

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81950; File No. SR-BatsBZX-2017-71)

October 26, 2017

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Update Rule 21.1 to Adopt a New Time in Force Applicable to the Exchange's Equity Options Platform

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 October 20, 2017, Cboe BZX Exchange, Inc. (the "Exchange") (formerly known as Bats BZX 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 Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6)(iii) thereunder,⁴ which renders it 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 update Rule 21.1 to adopt a new Time in Force applicable to the Exchange's equity options platform ("BZX Options").

The text of the proposed rule change is available at the Exchange's website at www.markets.cboe.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2016, the Exchange and its affiliates Bats BYX Exchange, Inc. (now known as Cboe BYX Exchange, Inc.) (“BYX”), Bats EDGA Exchange, Inc. (now known as Cboe EDGA Exchange, Inc.) (“EDGA”), and Bats EDGX Exchange, Inc. (now known as Cboe EDGX Exchange, Inc.) (“EDGX”) received approval to affect a merger (the “Merger”) of the Exchange’s indirect parent company, Bats Global Markets, Inc. (“BGM”), with CBOE Holdings, Inc. (now known as Cboe Global Markets, Inc.) (“CBOE Holdings”), the direct parent of Chicago Board Options Exchange, Incorporated (now known as Cboe Exchange, Inc.) (“Cboe Options”) and C2 Options Exchange, Incorporated (now known as Cboe C2 Exchange, Inc.) (“C2 Options”, and together with the Exchange, BYX, EDGA, EDGX, and Cboe Options the “Cboe Affiliated Exchanges”).⁵ The Cboe Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the Cboe Affiliated Exchanges, in the context of a technology migration. In the context of such migration, the Exchange is

⁵ See Securities Exchange Act Release No. 79585 (December 16, 2016), 81 FR 93988 (December 22, 2016) (SR-BatsBZX-2016-68; SR-BatsBYX-2016-29; SR-BatsEDGA-2016-24; SR-BatsEDGX-2016-60).

working to align its systems to offer certain features currently offered by Cboe Options and C2 Options as well as striving to maintain consistent technology with the options platform operated by EDGX (“EDGX Options”). Although the Exchange intentionally offers certain features that differ from those offered by its affiliates and will continue to do so, the Exchange believes that offering similar functionality to the extent practicable will reduce potential confusion for Users.

The Exchange proposes to amend Exchange Rule 21.1, Definitions, to add a new Time in Force, namely the time in force of “At the Open” or “OPG”.

As proposed, “At the Open” or “OPG” shall mean, for an order so designated, an order that shall only participate in the opening process on the Exchange. An OPG order not executed in the opening process will be cancelled. The Exchange’s affiliate, EDGX Options, recently received approval of various rule changes, including the adoption of a Time in Force of OPG that is identical to the Exchange’s proposed rule.⁶ The Exchange notes that other options exchanges also offer Times in Force that, similar to OPG, limit an order to participating in an exchange’s opening process.⁷

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act⁹ in particular, in that it is designed to promote just and equitable principles of trade, 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. In particular, consistent rules and functionality between the

⁶ See Securities Exchange Act Release No. 81891 (October 17, 2017) (SR-Bats-EDGX-2017-29).

⁷ See, e.g., C2 Rule 6.10(c)(7); ISE Rule 715(o).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

Exchange and its affiliated exchanges will reduce complexity and help avoid potential confusion by the Users of the Exchange that are also participants on other Cboe Affiliated Exchanges.

The Exchange believes the proposed amendment will reduce complexity and increase the understanding of the Exchange's operations for all Users of the Exchange. In particular, by offering the same Times in Force as EDGX Options, the Exchange will avoid confusion from market participants that participate on both the Exchange and EDGX Options. In turn, when Cboe Options and C2 Options are migrated to the same technology as that of the Exchange, Users of the Exchange and other Cboe Affiliated Exchanges will have access to similar functionality on all Cboe Affiliated Exchanges. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

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 notes that the proposal will promote consistency between the Exchange and its affiliated exchanges, and is part of a larger technology integration that will ultimately reduce complexity for Users of the Exchange that are also participants on other Cboe Affiliated Exchanges. The Exchange does not believe that the proposed changes will have any direct impact on competition. Thus, the Exchange does not believe that the proposal creates any significant impact on competition.

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

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 as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.¹⁰

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹¹ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹² permits the Commission to 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 proposal may become operative immediately upon filing. The Commission notes that the proposed rule change is based on EDGX Rule 21.1(f)(6) and is identical to such rule. Thus, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public because the proposal does not present

¹⁰ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii).

any new or novel issues that have not been previously considered by the Commission. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹³

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-BatsBZX-2017-71 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-BatsBZX-2017-71. This file number should be

¹³ 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).

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-BatsBZX-2017-71 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.¹⁴

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Assistant Secretary

¹⁴ 17 CFR 200.30-3(a)(12).