

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,<sup>8</sup> the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal relates solely to elimination of an underutilized DMM rebate and SLP tiered credits and, as such, would not have any impact on intra- or inter-market competition because the proposed change is solely designed to accurately reflect the services that the Exchange currently offers, thereby adding clarity to the Price List.

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

No written comments were solicited or received with respect to the proposed rule change.

### **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>9</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>10</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>11</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 Number SR-NYSE-2021-49 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-NYSE-2021-49. 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-NYSE-2021-49 and should be submitted on or before October 5, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

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

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-92894; File No. SR-CboeBZX-2021-019]

#### **Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of the VanEck Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares**

September 8, 2021.

On March 1, 2021, Cboe BZX Exchange, Inc. ("BZX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade shares of the VanEck Bitcoin Trust under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on March 19, 2021.<sup>3</sup> On April 28, 2021, pursuant to Section 19(b)(2) of the Act,<sup>4</sup> 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.<sup>5</sup> On June 16, 2021, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act<sup>6</sup> to determine whether to approve or disapprove the proposed rule change.<sup>7</sup>

Section 19(b)(2) of the Act<sup>8</sup> 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,

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

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

<sup>3</sup> See Securities Exchange Act Release No. 91326 (March 15, 2021), 86 FR 14987 (March 19, 2021). Comments on the proposed rule change can be found at: <https://www.sec.gov/comments/sr-cboebzx-2021-019/srcboebzx2021019.htm>.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 91695 (April 28, 2021), 86 FR 24066 (May 5, 2021). The Commission designated June 17, 2021, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

<sup>6</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>7</sup> See Securities Exchange Act Release No. 92196 (June 16, 2021), 86 FR 32985 (June 23, 2021).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 15 U.S.C. 78f(b)(8).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

<sup>11</sup> 15 U.S.C. 78s(b)(2)(B).

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

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 March 19, 2021.<sup>9</sup> The 180th day after publication of the proposed rule change is September 15, 2021. The Commission is extending the time period for approving or disapproving the proposed rule change for an additional 60 days.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised in the comment letters that have been submitted in connection therewith. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> designates November 14, 2021, as the date by which the Commission shall either approve or disapprove the proposed rule change (File Number SR–CboeBZX–2021–019).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92893; File No. SR–ICC–2021–018]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Back-Testing Framework

September 8, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934<sup>1</sup> and Rule 19b–4,<sup>2</sup> notice is hereby given that on August 24, 2021, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise the ICE CDS Clearing: Back-Testing Framework (“Back-Testing Framework”) to include additional description on the lookback period for back-testing and other clarifications. These revisions do not require any changes to the ICC Clearing Rules (the “Rules”).

#### II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

##### (A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### (a) Purpose

ICC proposes revising the Back-Testing Framework, which describes ICC’s back-testing approach and procedures and includes guidelines for remediating poor back-testing results. The proposed amendments include additional description on the lookback period for back-testing and other clarifications. ICC believes that such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes effective following Commission approval of the proposed rule change. The proposed revisions are described in detail as follows.

ICC proposes a clarification change in Subsection 1.2. The Back-Testing Framework discusses ICC’s back-testing analysis, which verifies that the number of actual losses is consistent with the number of projected losses. The proposed clarification to Subsection 1.2 specifies that the ICC Risk Department may consider back-testing analysis based on alternative statistical tests to assess the performance of its models in terms of statistical reliability.

ICC proposes new Subsection 2.1 to include additional description on the lookback period for back-testing. Proposed Subsection 2.1 details the performance of back-testing analysis for Clearing Participant (“CP”) related portfolios. The proposed language discusses the maximum back-testing sample size, or the lookback period, and the benefit of allowing for a greater sample size in terms of assessing model performance. The proposed language also analyzes short lookback periods in combination with high risk quantile estimates. Moreover, ICC proposes to reference an alternative statistical test and describe how the model is considered to pass or fail the test. Proposed Figure 1 serves as an illustration under such alternative statistical test across different sample sizes and risk quantiles. Following such analysis, proposed Subsection 2.1 sets out ICC’s rationale for the minimum back-testing window length. Further, proposed Subsection 2.1 references the performance of additional analyses, as described in Section 4 of the Back-Testing Framework, and includes language concerning the reporting of back-testing results. ICC proposes to renumber the following subsections accordingly.

ICC proposes additional clarifications to the Back-Testing Framework. The proposed amendments include a footnote in amended Subsection 2.6 that references a relevant Commodity Futures Trading Commission regulation with respect to ICC’s performance of back-testing analysis. ICC further proposes amendments to Section 4, which contains guidelines for remediating poor back-testing results. Currently, poor back-testing results require a peer review of the risk models by the Risk Working Group (“RWG”), which is comprised of risk representatives from ICC’s CPs, and remedial actions to improve model performance. The proposed changes describe an additional aspect presented to the RWG and note an assessment that corresponds to the performance of a back-testing analysis without overlapping periods. ICC also proposes to update Section 5, containing a list of references, to include a reference for the alternative statistical test described in proposed Subsection 2.1.

###### (b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>3</sup> and the regulations thereunder applicable to it, including the applicable

<sup>9</sup> See *supra* note 3.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30–3(a)(57).

<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. 78q–1.