SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101700; File No. SR-CboeBYX-2024-042)

November 21, 2024

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Fee Schedule Relating to Routing Codes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on November 14, 2024, Cboe BYX Exchange, Inc. ("Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III 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 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/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 proposed rule change. The text of these statements may be examined at the places specified in

1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

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

Effective November 1, 2024, the Exchange proposes to amend its BYX Fee Schedule applicable to its equities trading platform.[3] By implementing a remove fee (as opposed to a rebate) for fee code, AA, removing fee code, BJ, and adding EDGA to the list of venues to which orders appended with fee code, PL, are routed.

Fee Codes

The Exchange proposes to implement a remove fee for fee code, AA. The proposed changes are as follows:

- For securities priced above \$1.00,[4] fee code AA is appended to orders that are routed to EDGA using the ALLB[5] routing strategy. Currently, orders appended with fee code AA receive a rebate of \$0.0018.

The Exchange now proposes to amend fee code, AA, as follows:

- For securities priced above \$1.00, fee code AA will continue to be appended to orders that are routed to EDGA using the ALLB routing strategy. However, orders appended with fee code AA will now pay a fee of \$0.0030. The Exchange

3 The Exchange initially filed the proposed fee change on November 1, 2024 (SR-CboeBYX-2024-040). On November 14, 2024, the Exchange withdrew that filing and submitted this filing.

4 The Exchange notes for securities priced below \$1.00, there is no fee or rebate for removing liquidity from EDGA using the ALLB routing strategy.

5 ALLB is a routing option under which an order checks the System for available shares and is then sent to Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., and/or Cboe EDGX Exchange, Inc. in accordance with the System routing table. If shares remain unexecuted after routing, they are posted on the BYX Book, unless otherwise instructed by the User. See Rule 11.13(b)(3)(M).

does not propose to add a fee or rebate for removing liquidity for securities priced below $1.00.

The Exchange also proposes to remove fee code, BJ. For securities priced above $1.00,[6] fee code BJ is currently appended to orders that are routed to EDGA using the TRIM[7] or SLIM[8] routing strategies and receive a rebate of $0.0018. However, effective November 1, 2024,[9] EDGA transitioned from an inverted fee model[10] to a maker taker fee model.[11]

The Exchange also proposes to edit the description of fee code, PL. The BYX Fee Schedule currently describes PL, as a fee code appended to orders that are "[r]outed to BZX, EDGX, NYSE, NYSE Arca or Nasdaq using RMPL routing strategy." The Exchange now proposes to move EDGA to the list of high-cost destinations for the RMPL routing strategy that are assigned the PL fee code, by amending the description in the Fee Schedule to read as follow: "Routed to BZX, EDGX, EDGA, NYSE, NYSE Arca or Nasdaq using RMPL routing strategy."

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6 There is no charge or rebate for securities priced below $1.00.

7 TRIM is a routing strategy under which an order checks EDGA for available shares if so instructed by the entering User, and then is sent to destinations on the applicable System routing table. See generally Rule 11.13(b)(3)(G)(iv).

8 SLIM is a routing strategy under which an order checks EDGA for available shares if so instructed by the entering User, and then is sent to destinations on the applicable System routing table. See generally Rule 11.13(b)(3)(G)(v).

9 See SR-CboeEDGA-2024-042; see also, SR-CboeEDGA-2024-045.

10 The inverted As such, orders that remove liquidity from EDGA will pay a remove fee, rather than receive a rebate. Because Members typically utilize routing options TRIM and SLIM, and fee code BJ, to seek low-cost executions, it does not make sense to maintain fee code, BJ, as Members would not expect to pay a fee for removing liquidity from EDGA. Therefore, the Exchange proposes to discontinue this fee code, as it is no longer necessary, and BYX does not desire to charge such orders a fee for removing liquidity from EDGA.fee model is a pricing structure in which a market, such as an exchange, charges its participants a fee to provide liquidity in securities, and provides a rebate to participants that remove liquidity in securities. See SEC Market Structure Advisory Committee, Memorandum on "Maker-Taker Fees on Equities Exchanges," October 20, 2015, available at: https://www.sec.gov/spotlight/emsac/memo-maker-taker-fees-on-equities-exchanges.pdf

11 The maker-taker fee model is a pricing structure in which a market, such as an exchange, generally pays its members a per share rebate to provide (i.e., "make") liquidity in securities and assesses on them a fee to remove (i.e., "take") liquidity. Id.

Previously, orders appended with fee code, PX, utilized routing option, RMPL, which is a midpoint liquidity seeking strategy that first targets low-cost executions at certain lower-cost venues, including EDGA. However, because EDGA is now transitioning to a maker-taker fee model, EDGA will now be assessing a full remove fee of $0.0030 for orders that remove liquidity from EDGA.[12] As such, the Exchange believes that current fee code, PL – which charges a $0.0030 for routing orders to other exchanges - is now the more appropriate fee code to be appended to midpoint liquidity seeking orders that are routed to other major exchanges. Similar to EDGA, the other exchanges targeted by RMPL – NYSE, NYSE Arca, and Nasdaq - also charge a high remove fee to liquidity removing orders.[13]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[15] 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

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12 See SR-CboeEDGA-2024-045.

13 NYSE Arca charges a removal fee of $0.0030. See Section III - Standard Rates - Transactions (applicable when Tier Rates do not apply), Removing Liquidity, pg. 3, available at: https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf; NYSE charges a removal fee of $0.0030 for orders that remove midpoint liquidity. See NYSE Stock Exchange Price List, "Equity per Share Charge – per transaction –MPL orders that remove liquidity from the NYSE (Adding Tier Credits do not apply) and with no Retail Modifier, as defined in Rule 13 ("Retail Modifier")), pg. 5, available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf; Nasdaq charges a removal fee of $0.0030. See Fees to Remove Liquidity, Shares Executed at or above $1.00, available at: https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.

