

transparency, provides continuous trading opportunities and enhances market quality on the Exchange, and generally continues to encourage Members to send orders to the Exchange, thereby contributing towards a robust and well-balanced market ecosystem to the benefit of all market participants.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct 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.²² 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.”²³ 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’”²⁴ 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.

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 Act²⁵ and paragraph (f) of Rule 19b-4²⁶ thereunder. 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. If the Commission takes such action, the Commission will institute proceedings 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-CboeBZX-2021-038 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-2021-038. This file number should be included on the subject line if email is used. To help the Commission process and review your

²⁴ *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)).

²⁵ 15 U.S.C. 78s(b)(3)(A).

²⁶ 17 CFR 240.19b-4(f).

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-2021-038 and should be submitted on or before June 4, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91807; File No. SR-NYSE-2020-89]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 2, To Amend Rule 7.35C

May 10, 2021.

On October 23, 2020, New York Stock Exchange LLC (“NYSE” or “Exchange”) 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

²⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

²² See *supra* note 3.

²³ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

19b-4 thereunder,² a proposed rule change to: (1) Provide the Exchange the authority to facilitate a Trading Halt Auction if a security has not reopened following a Level 1 or Level 2 trading halt due to extraordinary market volatility under Rule 7.12 (“MWC B Halt”) by 3:30 p.m.; (2) widen the Auction Collar for an Exchange-facilitated Trading Halt Auction following an MWC B Halt; (3) provide that certain DMM Interest would not be cancelled following an Exchange-facilitated Auction; and (4) change the Auction Reference Price for Exchange-facilitated Core Open Auctions. The proposed rule change was published for comment in the **Federal Register** on November 12 2020.³ On December 18, 2020, pursuant to Section 19(b)(2) of the 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 to February 10, 2020.⁵ On February 5, 2021, the Exchange filed Amendment No. 1 to the proposed rule change which replaced and superseded the proposed rule change in its entirety.⁶ On February 10, 2021, the Commission published notice of Amendment No. 1 and instituted proceedings pursuant to Section 19(b)(2)(B) of the Act⁷ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.⁸ On March 17, 2021, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change, as modified by Amendment No. 1, in its entirety.⁹

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 90363 (Nov. 5, 2020), 85 FR 71964 (Nov. 12, 2020) (“Notice”).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 90726 (Dec. 20, 2020), 85 FR 84431 (Dec. 28, 2020).

⁶ In Amendment No. 1, the Exchange removed one of the proposed changes from the original proposal. Specifically, the Exchange removed the proposed change to adopt a new definition of Auction Reference Price for exchange-facilitated Core Open Auctions and to amend the temporary rule related to such auctions set forth in Commentary .04 to Rule 7.35C. This aspect of the original proposal is now the subject of a separate proposed rule change filed by the Exchange on February 8, 2021 (SR-NYSE-2021-13).

⁷ 15 U.S.C. 78s(b)(2)(B).

⁸ See Securities Exchange Act Release No. 91095 (Feb. 10, 2021), 86 FR 9978 (Feb. 17, 2020).

⁹ In Amendment No. 2, the Exchange removed several more proposed changes from the original proposal, as modified by Amendment No. 1. Specifically, the Exchange removed the proposed changes to make permanent the temporary rules pertaining to: (i) Permitting the CEO to determine that the Exchange will facilitate a Trading Halt Auction in one or more securities following a MWC B Halt if the security has not reopened by 3:30

The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act¹⁰ provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for comment in the **Federal Register** on November 12 2020.¹¹ The 180th day after publication of the Notice is May 11, 2021. The Commission is extending the time period for approving or disapproving the proposal for an additional 60 days.

The Commission finds it 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 proposed rule change as amended by Amendment No. 2. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹² designates July 10, 2021, 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-NYSE-2020-89).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

J. Matthew DeLesDernier,

Assistant Secretary.

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p.m. Eastern Time, and (ii) establishing wider Auction Collars for Trading Halt Auctions following a MWC B Halt.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ See *supra* note 3.

¹² *Id.*

¹³ 17 CFR 200.30-3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91804; File No. SR-CboeBYX-2021-012]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to the Exchange’s Process for Re-Opening Securities Listed on Other National Securities Exchanges Following the Resumption of Trading After a Halt, Suspension, or Pause During the Early Trading Session, Pre-Opening Session, or After Hours Trading Session

May 10, 2021.

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 April 26, 2021, Cboe BYX Exchange, Inc. (“Exchange” or “BYX”) 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 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 rule change to amend the Exchange’s process for re-opening securities listed on other national securities exchanges following the resumption of trading after a halt, suspension, or pause during the Early Trading Session, Pre-Opening Session, or After Hours Trading Session.

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 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.