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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89031; File No. SR-CboeBYX-2020-016]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Allow Members and Clearing Members to Establish or Adjust the Risk Settings Set Forth in Interpretation and Policy .03 of Exchange Rule 11.13 on a Risk Group Identifier Basis

June 9, 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 May 28, 2020, Cboe BYX Exchange, Inc. (the “Exchange”) 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 Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 the Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (“BYX” or the “Exchange”) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to allow Members and Clearing Members to establish or adjust the risk settings set forth in Interpretation and Policy .03 of Exchange Rule 11.13 on a risk group identifier basis. The text of the proposed rule change is provided in Exhibit 5.

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<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. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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 offer Members<sup>5</sup> and Clearing Members<sup>6</sup> a more granular option to manage their credit risk in equity securities. Specifically, the Exchange proposes to allow Members and Clearing Members to establish a risk profile(s) on a risk group identifier basis that would apply the risk settings offered in Interpretation and Policy .03 of Exchange Rule 11.13 to a subset of orders.

Recently, the Exchange adopted Interpretation and Policy .03 to Exchange Rule 11.13 which provides Members certain optional risk settings.<sup>7</sup> As set forth in paragraph (a), the Exchange

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<sup>5</sup> See Exchange Rule 1.5(n).

<sup>6</sup> A “Clearing Member” refers to a Member that is also a member of a Qualified Clearing Agency and clears transactions on behalf of another Member. See Exchange Rule 11.15(a).

<sup>7</sup> See Securities Exchange Act No. 88820 (May 6, 2020) 85 FR 28106 (May 12, 2020) (the “Original Filing”).

currently offers the Gross Credit Risk Limit<sup>8</sup> and Net Credit Risk Limit<sup>9</sup> that are applicable to a Member's activities on the Exchange and are available to either the Member or its Clearing Member. Specifically, pursuant to paragraph (c), a Member that does not self-clear may allocate the responsibility of establishing and adjusting the applicable risk settings to its Clearing Member. Further, paragraph (b)(1) provides that the risk limits may only be set at the market participant identifier ("MPID") level. Now, the Exchange is proposing to amend paragraph (b)(1) to provide that the Gross Credit Risk Limit and Net Credit Risk Limit may be set at the MPID level or at a more granular risk profile level. The Exchange believes the proposed functionality will provide an effective tool for Members and Clearing Members to manage their credit risk associated with equities trading.

As provided in the Original Filing, a Member can allocate responsibility for establishing and adjusting the applicable risk settings to its Clearing Member on an MPID basis via the Exchange's web portal. The proposal would allow a Member or its Clearing Member, if allocated such responsibility, to utilize "Purge Ports" to apply Gross Credit Risk Limits and/or Net Credit Risk Limits to more granular subsets of orders associated with the relevant MPID.<sup>10</sup> The Exchange believes the proposal will allow for proactive and reactive risk management and may be useful to firms operating multiple strategies at a given time, those operating multiple groups under a single

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<sup>8</sup> The "Gross Credit Risk Limit" refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both purchases and sales are counted as positive values. For purposes of calculating the Gross Credit Risk Limit, only executed orders are included. See Interpretation and Policy .03(a)(1) of Exchange Rule 11.13.

<sup>9</sup> The "Net Credit Risk Limit" refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where purchases are counted as positive values and sales are counted as negative values. For purposes of calculating the Net Credit Risk Limit, only executed orders are included. See Interpretation and Policy .03(a)(2) of Exchange Rule 11.13.

<sup>10</sup> The risk group identifier is a subset level of an MPID. Members can use MPID and risk group identifier risk settings in conjunction.

MPID with disparate risk profiles, or Sponsoring Members<sup>11</sup> managing risk on behalf of a Sponsored Participant.<sup>12</sup> Specifically, Members or Clearing Members may assign a risk group identifier to a specific strategy, group, or Sponsored Participant and then set up a risk profile applicable to that risk group identifier. Without such functionality, the Member or its Clearing Member would only be able to manage risk at the MPID level.

A “Purge Port” is a dedicated port that permits a User to simultaneously cancel all or a subset of its orders in one or more symbols across multiple logical ports<sup>13</sup> by requesting the Exchange to effect such cancellation.<sup>14</sup> Currently, in order to effect a purge request on a specific subset of orders, a Member must identify which orders should be purged by applying a risk group identifier to such orders. As proposed, the risk group identifiers available for purge requests through Purge Ports would also be utilized to define risk profiles which constitute risk limits at the

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<sup>11</sup> See Exchange Rule 1.5(y).

<sup>12</sup> See Exchange Rule 1.5(x). As noted in the Original Filing, the Exchange does not guarantee that the proposed risk settings described in proposed Interpretation and Policy .03, are sufficiently comprehensive to meet all of a Member’s risk management needs. Pursuant to Rule 15c3-5 under the Act, a broker-dealer with market access must perform appropriate due diligence to assure that controls are reasonably designed to be effective, and otherwise consistent with the rule. Use of the Exchange’s risk settings included in proposed Interpretation and Policy .03 will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the Member. See supra note 7.

<sup>13</sup> A logical port represents a port established by the Exchange within the Exchange’s system for trading and billing purposes. Each logical port established is specific to a Member or non-Member and grants that Member or non-Member the ability to accomplish a specific function, such as order entry, order cancellation, or data receipt. In addition, logical ports enable Users to access information such as execution reports, execution report messages, auction notifications, and administrative data through a single feed.

