

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-100477; File No. SR-CboeBZX-2024-061)

July 9, 2024

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Modify the Company Listing Fees Under Exchange Rule 14.13

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”) and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 26, 2024, 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, 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 BZX Exchange, Inc. (“BZX” or the “Exchange”) is filing with the Securities and Exchange Commission (“Commission” or “SEC”) a proposed rule change to modify the Company Listing Fees under Exchange Rule 14.13. 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/BZX/](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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

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 a clean-up change to Rule 14.13(b) to correct a drafting error from a previous amendment to the Company Listings Fees that delineated the Application Fee from the Entry Fee in the Exchange’s rulebook.<sup>3</sup> As a result, a particular exception to the Application Fee and Entry Fee was no longer applicable to both fee types, and other exceptions to the Application Fee and Entry Fee were unclearly listed under only one fee type in the Exchange’s Rules. Now, the Exchange proposes to amend its rules to provide that both the Application Fee and Entry Fee are part of the “Initial Listing Fees”, and to make structural changes to existing Rule 14.13 to clearly provide any exceptions are applicable to the Initial Listing Fees.<sup>4</sup>

The Exchange proposes to adopt Rule 14.13(b)(1), which would be titled “Initial Listing Fees”. Thereunder, proposed Rules 14.13(b)(1)(A) and (B) would provide for the Application Fee and Entry Fee, respectively, which are currently provided under Rule 14.13(b)(1) and (2).

The Exchange proposes no substantive change to the Application Fees provided under proposed

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<sup>3</sup> See Securities Exchange Act No. 98991 (November 20, 2023) 88 FR 82933 (November 27, 2023) (SR-CboeBZX-2023-092) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delineate the Application Fee From the Entry Fee, To Increase the Application Fee for Tier I and Tier II Securities Listed on the Exchange in Certain Circumstances, To Change the Assessment Date of the Entry Fee, and To Clarify That Both the Entry Fee and Application Fee Are Non-Refundable as Provided in Exchange Rule 14.13) (the “Previous Amendment”).

<sup>4</sup> The Exchange initially filed this proposed rule change on June 7, 2024 (SR-CboeBZX-2024-053). On June 17, 2024, the Exchange withdrew that filing and submitted SR-CboeBZX-2024-059. On June 26, 2024, the Exchange withdrew that filing and submitted this filing.

Rule 14.13(b)(1)(A)(i)-(iii), except to update cross references to Rule 14.13 in proposed Rule 14.13(b)(1)(A)(iii). Similarly, the Exchange proposes to re-letter Rules 14.13(b)(2)(A) through (E) to Rules 14.13(b)(1)(B)(i) through (v), including any corresponding re-numbering or re-lettering to subparagraphs thereunder. The Exchange proposes no substantive change to proposed Rules 14.13(b)(1)(B)(i) through (v) except to update cross-references to Rule 14.13 in Rule 14.13(b)(1)(B)(iii).

Next, the Exchange proposes to delete existing Rule 14.13(b)(2)(G) which is currently reserved and contains no substantive text. The Exchange also proposes to re-letter existing Rules 14.13(b)(2)(F), (H), and (I) to proposed Rules 14.13(b)(1)(C), (D), and (E), respectively. By re-lettering these paragraphs, they will fall under the Initial Listing Fees section of the Rule and the Exchange believes such change will more clearly provide that those Rules are applicable to all Initial Listing Fees, regardless of whether they are an Application Fee or Entry Fee.

Prior to the Previous Amendment, the Application Fee was a subset of the Entry Fee but the Previous Amendment created a delineation between the Application Fee and Entry Fee in order to make the Rule easier to read. The proposal, however, did not make a corresponding amendment to Rule 14.13(b)(2)(F) to provide that the Exchange Board (the “Board”) or its designee may defer or waive any part of the Application Fee and/or Entry Fee. Now, the Exchange proposes to correct that oversight by updating proposed Rule 14.13(b)(1)(C) to provide that such discretion applies to the Initial Listing Fees, which includes both the Application Fee and Entry Fee.

The Exchange is also proposing to delete cross-references to Rule 14.13(b)(2) from proposed Rules 14.13(b)(2)(D) and (E). While the Exchange updated proposed Rules 14.13(b)(1)(D) and (E) in the Previous Amendment to apply to both the Application Fee and

Entry Fee, those provisions were provided for only under the Entry Fee portion of the Rule, which the Exchange believes may be unclear or cause confusion. Accordingly, the Exchange believes that the proposed re-lettering of those rules will clearly provide that the exceptions apply to the Initial Listing Fees (which include both the Application Fee and Entry Fee).

