

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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BatsEDGA-2017-26, and should be submitted on or before November 8, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁷

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81862; File No. SR-CBOE-2017-064]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to the Creation of an Electronic-Only Order Type

October 12, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 29, 2017, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") 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

The Exchange proposes a rule change to create an electronic-only order type.

The text of the proposed rule change is also available on the Exchange's Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), 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 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

Background

Exchange Rules describe the process by which orders sent into the CBOE will execute electronically and/or via manual handling on the Exchange floor. Orders entered by Trading Permit Holders ("TPHs") that are marketable against the Exchange's disseminated quotation may execute automatically³ or after an electronic auction process such as the Exchange's Simple Auction Liaison ("SAL").⁴ In addition, eligible orders may be entered into the Exchanges electronic order book.⁵

Orders that do not execute via electronic processing and are not entered into the electronic book are, by default, routed to either a Public Automated Routing ("PAR") workstation or an Order Management Terminal ("OMT") designated by the TPH entering the order. Orders routed to a PAR or OMT can then be executed in open outcry on the Exchange floor. CBOE Rule 6.12 describes the process for routing orders through the Exchange's order handling system ("OHS"). Rule 6.12 states, "The order handling system is a feature within the Hybrid System to route orders for automatic execution, book entry, open outcry, or further handling by a broker, agent, or PAR Official, in a manner consistent with Exchange Rules and the Act (e.g., resubmit the order to the Hybrid System for automatic execution, route the order from a booth to a PAR workstation, cancel the order, contact

the customer for further instructions, and/or otherwise handle the order in accordance with Exchange Rules and the order's terms)."

Rule 6.12(a) states, "Orders may route through the order handling system for electronic processing in the Hybrid System or to a designated order management terminal or PAR Workstation in any of the circumstances described below. Routing designations may be established based on various parameters defined by the Exchange, order entry firm or Trading Permit Holder, as applicable." Rule 6.12(a)(1) further states, "Under Rules 6.2B, 6.13 and 6.53C, orders or the remaining balance of orders initially routed from an order entry firm for electronic processing that are not eligible for automatic execution or book entry will by default route to a PAR workstation designated by the order entry firm. If an order entry firm has not designated a PAR workstation or if a PAR workstation is unavailable, the remaining balance will route to an order management terminal designated by the order entry firm. If it is not eligible to route to a PAR workstation or order management terminal designated by the order entry firm, the remaining balance will be returned to the order entry firm."

Rule 6.12A describes PAR functionality. Rule 6.12A specifies that orders will be routed to PAR in accordance with TPH and Exchange order routing parameters. And the orders terms. [sic] Rule 6.12A further specifies that once an order is on PAR the PAR user may (a) submit the order electronically, (b) execute the order in open outcry, (c) route the order to a designated OMT or return the order to the order entry firm, or (d) route the order to an away exchange.

Proposed Rule

The Exchange is proposing a new type of order within CBOE Rule 6.53, electronic-only. The proposed rule states, "An electronic-only order is an order to buy or sell that is to be executed in whole or in part via electronic processing on the Exchange without routing the order to a PAR workstation or an order management terminal for manual handling on the Exchange floor. Electronic-only orders will be cancelled if routing for manual handling would be required under Exchange Rules."

Exchange systems will recognize electronic-only orders and will only allow the orders to (a) auto-execute electronically, (b) route to an electronic exchange auction process, or (c) route to the electronic book. If Exchange systems

⁴⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See CBOE Rules 6.2B, 6.13, 6.14A, and 6.53A.

⁴ See CBOE Rule 6.13A.

⁵ See CBOE Rule 7.4.

determine that, based on the existing routing parameters, an electronic-only order would route to a PAR or a OMT, the order will be cancelled back to the TPH who entered the order. The cancellation will be accompanied by a reason code that indicates it occurred because the order was designated electronic-only.

As noted above Exchange Rules specify that order routing designations may be established based on various parameters defined by the Exchange, order-entry firm or TPH as applicable. Functionally, “electronic-only” will act as an order handling designation from the TPH that will prevent an order from routing to a PAR or OMT. TPHs are today free to set routing designations for their orders and move or cancel orders as needed. In today’s world, if an order is routed to a PAR or OMT and TPH who entered the order prefers the order not be handled manually, they are free to resubmit the order electronically or cancel the order. However, today, it could result in a manual and time-consuming process of contacting a PAR broker or OMT operator and informing them of their instructions regarding an order. As such, the electronic order type is simply creating an easy and convenient way for market participants to indicate they want a specific order to avoid manual handling.

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.⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ 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 facilitation 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)⁸ requirement that the rules of an exchange not be designed

to permit unfair discrimination between customers, issuers, brokers, or dealers.