14 15 U.S.C. 78f(b).

15 15 U.S.C. 78f(b)(5).

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)[16] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as Section 6(b)(4)[17] as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

Adjusting fee code AA and removing fee code, BJ, is necessary to reflect the transition of EDGA to a maker-taker fee model, effective November 1, 2024. Prior to the November 1, 2024, orders entered onto BYX, that were appended with fee code, AA, and were routed to EDGA using routing option ALLB, received a rebate of $0.0018 for removing liquidity from the EDGA Book for securities priced at or above $1.00. However, given EDGA's transition to a maker-taker fee model, orders that remove liquidity will now need to pay a liquidity removal fee, rather than receive a rebate. Accordingly, removal of the current $0.00180 rebate associated with fee code, AA, and implementation of a $0.0030 remove fee is appropriate and consistent with the economics of a maker-taker model, as well as the expectations of Members that remove liquidity from EDGA (i.e., Members would expect to pay a fee to remove liquidity). Moreover, the proposed fee is not unfairly discriminatory because it applies to all Members equally, in that all Members will pay the same fee for orders routed to EDGA using the ALLB routing strategy, and appended with fee code, AA.

[16] Id.

[17] 15 U.S.C. 78f(b)(4)

The Exchange also believes that its removal of fee code, BJ, is reasonable, equitable, and not unfairly discriminatory as it does not change the fees or rebates assessed by the Exchange, but rather updates the BYX Fee Schedule to remove a fee code that the Exchange no longer desires to, nor is required to, offer to its Members. Therefore, the proposed rule change is reasonably designed to update the Fee Schedule to accurately reflect the Exchange's current product offerings and is designed to reduce any potential confusion regarding the routing of orders with fee code, BJ, from BYX to EDGA. Furthermore, as noted above, orders appended with fee code, BJ, entered onto BYX and routed to EDGA using the routing option TRIM or SLIM, previously received a rebate of $0.0018 for removing liquidity from the EDGA Book. However, effective November 1, 2024, EDGA transitioned from an inverted fee model to a maker taker fee model. As such, orders that remove liquidity from EDGA will pay a remove fee, rather than receive a rebate. Because Members typically utilize routing options TRIM and SLIM, and fee code BJ, to seek low-cost executions, it does not make sense to maintain the BJ fee code, as Members utilizing this fee code would not expect to pay a fee for removing liquidity from EDGA. Therefore, the Exchange proposes to discontinue this fee code, as it is no longer necessary, and BYX does not desire to charge such orders a fee for removing liquidity from EDGA.

Finally, the Exchange believes that moving EDGA to the list of high-cost destinations for the RMPL routing strategy that are assigned the PL fee code, and assessing such orders a fee of $0.0030, is necessary and appropriate. Members appending their orders with the PL fee code already expect to pay a remove fee for removing liquidity from exchanges accessed by RMPL, rather than receive a rebate for removing liquidity as they do with liquidity removing orders appended with the PX fee code. Additionally, the remove fee of $0.0030 per share represents an equitable allocation of reasonable dues, fees, and other charges. The proposed change would enable the Exchange to charge a rate reasonably related to the rate that Cboe Trading, Inc. ("Cboe Trading"), the Exchange's affiliated routing broker-dealer, would be charged for routing orders to destinations described in fee codes PL. As a result, when Cboe Trading is charged a fee when it routes an order which removes liquidity from a destination described in fee codes PL, Cboe Trading will pass through these rates to the Exchange and the Exchange, in turn, will charge the rate under fee codes PL. The proposed fee under fee code, PL, for orders routed pursuant to the RMPL routing strategy would enable the Exchange to equitably allocate its costs among all Members.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. Given EDGA's transition to a maker-taker fee model, orders that remove liquidity will now need to pay a liquidity removal fee, rather than receive a rebate. Accordingly, removing the current $0.0018 rebate associated with fee code, AA, and implementing a $0.0030 remove fee is appropriate and consistent with the economics of a maker-taker model, as well as the expectations of Members that remove liquidity from EDGA (i.e., Members would expect to pay a fee to remove liquidity).

Moreover, moving EDGA to the list of high-cost destinations for the RMPL routing strategy that are assigned the PL fee code simply reflects the fact that orders routed to EDGA that remove liquidity will now – just as they do on other exchanges accessed with the PL fee code - pay a remove fee instead of receiving a rebate. In addition, the BJ fee code was typically appended to orders utilizing the TRIM or SLIM strategies, which are designed to seek low-cost executions. Given EDGA's transition to a maker-taker fee model, though, removers of liquidity will now pay a remove fee. As such, it is appropriate to remove the BJ fee code as Member's utilizing this fee code would expect to receive a rebate and not expect to pay a fee. Accordingly, these proposed changes are necessary and appropriate in order to align Members' expectations with the economics of EDGA's new maker-taker fee model and will not have any impact on competition.

Additionally, moving EDGA from fee code, PX, to fee code is PL, will not have any impact on competition. Rather, it is necessary and appropriate given EDGA's transition to a maker-taker fee model. Users of the PL fee code already expect to pay fees for removing liquidity from exchanges, whereas users of the PX fee code would expect lower-cost executions for removing liquidity from exchanges, including EDGA.

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 Act[18] and paragraph (f) of Rule 19b-4[19] 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.

18 15 U.S.C. 78s(b)(3)(A).

19 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 (https://www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBYX-2024-042 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-2024-042. This file number should be included on the subject line if email 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 (https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBYX-2024-042 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Sherry R. Haywood,

Assistant Secretary.

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[20] 17 CFR 200.30-3(a)(12).