<sup>14</sup> A User initiating such a request may also request that the Exchange block all or a subset of its new inbound orders in one or more symbols across multiple logical ports. The block will remain in effect until the User requests the Exchange remove the block. See Interpretation and Policy .02(b) of Exchange Rule 11.13. Purge Ports are available to Users while risk settings are only available to Members and its Clearing Member.

more granular order subset level. Specifically, through the Exchange’s proposed functionality, a Member or its Clearing Member would be able to set risk profiles for up to 10 risk group identifiers per Purge Port that specify different Gross Credit Risk Limits and/or Net Credit Risk Limits to orders bearing the applicable risk group identifier. The Gross Credit Risk Limit and Net Credit Risk Limit would only be applied to the specified subset of orders with the applicable risk group identifier.<sup>15</sup> As such, only open orders or new orders bearing the applicable risk group identifier would be canceled or automatically blocked, respectively, in the event of a risk limit breach as set forth in paragraph (e) of Interpretation and Policy .03.

As noted above, Purge Ports enable Users to simultaneously cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. Therefore, Purge Ports allow Members to manage risk for some subset of their business, such as by trading strategy. The proposal would expand the existing Purge Port functionality to allow Members and Clearing Members to use the Exchange’s automated risk management functionality in a similar manner. As a result, Members and Clearing Members would be able to set automated gross and net notional risk limits for particular risk group identifiers, while retaining the ability to mass cancel and/or block orders entered with that risk group identifier using current purge functionality, *e.g.*, in response to alerts that the Member is approaching designated limits.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the

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<sup>15</sup> As proposed, a new optional port level attribute will be available to validate that each new order submitted through that specific logical port contains a risk group identifier. Once this logical port level setting is selected, any orders submitted through that session that are not tagged with a risk group identifier will be rejected in an effort to ensure intended risk thresholds are maintained.

Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>16</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>17</sup> 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.

The Exchange believes that the proposed rule change would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because the proposal would enhance Members' and Clearing Members' ability to manage their credit risk associated with equities trading, which would, in turn, improve their risk controls to the benefit of all market participants. Specifically, as discussed above, the proposal would allow a Member or its Clearing Member, if allocated such responsibility, to utilize the existing Purge Port risk group identifier functionality to set risk profiles for up to 10 risk group identifiers per Purge Port. Each risk profile would specify the applicable Gross Credit Risk Limits and/or Net Credit Risk Limits that would be applied to the subset of orders bearing the risk group identifier. Further, the proposal would allow the automatic mass cancellation of all open orders and block new orders bearing the risk group identifier in the event of a risk limit breach. As such, the Exchange believes that the proposal will allow for proactive and reactive risk management and may be useful to firms operating multiple strategies at a given time, those operating multiple

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<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

groups under a single MPID with disparate risk profiles, or Sponsoring Members managing risk on behalf of a Sponsored Participant.<sup>18</sup>

In addition, the Exchange believes that the proposed rule change is designed to protect investors and the public interest because the proposed functionality is a form of risk mitigation that will aid Members, and Clearing Members for firms who do not self-clear, in minimizing their risk associated with operating or clearing multiple business lines with disparate risk profiles. In turn, the introduction of such risk management functionality could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

The Exchange also believes that building on the Purge Port functionality to provide the proposed changes would foster cooperation and coordination with persons engaged in facilitating transactions in securities because it offers enhanced use of existing functionality. This may enable more efficient use of Members' and Clearing Members' resources.

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's Members and Clearing Members because use of the risk settings is optional and are not a prerequisite for participation on the Exchange, and will be available to all Members and Clearing Members as an enhancement to existing Purge Port functionality. The proposed risk settings are completely voluntary and, as they relate solely to optional risk management functionality, no Member or Clearing Member is required or under any regulatory obligation to utilize them.

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<sup>18</sup> Supra note 12.

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. In fact, the Exchange believes that the proposal may have a positive effect on competition because it would allow the Exchange to offer enhanced risk management functionality. Further, by providing Members and their Clearing Members more granular means to monitor and control risk, the proposed rule may increase confidence in the proper functioning of the markets and contribute to additional competition among trading venues and broker-dealers. Rather than impede competition, the proposal is designed as an innovative way to facilitate more robust risk management by Members and Clearing Members, which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. Furthermore, other exchanges are free to propose similar functionality as they see fit.<sup>19</sup>

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>20</sup> and Rule 19b-4(f)(6) thereunder.<sup>21</sup>

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<sup>19</sup> The NYSE has adopted similar provisions that allow for risk settings at a "sub-ID" level. See Securities Exchange Act No. 88776 (April 29, 2020) 85 FR 26768 (May 5, 2020) (SR-NYSE-2020-17).

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).



A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>22</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>23</sup> 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 Exchange may implement the proposed rule change on the anticipated launch date of May 29, 2020. The Exchange states that waiver of the operative delay would allow Members and Clearing Members to immediately utilize the proposed functionality to manage their risk. For this reason, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.<sup>24</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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

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<sup>21</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>22</sup> 17 CFR 240.19b-4(f)(6).

<sup>23</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>24</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBYX-2020-016 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-2020-016. This file number should be included on the subject line if e-mail 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, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such 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-2020-016, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

J. Matthew DeLesDernier,  
Assistant Secretary.

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<sup>25</sup> 17 CFR 200.30-3(a)(12).

