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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89673; File No. SR-CboeBZX-2020-066]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fee Schedule

August 26, 2020.

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 August 12, 2020, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange.³ 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

Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend the fee schedule. 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/bzx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange initially filed the proposed fee changes on August 3, 2020 (SR-CboeBZX-2020-064). On August 12, 2020, the Exchange withdrew that filing and submitted this proposal.

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 Exchange proposes to amend its fee schedule applicable to its equities trading platform ("BZX Equities") to remove certain Step-Up Tiers and update Tape B Volume and Quoting Tiers.

Proposal to Eliminate Step-Up Tiers 2 and 4

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 several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. The Exchange in particular operates a "Maker-Taker" model whereby it pays credits to members that provide liquidity and assesses fees to those that remove liquidity. The Exchange's fee schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively.

Particularly, for orders priced at or above \$1.00, the Exchange provides a standard rebate of

\$0.0025 per share for orders that add liquidity and assesses a fee of \$0.0030 per share for orders that remove liquidity. In response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

One of the tiered pricing models is set forth in Footnote 2 of the fee schedule (Step-Up Tiers), which provides Members an opportunity to qualify for an enhanced rebate on their orders that add liquidity where they increase their relative liquidity each month over a predetermined baseline. Tier 2 of the Step-Up Tiers provides an enhanced rebate of \$0.0031 per share for Members with Step-Up Add TCV⁴ from December 2018 equal to or greater than 0.20%, or has a Step-Up Add TCV⁵ from April 2020 equal to or greater than 0.15%. Similarly, Tier 4 of the Step-Up Tiers provides an enhanced rebate of \$0.0032 per share for Members with Step-Up Add TCV from December 2018 equal to or greater than 0.50%. The Exchange adopted Tiers 2 and 4 of the Step-Up Tiers to encourage Members to grow their ADAV on the Exchange on a monthly basis from a December 2018 or April 2020 baseline. The Exchange now proposes to eliminate the Tiers 2 and 4 of the Step-Up Tiers. Particularly, no Member has reached Tiers 2 or 4 of the Step-Up Tiers in several months and the Exchange therefore no longer wishes to, nor is it required to, maintain such tiers. The Exchange no longer believes Tiers 2 and 4 are necessary

⁴ "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

⁵ "Step-Up Add TCV" means ADAV as a percentage of TCV in the relevant baseline month subtracted from current ADAV as a percentage of TCV. "ADAV" means average daily added volume calculated as the number of shares added per day.

and notes the Exchange is not required to maintain such an incentive program. Additionally, the Exchange proposes to re-number Step-Up Tiers 3 and 5 to reflect the elimination of Step-Up Tiers 2 and 4.

Proposal to Amend Tape B Volume and Quoting Tiers

The Exchange notes that its listing business operates in a highly-competitive market in which market participants, which includes issuers of securities, Lead Market Makers (“LMMs”), and other liquidity providers, can readily transfer their listings, opt not to participate, or direct order flow to competing venues if they deem fee levels, liquidity provision incentive programs, or any other factor at a particular venue to be insufficient or excessive. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to enroll in LMP Securities,⁶ which the Exchange believes will enhance market quality in all securities listed on the Exchange and encourage issuers to list new products and transfer existing products to the Exchange.

The Exchange currently offers two Tape B Volume and Quoting Tiers under Footnote 13, which provide an additional rebate of \$0.0001 (Tier 1) and \$0.0002 (Tier 2) per share for orders that meet certain criteria. Specifically, Tier 1 provides an additional rebate if (i) the Member is enrolled in at least 50 BZX-listed LMP Securities, for which it meets the following criteria for at least 50% of the trading days in the applicable month: (1) the Member has a NBBO Time⁷ of

⁶ "LMP Securities" means a list of securities included in the Liquidity Management Program, the universe of which will be determined by the Exchange and published in a circular distributed to Members and on the Exchange's website. Such LMP Securities will include all Cboe-listed ETPs and certain non-Cboe-listed ETPs for which the Exchange wants to incentivize Members to provide enhanced market quality. All Cboe-listed securities will be LMP Securities immediately upon listing on the Exchange. The Exchange will not remove a security from the list of LMP Securities without 30 days prior notice. See Cboe BZX U.S. Equities Exchange Fee Schedule.

⁷ "NBBO Time" means the average of the percentage of time during regular trading hours

equal to or greater than 15% or a NBBO Size Time⁸ of equal to or greater than 25%; and (2) the Member has a Displayed Size Time⁹ of equal to or greater than 90%; and (ii) the Member adds a Tape B ADV¹⁰ of equal to or greater than 0.15% of the TCV. Alternatively, Tier 2 provides an additional rebate if (i) the Member is enrolled in at least 100 BZX-listed LMP Securities for which it meets the following criteria for at least 50% of the trading days in the applicable month: (1) the Member has a NBBO Time of equal to or greater than 15% or a NBBO Size Time of equal to or greater than 25%; and (2) the Member has a Displayed Size Time of equal to or greater than 90%; and (ii) the Member adds a Tape B ADV of equal to or greater than 0.30% of the TCV. All Members are eligible to enroll in LMP Securities and are eligible for the current Tape B Volume and Quoting Tier. Such rebates are applicable to orders that add liquidity which are appended with fee code B.¹¹

LMP incentives are designed to apply to Tape B trades as BZX-listed securities are Tape B securities. The Exchange has observed that Tape B volume can vary as a percentage of TCV. Thus, a Member may be trading heavily in Tape B securities but may not qualify for the Tape B Volume and Quoting Tiers because of the low Tape B volume as a percentage of TCV. Given this, the Exchange now proposes to make changes to the second (ii) criteria of both Tape B

during which the Member maintains at least 100 shares at each of the NBB and NBO.