In light of the structural changes proposed above, the Exchange proposes to re-number existing Rules 14.13(b)(3) and (4) to Rules 14.13(b)(2) and (3). The Exchange also proposes to update cross-references to Rule 14.13 in proposed Rules 14.13(b)(2)(C), (H), (I), and (K).

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>5</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>6</sup> 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)<sup>7</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or

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

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

<sup>7</sup> Id.

dealers as well as Section 6(b)(4)<sup>8</sup> 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.

The Exchange first notes that its corporate listing business operates in a highly-competitive market in which Companies can readily list on another national securities exchange if they deem fee levels or any other factor at a particular venue to be insufficient or excessive. Exchange Rule 14.13 reflects a competitive pricing structure designed to incentivize Companies to list new securities, which the Exchange believes will enhance competition both among Companies and listing venues, to the benefit of investors.

The Exchange believes that the proposed changes will add clarity to the Exchange's rulebook, to the benefit of all investors. As proposed, both the Application Fee and Entry Fee will be considered part of the Initial Listings Fee. Further, any exceptions to such Initial Listings Fees will be clearly set forth thereunder. The Exchange also believes that the deletion of an unused Rule provision (i.e., Rule 14.13(b)(2)(G)) and updates to any cross-references within Rule 14.13 based on the proposed changes will provide for a clear and consistent rulebook, which will benefit all investors.

The Exchange believes it is reasonable to allow the Board of Directors or its designee, in its discretion, to defer or waive all or any part of the Initial Listing Fees described in proposed Rule 14.13(b)(1). Prior to the Previous Amendment, the Application Fee was a subset of the Entry Fee but the Previous Amendment created a delineation between the Application Fee and Entry Fee in order to make the Rule easier to read, but the proposal did not make a corresponding amendment to Rule 14.13(b)(2)(F) to provide that the Board or its designee may defer or waive any part of the Application Fee and/or Entry Fee. The Exchange's proposal would

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<sup>8</sup> 15 U.S.C. 78f(b)(4).

correct that drafting error by updating proposed Rule 14.13(b)(1)(C) to provide that such discretion applies to the Initial Listing Fees, which includes both the Application Fee and Entry Fee. The Exchange notes that another exchange's rules have long provided similar authority to its board of directors or its designee to defer or waive all or any part of the entry fee, which includes the application fee. Specifically, the Nasdaq Stock Market LLC ("Nasdaq") rules provide that the application fee falls under the entry fees of its rulebook,<sup>9</sup> in a similar fashion to Exchange Rules prior to the Previous Amendment. Nasdaq Rules also provide that its board of directors or its designee may, in its discretion defer or waive all or any part of the entry fee prescribed in its company listing fees rules.

Given the foregoing, the Exchange believes the proposed fee amendments are consistent with 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 purposes of the Act. The market for listing services is extremely competitive and listed companies may freely choose alternative venues based on the aggregate fees assessed, and the value provided by each listing.

The proposed change is a clean-up change to Rule 14.13(b)(2)(F) to correct a drafting error from a previous amendment to the Company Listings Fees that delineated the Application Fee from the Entry Fee in the Exchange's rulebook. As a result, a particular exception to the Application Fee and Entry Fee was no longer applicable to both fee types, and other exceptions to the Application Fee and Entry Fee were unclearly listed under only one fee type under the Rule. The proposed amendments would provide that both the Application Fee and Entry Fee are

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<sup>9</sup> See Nasdaq Rule 5920(a)(2).

part of the “Initial Listing Fees” and would make structural changes to existing Rule 14.13 to clearly provide any exceptions applicable to the Initial Listing Fees. As the proposed amendments are designed to add clarity to the Exchange’s rulebook and to correct a drafting error, the Exchange does not believe the proposal will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed amendment does not encumber competition for listings with other listing venues, which are similarly free to set their fees. Rather, it reflects competition among listing venues and will further enhance competition.

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<sup>10</sup> and paragraph (f) of Rule 19b-4<sup>11</sup> 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.

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 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](mailto:rule-comments@sec.gov). Please include file number SR-CboeBZX-2024-061 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-2024-061. 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-CboeBZX-2024-061 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.<sup>12</sup>

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

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