that currently yield fee code X; the same orders will continue to yield fee code X and will continue to be automatically and uniformly assessed the corresponding fee.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition because all Members orders that would yield current fee codes 8 or MX, will automatically and uniformly be assessed the fees already in place for all other routed orders generally under fee code X. Fee code X, as amended, will continue to apply to the same routed orders as it currently does, which will continue to be automatically and uniformly assessed the corresponding fee. Ultimately, all routed orders will generally be assessed the same fee.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange again notes that orders that meet the specifications to which fee codes 8 or MX would currently apply, will yield the same fee codes and be assessed the same corresponding rates that are already in place in the Fee Schedule for routed orders generally, as previously filed with the Commission. Also, as previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and director their order flow, including 15 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 16% of the market share.[9] Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [10] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[11] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange neither solicited nor received comments on the proposed rule change.

[9] *See supra* note 4.

[10] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[11] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

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) [12] of the Act and subparagraph (f)(2) of Rule 19b–4 [13] 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) [14] 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.* Please include File Number SR–CboeBYX–2021–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBYX–2021–003. 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

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 15 U.S.C. 78s(b)(2)(B).

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–CboeBYX–2021–003, and should be submitted on or before February 23, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier

Assistant Secretary.

[FR Doc. 2021–02117 Filed 2–1–21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–240, OMB Control No. 3235–0216]

Submission for OMB Review; 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 19a–1

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 19(a) (15 U.S.C. 80a–19(a)) of the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a) makes it unlawful for any registered investment company to pay any dividend or similar distribution from any source other than the company's net income, unless the payment is accompanied by a written statement to the company's shareholders which adequately discloses the sources of the payment. Section 19(a) authorizes the Commission to prescribe the form of such statement by rule.

Rule 19a–1 (17 CFR 270.19a–1) under the Act, entitled ''Written Statement to Accompany Dividend Payments by Management Companies,'' sets forth specific requirements for the information that must be included in statements made pursuant to section 19(a) by or on behalf of management companies.[1] The rule requires that the statement indicate what portions of distribution payments are made from net income, net profits from the sale of a security or other property (''capital gains'') and paid-in capital. When any part of the payment is made from capital gains, rule 19a–1 also requires that the statement disclose certain other information relating to the appreciation or depreciation of portfolio securities. If an estimated portion is subsequently determined to be significantly inaccurate, a correction must be made on a statement made pursuant to section 19(a) or in the first report to shareholders following the discovery of the inaccuracy.

The purpose of rule 19a–1 is to afford fund shareholders adequate disclosure of the sources from which distribution payments are made. The rule is intended to prevent shareholders from confusing income dividends with distributions made from capital sources. Absent rule 19a–1, shareholders might receive a false impression of fund gains.

Based on a review of filings made with the Commission, the staff estimates that approximately 12,019 series of registered investment companies that are management companies may be subject to rule 19a–1 each year,[2] and that each portfolio on average mails two statements per year to meet the requirements of the rule.[3] The staff further estimates that the time needed to make the determinations required by the rule and to prepare the statement required under the rule is approximately 1 hour per statement. The total annual burden for all portfolios therefore is estimated to be approximately 24,038 burden hours.[4]

The staff estimates that approximately one-third of the total annual burden (8,013 hours) would be incurred by a paralegal with an average hourly wage rate of approximately $219 per hour,[5] and approximately two-thirds of the annual burden (16,026 hours) would be incurred by a compliance clerk with an average hourly wage rate of $71 per hour.[6] The staff therefore estimates that the aggregate annual cost of complying with the paperwork requirements of the rule is approximately $2,892,693 ((8,013 hours × $219 = $1,754,847) + (16,026 hours × $71 = $1,137,846)).

To comply with state law, many investment companies already must distinguish the different sources from which a shareholder distribution is paid and disclose that information to shareholders. Thus, many investment companies would be required to distinguish the sources of shareholder dividends whether or not the Commission required them to do so under rule 19a–1.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Compliance with the collection of information required by rule 19a–1 is mandatory for management companies that make statements to shareholders pursuant to section 19(a) of the Act. 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.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive

[15] 17 CFR 200.30–3(a)(12).

[1] Section 4(3) of the Act (15 U.S.C. 80a–4(3)) defines ''management company'' as ''any investment company other than a face amount certificate company or a unit investment trust.''

[2] This estimate is based on statistics compiled by Commission staff as of September 21, 2020. The number of management investment company portfolios that make distributions for which compliance with rule 19a–1 is required depends on a wide range of factors and can vary greatly across years. Therefore, the calculation of estimated burden hours is based on the total number of management investment company portfolios, each of which may be subject to rule 19a–1.

[3] A few portfolios make monthly distributions from sources other than net income, so the rule requires them to send out a statement 12 times a year. Other portfolios never make such distributions.

[4] This estimate is based on the following calculation: 12,019 management investment company portfolios × 2 statements per year × 1 hour per statement = 24,038 burden hours.

[5] Hourly rates are derived from the Securities Industry and Financial Markets Association (''SIFMA''), Management and Professional Earnings in the Securities Industry 2013, modified to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

[6] Hourly rates are derived from SIFMA's Office Salaries in the Securities Industry 2013, modified to account for an 1,800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.