

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-82715; File No. SR-CboeBZX-2018-011)

February 14, 2018

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Temporarily Amend Rule 11.23(d)(2)(E) Relating to the Halt Auction Collar for a Halt Auction for REX VolMAXX Short Weekly Futures Strategy ETF

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 February 7, 2018, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. 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 filed a proposal to temporarily amend Rule 11.23(d)(2)(E) relating to the Halt Auction Collar for a Halt Auction for REX VolMAXX Short Weekly Futures Strategy ETF (VMIN), which would be operative for February 6, 2018 only.

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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).

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

The text of the proposed rule change is available at the Exchange's website at [www.markets.cboe.com](http://www.markets.cboe.com), at the principal office of the Exchange, 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 parts 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 temporarily amend Rule 11.23(d)(2)(E) relating to the Halt Auction Collar for a Halt Auction for REX VolMAXX Short Weekly Futures Strategy ETF (VMIN), which would be operative for February 6, 2018 only.

On February 5, 2018, both the U.S. and global markets experienced increased selling pressure and the Dow Jones Industrial Average ("DJIA") closed 4.6% down over the prior closing day. In addition, on February 5, 2018, volatility was significantly higher across all measures of U.S. markets and continued to fluctuate significantly through the morning of February 6, 2018.

VMIN, which is listed on the Exchange, seeks to provide investors with inverse exposure to the implied volatility of the broad-based, large-cap U.S. equity market by obtaining investment exposure to an actively managed portfolio of exchange-traded Cboe Volatility Index ("VIX") Futures Contracts with weekly and monthly expirations. On

February, 5, 2018, the Official Closing Price for VMIN was \$16.57. The price of VMIN declined in after-market trading on February 5, 2018, and the last reported extended-hours trade price on that day was \$7.50. The reported NAV for February 5, 2018 was \$3.37. Because of the volatility in the pricing for VMIN and based on information from the issuer that there was a news event forthcoming, the Exchange halted trading in VMIN during the Pre-Opening Session. While the security was halted, an Intraday Indicative Value (“IIV”) was published under the ticker VMIN.IV, and as of 3:00 p.m. Eastern Time on February 6, 2018, the IIV was \$3.19. As such, the Halt Auction Reference Price for a Halt Auction would be the prior day’s Official Closing Price, \$16.57, and the Halt Auction Collar would be \$14.91 and \$18.23.

However, because of market events unique to the circumstances of February 5, 2018 and February 6, 2018, and the impact on pricing of VMIN, the Exchange does not believe that VMIN’s Official Closing Price would be an appropriate Halt Auction Reference Price and the basis for calculating the Halt Auction Collar for the Halt Auction for that security. The Exchange believes that the significant difference between the Official Closing Price on the one hand, and the last reported extended-hours sale price, the NAV, and the IIV on the other hand indicates that the Official Closing Price does not reflect the value of the security and would not be an appropriate Halt Auction Reference Price.

The Exchange believes that it would be consistent with fair and orderly markets and the protection of investors and the public to temporarily amend 11.23(d)(2)(E) and set a different Halt Auction Collar for VMIN based on a different Halt Auction Reference Price. The Exchange believes that given the unique circumstances for VMIN, including

the selling pressure on February 5, 2018 and the fluctuating prices relating to VMIN overnight, an IIV identified shortly before the Trading Halt Auction would more closely correlate to the value of VMIN as of the time of the Trading Halt Auction. More specifically, the Exchange believes that using a Halt Auction Reference Price based on an IIV for VMIN as the basis for forming the Halt Auction Collars that is identified prior to the Halt Auction would reduce the potential for volatility in trading after the security resumes trading.

Accordingly, the Exchange proposes to temporarily amend Rule 11.23(d)(2)(E) so that the Halt Auction Reference Price for VMIN used to calculate the Halt Auction Collars would be \$3.19. Because this proposed amendment would be operative for only one trading day and for only one symbol, the Exchange does not believe it is necessary to amend the rule text to effect this change. The Exchange proposes to provide notice of the amended Halt Auction Reference Price via a Trade Desk Notice, to be published before the Trading Halt Auction in VMIN.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act<sup>5</sup> in general and Section 6(b)(5) of the Act<sup>6</sup> in particular in that it is 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 facilitating transactions in securities, and to remove impediments to and perfect the

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<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

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 it would promote the protection of investors and the public interest to temporarily amend Rule 11.23(d)(2)(E) to set a different Halt Auction Reference Price for VMIN for the Halt Auction that would resume trading in that security on February 6, 2018. In particular, the Exchange believes that the unique circumstances of the market-wide trading volatility on February 5 and 6, 2018, and related impact on the various prices relating to VMIN, using the Official Closing Price as the Halt Auction Reference Price could result in extreme market volatility for that security after the security resumes trading on February 6, 2018. Specifically, the difference between the Official Closing Price on the one hand, and the NAV, last reported extended-hours sale price, and IIV on the morning of February 6, 2018 on the other hand, indicate that the Official Closing Price no longer reflects the value of VMIN.

By contrast, the Exchange believes that for this unique circumstance, using an IIV identified shortly before the Halt Auction would more closely reflect the value of VMIN and would reduce the potential for volatile trading after the security resumes trading. Accordingly, the Exchange believes that it would remove impediments 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, to temporarily amend Rule 11.23(d)(2)(E) to provide that the Halt Auction Reference Price that is used for the basis of calculating the Halt Auction Collars on February 6, 2018 only would be based on an IIV as of 3:00 p.m. Eastern Time.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

(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 purpose of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to ensure a fair and orderly market by temporarily amending the Auction Reference Price that would be used for the Trading Halt Auction to resume trading in VMIN on February 6, 2018 only.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). Rule 19b-4(f)(6)(iii) requires the Exchange to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>9</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>10</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 five-day prefiling requirement, as well the 30-day operative delay, so that the proposal may become operative immediately. The Commission waives the prefiling requirement and finds that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change is designed to facilitate the orderly reopening of trading in VMIN, and raises no new or novel issues. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.<sup>11</sup>

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

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shorter time as designated by the Commission. The Exchange has requested that the Commission waive this requirement.

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

19(b)(2)(B)<sup>12</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 proposal 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 No. SR-CboeBZX-2018-011 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 No. SR-CboeBZX-2018-011. 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

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<sup>12</sup> 15 U.S.C. 78s(b)(2)(B).

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 am and 3:00 pm. Copies of such filing will also 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 No. SR-CboeBZX-2018-011 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>13</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).