

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-93828; File No. SR-CboeBYX-2021-029)

December 20, 2021

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Juneteenth National Independence Day a Holiday of the Exchange

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 6, 2021, Cboe BYX Exchange, Inc. 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 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 BYX Exchange, Inc. (the “Exchange” or “BYX”) proposes to amend its rules to make Juneteenth National Independence Day a holiday of the Exchange. 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/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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Rule 11.1 (Hours of Trading and Trading Days) to make Juneteenth National Independence Day a holiday of the Exchange. On June 17, 2021, Juneteenth National Independence Day was designated a legal public holiday.³ Consistent with broad industry sentiment⁴ and the approach recommended by the Securities Industry and Financial Markets Association (“SIFMA”),⁵ the Exchange proposes to add “Juneteenth National Independence Day” to the existing list of holidays set forth in Rule 11.1(b). As a result, the Exchange will not be open for business on Juneteenth National Independence Day, which falls on June 19 of each year. In accordance with Rule 11.1(b), when a holiday falls on a Saturday, the Exchange will not be open for business on the preceding Friday, and when it falls on a Sunday, the Exchange will not be open for business on the succeeding Monday, unless otherwise indicated by the Exchange.⁶

³ Public Law No. 117-17.

⁴ See e.g., <https://www.bloomberg.com/news/articles/2021-06-18/bofa-makesjuneteenth-a-holiday-joining-jpmorgan-wells-fargo?sref=Hhue1scO>.

⁵ SIFMA recommends a full market close in observance of Juneteenth National Independence Day. See <https://www.sifma.org/resources/general/holidayschedule/>. See also <https://www.sifma.org/resources/news/sifma-revises-2022-fixed-income-market-close-recommendations-in-the-u-s-to-include-full-close-for-juneteenth-national-independence-day/>

⁶ See BYX Exchange Rule 11.1(b).

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.⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ 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) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,⁹ which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange’s Trading Permit Holders and persons associated with its Trading Permit Holders with the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange believes that the proposed change would remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general,

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5)

⁹ 15 U.S.C. 78f(b)(1).

protect investors and the public interest because the proposed amended rule would clearly state that the Exchange will not be open for business on Juneteenth National Independence Day, which is a federal holiday, and would address what day would be taken off if June 19 fell on a Saturday or Sunday. The change would thereby promote clarity and transparency in the Exchange rules by updating the list of holidays of the Exchange. The proposed rule change is also based on recent proposals by other exchanges.¹⁰ Therefore, the proposed change does not raise any new or novel issues.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,¹¹ the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather to conform to industry practice with respect to holidays.

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

¹⁰ See e.g., Securities Exchange Act Release No. 93186 (September 30, 2021), 86 FR 55068 (October 5, 2021)(SR-NYSE-2021-56). See also Securities Exchange Act Release No. 93461 (October 28, 2021), 86 FR 60670 (November 3, 2021)(SR-MIAX-2021-55).

¹¹ 15 U.S.C. 78f(b)(8).

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6)¹³ thereunder.¹⁴

A proposed rule change filed under Rule 19b-4(f)(6)¹⁵ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁶ the Commission may 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 proposed rule change may take effect upon filing. The Exchange believes that waiver of operative delay would be consistent with the protection of investors and the public interest because the proposed rule change would state that the Exchange will not be open for business on Juneteenth National Independence Day, which is a federal holiday, and would address what day would be taken off if June 19 falls on a Saturday or Sunday. The Exchange also notes that a waiver would allow the Exchange to update the schedule on its website more quickly. Further, the Exchange states that the proposed rule change was based on recent proposals by other exchanges.¹⁷ The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 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 satisfied this requirement.

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

¹⁷ See supra note 10.

the proposed rule change does not raise any new or novel issues. Accordingly, the Commission waives the 30-day operative delay and designates the proposal operative upon filing.¹⁸

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.

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-CboeBYX-2021-029 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-2021-029. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

¹⁸ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-CboeBYX-2021-029 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.¹⁹

Jill M. Peterson
Assistant Secretary

¹⁹ 17 CFR 200.30-3(a)(12).