

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-84401; File No. SR-CboeBZX-2018-075)

October 11, 2018

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees on Cboe BZX Exchange, Inc.

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 October 1, 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, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change 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 add certain fees related to the listing and trading of options that overlie the Russell 2000 Index (“RUT options”).

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.

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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)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 27, 2018, the Exchange’s equity options platform (“BZX Options”) received approval from the Commission to list and trade RUT options.<sup>5</sup> The Exchange intends to begin listing RUT options for trading on October 1, 2018. Accordingly, the Exchange proposes to amend its Fees Schedule for BZX Options to add: (i) an Index License Surcharge Fee to all Non-Customer transactions in RUT options; (ii) Fee codes for RUT options that add or remove liquidity on the Exchange; and (iii) Fee codes for RUT options that are routed away from the Exchange, effective October 1, 2018.

RUT Surcharge Fee

The Exchange proposes to add an Index License Surcharge Fee of \$0.45 per contract to all Non-Customer transactions (i.e., Market Maker and Away Market Maker, Firm, Broker Dealer, Joint Back Office, and Professional transactions) in RUT options. The proposed RUT Surcharge Fee will be assessed on all non-Customer orders that contain one of the proposed Fee codes described below (BM, BN, BO, GM, GN, and GO).

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<sup>5</sup> See Securities Exchange Act Release No. 84298 (September 27, 2018) (SR-CboeBZX-2018-058)

### Fee Codes for RUT Options – Add or Remove Liquidity

Proposed Fee code BC will be appended to all Customer orders in RUT options that add or remove liquidity, and result in a standard fee of \$0.15 per contract. Proposed Fee code BM will be appended to all Market Maker orders in RUT options that add or remove liquidity, and result in a standard fee of \$0.35 per contract. Proposed Fee code BN will be appended to all Non-Customer and Non-Market Maker orders in RUT options that add or remove liquidity, and result in a standard fee of \$0.55 per contract. Proposed Fee code BO will be appended to all orders in RUT options that trade on the open, and will be free. Proposed Footnote 14 attaches to each of the proposed non-Customer Fee codes to the Surcharge Fee described above.

### Fee Codes for RUT Options – Routed Away

Proposed Fee code GC will be appended to all Customer orders in RUT options that are routed away from the Exchange and executed at another exchange, and result in a standard fee of \$0.85 per contract. Proposed Fee code GM will be appended to all Market Maker orders in RUT options that are routed away from the Exchange and executed at another exchange, and result in a standard fee of \$1.05 per contract. Proposed Fee code GN will be appended to all Non-Customer and Non-Market Maker orders in RUT options that are routed away from the Exchange and executed at another exchange, and result in a standard fee of \$1.25 per contract. Proposed Fee code GO will be appended to all orders in RUT options that route to another exchange at the open, and will be free. Proposed Footnote 14 attaches each of these proposed Fee codes to the Surcharge Fee described above.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the Section 6 of

the Act,<sup>6</sup> in general, and Section 6(b)(4),<sup>7</sup> in particular, 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.

First, the Exchange believes implementing the RUT Surcharge Fee is equitable and not unfairly discriminatory because the amount will be assessed to all orders of non-Customer market participants to whom the RUT Surcharge Fee applies. Not applying the RUT Surcharge Fee to Customer orders is equitable and not unfairly discriminatory because this is designed to attract Customer RUT orders, which increases liquidity and provides greater trading opportunities to all market participants.

Next, the Exchange believes it is reasonable to charge different fee amounts to different user types in the manner proposed because the proposed fees are consistent with the price differentiation that exists today at other options exchanges (for example, the proposed fees are comparable with fees for other index option products traded on other exchanges, including RUT).<sup>8</sup> Additionally, the Exchange believes the proposed fee amounts for RUT orders are reasonable because the proposed fee amounts are within the range of standard transaction fee amounts charged for RUT at other options exchanges (i.e., Cboe Options and C2 Options).<sup>9</sup>

The Exchange also believes that it is equitable and not unfairly discriminatory to assess lower fees to Customers as compared to other market participants because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically,

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<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> See, e.g., C2 Fees Schedule, Fee Codes and Associated Fees.

<sup>9</sup> See e.g., C2 Fees Schedule, Fee Codes and Associated Fees, which shows that standard transaction fees for RUT orders range from \$0.15 per contract to \$0.55 per contract.

Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Moreover, the options industry has a long history of providing preferential pricing to Customers, and the Exchange's current Fees Schedule currently does so in many places, as do the fees structures of many other exchanges. The Exchange notes that all fee amounts listed as applying to Customers will be applied equally to all Customers (meaning that all Customers will be assessed the same amount).

Additionally, the Exchange believes that it is equitable and not unfairly discriminatory to assess lower fees to Market Makers as compared to other market participants other than Customers because Market Makers, unlike other market participants, take on a number of obligations, including quoting obligations, that other market participants do not have. Further, these lower fees offered to Market Makers are intended to incent Market Makers to quote and trade more on BZX Options, thereby providing more trading opportunities for all market participants. The Exchange notes that all fee amounts listed as applying to Market Makers will be applied equally to all Market Makers (meaning that all Market Makers will be assessed the same amount). Similarly, the Exchange notes that the RUT fee amounts for each separate type of other market participant will be assessed equally to all such market participants (i.e. all Broker-Dealer orders will be assessed the same amount, all Joint Back-Office orders will be assessed the same amount, etc.).

Finally, the Exchange believes its proposed fees for RUT orders that are routed away from the Exchange are reasonable taking into account routing costs and also notes that the

proposed fees are in line with amounts assessed by other exchanges.<sup>10</sup> For the reasons described above, the Exchange also believes that it is equitable and not unfairly discriminatory to assess lower routing fees to Customers and Market Makers as compared to other market participants. The Exchange notes that routing through the Exchange is voluntary and market participants can readily direct order flow to another exchange if they deem Exchange fee levels to be excessive.

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

The Exchange believes the proposed amendments to its Fees Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that 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 because the RUT fee amounts for each separate type of market participant will be assessed equally to all such market participants. While different fees are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances as discussed above. For example, Market Makers have quoting obligations that other market participants do not have. Further, the proposed fees structure for RUT is intended to encourage more trading of RUT, which brings liquidity to the Exchange and benefits all market participants.

The Exchange also does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed RUT fees are in line with amounts assessed by other exchanges.

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<sup>10</sup> See, e.g., C2 Fees Schedule, Linkage Routing Fees.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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<sup>11</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>12</sup> 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.

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](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBZX-2018-075 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.

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f).

All submissions should refer to File Number SR-CboeBZX-2018-075. 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, 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-CboeBZX-2018-075, 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).