

December 20, 2022

Vanessa A. Countryman, Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: Release No. 34-95601, File No. SR-CboeBZX-2022-045, Notice of Filing of a Proposed Rule Change to Amend the Opening Auction Process Provided under Rule 11.23(b)(2)(b) ("Filing")

Dear Ms. Countryman:

Happy holidays and thank you for the chance to comment on the Filing.

My first question about the Filing is where are CboeBZX's market makers? These firms always tell us about the liquidity they post, the price discovery they facilitate, the market services they provide. There's no sign of them here. There's no sign either that CboeBZX has asked them to do anything at all to facilitate CboeBZX's opening price process, not even to post a reasonable two-sided quote in the continuous book by 9:30AM ET. Examples in the Filing even stipulate that "there are no orders on the Continuous Book," which we might imagine happens often enough CboeBZX is worried. CboeBZX should explain if it's tried to incent - or require - its market makers to show up and help CboeBZX determine an opening price. If CboeBZX has tried and it hasn't worked, CboeBZX should explain why. And if CboeBZX has tried and failed to get its market makers to show up for the open, what does that say about CboeBZX's listings business and what does that say about CboeBZX's market makers? These are fair questions Trading and Markets and even the Division of Examinations could ask.

The next question is why hasn't CboeBZX told us how its new opening price model performs? As part of a continuous market, a single-price auction's measure of success - whether an opening, closing, or halt auction - isn't simply volume traded. It's price continuity. Barring an information shock, CboeBZX should show us data about how consistent its new auction prices are with preceding or subsequent market prices. The Filing claims it will "*incorporate additional information* into the determination of the Opening Auction price" and "have an opportunity for *more meaningful price formation that is more representative of current market conditions*" and that it "results in a *more accurate BZX Official Opening Price*" with a "*better foundation* for the LULD bands" (emphasis added).

But CboeBZX hasn't noted whether and how it has measured all that. CboeBZX should back test its proposal, compare it to the current method, and present the results - it certainly has all the data it needs for the analysis. A reasonable comparison would show a suite of statistics for every affected opening over the past year. CboeBZX should show by stock and by day how much volume would have traded under the new method (absolute numbers and as a percentage of average daily volume) and how much volume traded under its current method.

CboeBZX should also break out the participants in these auctions. Are they professional, institutional, or retail? If they're professionals, are CboeBZX's market makers showing up? And most important, by stock and by day, CboeBZX should report by how much its proposed opening price deviates from opening prices today, from the stock's previous closing price, and from the stock's VWAP in the first 15 minutes of trading and for the day.

To demonstrate that its proposal is in the public interest, and that it's for the protection of investors and the maintenance of a fair and orderly market, CboeBZX should show that its proposal results in better price continuity, and CboeBZX should explain its metrics. If there are instances where the old model has done better, CboeBZX should explain that too. Without back tests and a comprehensive review of any differences between the two methods, the Filing's claims about the proposal are at best puffery, if not pickled twaddle. CboeBZX should support those claims or the SEC should say no.

Sincerely,

R. T. Leuchtkafer