

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-86130; File No. SR-CboeBZX-2019-049)

June 18, 2019

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Updating its Rule 21.1(h) to Allow for a User to Elect that a Bulk Message Opt-Out of the Display-Price Sliding Process, as well as be Subject to the Lock-only Display-Price Sliding Process

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 June 4, 2019, 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 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 Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 Options”) proposes to update its Rule 21.1(h) to allow for a User to elect that a bulk message opt-out of the display-price sliding process, as well as be subject to the lock-only display-price sliding process. The text of the proposed rule change is provided in Exhibit 5.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 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/bzx/), 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 Exchange proposes to amend its rules to allow for a User to elect that a bulk message be subject to the lock-only display-price sliding process under Rule 21.1(h), as well as instruct a bulk message not be subject to the display-price sliding process. The Exchange is proposing this change in order to provide Users that submit bulk messages with functionality that is currently available to them for orders.

In December 2018, the Exchange adopted bulk messaging functionality, in which a User may enter, modify or cancel up to an Exchange-specified number of bids and offers in a single message. A User may submit a bulk message through a bulk port.⁵ The System⁶ handles bulk message bids and offers in the same manner as it handles an order, or quote if submitted by a

⁵ The "System" is the automated trading system used by BZX Options for the trading of options contracts. See Rule 21.1(1)(3)

⁶ See Rule 16.1(a)(60).

Market Maker, unless the Rules specify otherwise. Bulk message functionality was implemented by the Exchange as a way for Users to efficiently update (e.g. modify, cancel, etc.) and designate order types for multiple bids and offers within a single message. Currently, Rule 21.1(h)(1) provides that an order (including a bulk message)⁷ that, at the time of entry, would lock or cross a Protected Quotation of another options exchange will be ranked at the locking price in the BZX Options Book and displayed by the System at one minimum price variation below the current NBO (for bids) or to one minimum price variation above the current NBB (for offers).⁸ Under current Rule 21.1(h)(1) a User may elect to have the System only apply display-price sliding to the extent an order at the time of entry would lock a Protected Quotation of another options exchange (“lock-only”). Orders under the lock-only option will be cancelled if, upon entry, such order would cross a Protected Quotation of another options exchange. The lock-only display-price sliding option is a variation of display-price sliding that is intended to allow Users to re-evaluate their orders and/or strategies in the event they are submitting orders to the Exchange that are crossing the market.⁹ Furthermore, Rule 21.1(h) does not currently state that a User may designate orders or bulk messages to not be subject to the display-price sliding process. However, the ability for Users to opt-out of the display-price sliding process currently exists for a User’s orders and is provided for under various other Exchange Rules.¹⁰ Current Rule 21.1(h)(1) states that display-price sliding

⁷ The Exchange notes that the display-price sliding designation, as well as the proposed opt-out and lock-only designations for a bulk message applies to all bulk message bids and offers within a single message.

⁸ In accordance with the linkage rules. See Chapter XXVII of the Rules. See also Options Order Protection and Locked/Crossed Market Plan (the “Linkage Plan”).

⁹ See Securities Exchange Act No. 67657 (August 14, 2012), 77 FR 50199 (August 20, 2012) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change by BATS Exchange, Inc. To Amend BATS Rules Related to Price Sliding Functionality) (SR-BATS-2012-035).

¹⁰ See Rules 21.1(d)(6)-(9).

applies to all bulk messages, and, as such, a User is currently unable to elect the lock-only or opt-out process (as currently provided for in other Exchange Rules) for bulk messages.

The Exchange now proposes to amend Rule 21.1(h)(1) to remove the language that applies display-price sliding to all bulk messages, therefore, subjecting bulk messages, like orders, to a User's election to have the System only apply the lock-only display-price sliding option or to opt-out of the display-price sliding process, pursuant to other Exchange Rules and as proposed (as described below). The Exchange notes that the lock-only and opt-out designations, as applicable, for bulk messages will apply to all bulk message bids and offers within a single message.