⁸ "NBBO Size Time" means the percentage of time during regular trading hours during which there are size-setting quotes at the NBBO on the Exchange.

⁹ "Displayed Size Time" means the percentage of time during regular trading hours during which the Member maintains at least 2,500 displayed shares on the bid and separately maintains at least 2,500 displayed shares on the offer that are priced no more than 2% away from the NBB and NBO, respectively.

¹⁰ "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day.

¹¹ Fee code B represents a displayed order that adds liquidity to BZX (Tape B).

Volume and Quoting Tiers noted above. Specifically, for Tier 1 the Exchange proposes to amend criteria two (ii) to provide that a Member must add Tape B ADV equal than or greater than 0.50% of Tape B TCV. Similarly, the Exchange proposes to amend criteria two (ii) of Tier 2 to provide that a Member must add Tape B ADV equal than or greater than 1.50% of Tape B TCV. The proposed changes are designed to allow Members who meet the Tape B volume criteria to meet the Volume and Quoting Tiers even if Tape B volume is a low percentage of TCV.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,¹² in general, and furthers the objectives of Section 6(b)(4),¹³ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members, issuers and other persons using its facilities. The Exchange 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. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

In particular, the Exchange believes the proposed amendment to remove existing Tiers 2 and 4 of the Step-Up Tiers is reasonable because the Exchange is not required to maintain these tiers and Members still have a number of other opportunities and a variety of ways to receive enhanced rebates, including the proposed enhanced standard rebate to orders yielding fee code

¹² 15 U.S.C. 78f.

¹³ 15 U.S.C. 78f(b)(4).

“B” “V”¹⁴ or “Y”.¹⁵ Moreover, as noted above, no Member has achieved these tiers in several months. The Exchange believes the proposal to eliminate these tiers is also equitable and not unfairly discriminatory because it applies to all Members.

The Exchange also notes that its listing business operates in a highly-competitive market in which market participants, which includes issuers of securities, LMMs, and other liquidity providers, can readily transfer their listings, opt not to participate, or direct order flow to competing venues if they deem fee levels, liquidity provision incentive programs, or any other factor at a particular venue to be insufficient or excessive. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to enroll in LMP Securities, which the Exchange believes will enhance market quality in all securities listed on the Exchange and encourage issuers to list new products and transfer existing products to the Exchange.

The Exchange believes that the proposed changes to the Tape B Volume and Quoting Tiers are consistent with the Act and represent a reasonable, equitable, and not unfairly discriminatory means to incentivize liquidity provision in Exchange-Traded Products (“ETPs”) listed on the Exchange. The marketplace for listings is extremely competitive and there are several other national securities exchanges that offer ETP listings. Transfers between listing venues occur frequently for numerous reasons, including market quality. This proposal is intended to help the Exchange compete as an ETP listing venue. LMP incentives are designed to apply to Tape B trades as BZX-listed securities are Tape B securities. The Exchange has observed that Tape B volume can vary as a percentage of TCW. Thus, a Member may be trading

¹⁴ Fee code V represents a displayed order that adds liquidity to BZX (Tape A).

¹⁵ Fee code Y represents a displayed order that adds liquidity to BZX (Tape C).

heavily in Tape B securities but may not qualify for the Tape B Volume and Quoting Tiers because of the low Tape B volume as a percentage of TCV. The proposed changes are designed to allow Members who meet the Tape B volume criteria to meet the Volume and Quoting Tiers even if Tape B volume is a low percentage of TCV.

The Exchange believes that the proposals to amend Tape B Volume and Quoting Tiers represents an equitable allocation of fees and other charges because the Tape B Volume and Quoting Tiers are available equally to all Members and all Members are eligible to enroll in LMP Securities. The Exchange anticipates at least four Members will meet the amended Tape B Volume and Quoting Tiers 1 and 2. Further, the Exchange believes that the proposal represents an equitable allocation of fees and other charges and is not unreasonably discriminatory because enrolling in LMP Securities is open to all Members and any Member that wishes to receive the Tape B Volume and Quoting Tiers must meet the proposed quoting and execution standards in order to receive the additional rebates, as outlined above. Where a Member does not meet the requirements, they will not receive the additional rebates. Further and as noted throughout, the Tape B Volume and Quoting Tiers are designed to enhance market quality in BZX-listed securities and to make the Exchange more competitive as an ETP listing venue.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed change burdens competition, but rather, enhances competition as it is intended to increase the competitiveness of BZX both among Members by incentivizing Members to enroll in LMP Securities and as a listing venue by enhancing market quality in BZX-listed securities. The marketplace for listings is extremely competitive and there are several other national securities exchanges that offer listings. Transfers between listing

venues occur frequently for numerous reasons, including market quality. This proposal is intended to help the Exchange compete as a listing venue. Accordingly, the Exchange does not believe that the proposed change will impair the ability of issuers, LMMs, other Members, or competing listing venues to maintain their competitive standing. The Exchange also notes that the proposed change is intended to enhance market quality in BZX-listed securities and other listed securities, to the benefit of all investors in such BZX-listed securities. The Exchange does not believe the proposed amendment would burden intramarket competition as it would be available to all Members uniformly.

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 Act¹⁶ and paragraph (f) of Rule 19b-4¹⁷ 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.

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(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. Please include File Number SR-CboeBZX-2020-066 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-2020-066. 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, 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-2020-066 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.¹⁸

Jill M. Peterson,

Assistant Secretary.

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¹⁸ 17 CFR 200.30-3(a)(12).