Additionally, the Exchange proposes to explicitly state under Rule 21.1(h)(1) that a User may enter instructions for an order (including bulk messages) not to be subject to the display-price sliding process. As stated, the ability for Users to opt-out of the display-price sliding process currently exists for a User's orders under other Exchange Rules.¹¹ The Exchange is now proposing to make this existing instruction explicit under the display-price sliding provision and applicable to a User's orders and bulk messages. The proposed opt-out instruction is based on a similar re-pricing opt-out instruction under Rule 6.12(b) of the Exchange's affiliated exchange, Cboe C2 Exchange, Inc. ("C2").¹²

The Exchange believes that as bulk messages have become more widely-used, Users would benefit from the expansion of the lock-only functionality and functionality to opt-out of the display-price sliding process for bulk messages, both of which are currently available for Users' orders. The Exchange believes that this proposed change provides Users with the flexibility to apply functionality currently available for their orders to their bulk messages. As

¹¹ Id.

¹² The Exchange notes that C2 is simultaneously proposing to include bulk messages in its re-pricing process.

proposed, Users will be able to instruct bulk message bids and offers not to be subject to display-price sliding and able to elect the lock-only option for bulk message bids and offers.

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 Exchange and, in particular, the requirements of Section 6(b) of the Act.¹³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change allowing Users to elect that lock-only display-price sliding apply to bulk messages, and that the System cancel any such bulk message that would cross another options exchange, will remove impediments to and perfect the mechanism of a free and open market because it provides Users with the flexibility to apply to bulk messages the same order handling functionality as they may apply to their orders. The Exchange also believes that the proposed change is consistent with the requirement that the

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ Id.

rules facilitate transactions in securities, as well as remove impediments to and perfect the mechanism of a free and open market, because it will allow Users an additional opportunity to respond to continuously changing market conditions. The lock-only option provides Users an opportunity to re-evaluate the price and/or strategy for bulk messages submitted that have been rejected for crossing another exchange. The Exchange believes that the ability to elect the lock-only option for bulk messages will give Users greater flexibility and control over the circumstances under which their orders are able to interact with contra side-interest. The Exchange notes that the lock-only option for bulk messages will also serve to protect investors because it is an additional protection mechanism that mitigates potential risk associated with Users submitting bulk messages at prices that are too aggressive or potentially erroneous. Furthermore, the proposed application of the lock-only option to bulk messages prevents the display of a locked or crossed market which is consistent with the Linkage Plan,¹⁶ thus, perfecting the mechanism of a free and open market and national market system and protecting investors.

The Exchange also believes that codifying the opt-out instruction within Rule 21.1(h) will protect investors by making this instruction, which exists under other Exchange Rules,¹⁷ explicit within the display-price sliding process provision, thereby making the rules easier to understand for investors. Furthermore, by allowing for a User to enter instructions for a bulk message not to be subject to the display-price sliding process under Rule 21.1(h)(1) this proposed change will serve to remove impediments to and perfect the mechanism of a free and open market and a national market system as it provides Users with additional flexibility regarding how they want the System to handle their orders and bulk messages. The Exchange

¹⁶ See supra note 8.

¹⁷ See supra note 10.

notes that this is an additional way to ensure compliance with the linkage rules for both orders and bulk messages,¹⁸ thereby protecting investors and the public interest. Additionally, this change is consistent with the re-pricing process under Rule 6.12(b) of the Exchange's affiliated exchange, C2. The Exchange believes that mirroring the corresponding C2 opt-out instruction language will provide for better understanding for Users participating across the affiliated exchanges.

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. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the proposed application of the lock-only display-price sliding election and opt-out instructions to bulk messages will be available to all Users. The Exchange also notes that the opt-out and lock-only options are already available to all Users for their orders, and will apply to bulk messages in the same manner as they apply to orders.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it will provide Users with an opt-out instruction option and a lock-only price sliding option for bulk messages that is similar to other opt-out and lock-only price sliding options available on other exchanges.¹⁹ The Exchange believes the proposed functionality will permit the Exchange to operate on an even playing field relative to other exchanges that have similar functionality.

¹⁸ See supra note 8.

¹⁹ See C2 Rule 6.12(b) and NYSE Chicago Article 1, Rule 2 (b)(1)(C)(iii).

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act²⁰ and Rule 19b-4(f)(6) thereunder.²¹ 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) 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.

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

²⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

²¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s 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.

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-2019-049 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-2019-049. 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 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-2019-049 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.²²

Vanessa A. Countryman
Acting Secretary

²² 17 CFR 200.30-3(a)(12).