As mentioned above, electronic-only will act as an order routing designation and does not materially change how orders can be handled or processed today. The electronic-only designation will simply allow order entry firms and TPH to avoid potentially time-consuming steps of retrieving or resubmitting their orders from PAR or OMT. Accordingly the Rule change is specifically designed to remove impediments to and perfect the mechanism of a free and open market.

The proposed rule will not permit unfair discrimination between customers, issuers, brokers, or dealers as it is available to any TPH who routes an order to the Exchange electronically. The electronic-only designation does not provide or remove any routing destinations or functionality TPHs do not already have today through less automated means. The electronic-only designation simply makes keeping an order in the electronic space faster and less labor intensive on TPHs.

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. Specifically, the electronic-only order designation will be available to all TPHs who route orders electronically to the exchange. Further, the electronic-only designation acts only as a more convenient alternative to TPHs already defined ability to set their own routing parameters on the orders they send to the Exchange. As such, the Exchange does not anticipate the proposed change will result in a reduction of business or order flow to any market participant. Finally, the proposed change will not affect TPHs ability to route or request routing of orders to better priced markets outside CBOE.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period

to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. By order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be 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 email to rule-comments@sec.gov. Please include File Number SR–CBOE–2017–064 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–CBOE–2017–064. 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 Web site (<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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ *Id.*

2017-064 and should be submitted on or before November 8, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81866; File No. SR-BatsBZX-2017-65]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on the Exchange's Equity Options Platform

October 12, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 2, 2017, Bats 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 Act³ and Rule 19b-4(f)(2) thereunder,⁴ 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 amend the fee schedule applicable to Members⁵ and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

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

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." See Exchange Rule 1.5(n).

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

The Exchange proposes to amend its fee schedule for its equity options platform ("BZX Options") to adopt a new Firm,⁶ Broker Dealer⁷ and Joint Back Office⁸ Non-Penny Pilot⁹ Add Volume Tier under footnote 8.

The Exchange currently offers three Firm, Broker Dealer and Joint Back Office Non-Penny Add Volume Tiers under footnote 8, which provide an enhanced rebate ranging from \$0.33 to \$0.82 per contract for qualifying orders that add liquidity in Non Penny Pilot Securities and yield fee code NF.¹⁰ The Exchange now proposes to add a new Tier 3 and to re-number current Tier 3 as Tier 4.

Currently under Tier 3, to be re-numbered as Tier 4, a Member's orders that yield fee code NF receive an enhanced rebate of \$0.82 per contract

⁶ "Firm" applies to any transaction identified by a Member for clearing in the Firm range at the OCC, excluding any Joint Back Office transaction. See the Exchange's fee schedule available at http://www.bats.com/us/options/membership/fee_schedule/bzx/.

⁷ "Broker Dealer" applies to any order for the account of a broker dealer, including a foreign broker dealer, that clears in the Customer range at the Options Clearing Corporation ("OCC"). *Id.*

⁸ "Joint Back Office" applies to any transaction identified by a Member for clearing in the Firm range at the OCC that is identified with an origin code as Joint Back Office. A Joint Back Office participant is a Member that maintains a Joint Back Office arrangement with a clearing broker-dealer. *Id.*

⁹ "Penny Pilot Securities" are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01. *Id.* "Non-Penny Pilot" refers to all other issues.

¹⁰ Fee code NF is appended to Firm, Broker Dealer and Joint Back Office orders in Non-Penny Pilot Securities that add liquidity. Orders that yield fee code NF are provided a standard rebate of \$0.30 per contract. *Id.*

where the Member has an: (i) ADV¹¹ greater than or equal to 2.30% of average OCV; ¹² (ii) ADAV¹³ in Away Market Maker,¹⁴ Firm, Broker Dealer and Joint Back Office orders greater than or equal to 1.65% of average OCV; and (iii) ADAV in Non-Customer¹⁵ Non-Penny¹⁶ orders greater than or equal to 0.20% of average OCV. The Exchange proposes to adopt new Tier 3, which would be similar to re-numbered Tier 4 but would have lower criteria and a lower rebate. Specifically, pursuant to new Tier 3 a Member's orders that yield fee code NF would receive an enhanced rebate of \$0.53 per contract where the Member has an: (i) ADV greater than or equal to 2.30% of average OCV; (ii) ADAV in Away Market Maker, Firm, Broker Dealer and Joint Back Office orders greater than or equal to 1.45% of average OCV; and (iii) ADAV in Non-Customer Non-Penny orders greater than or equal to 0.20% of average OCV. Thus, the second criterion is lower, requiring an ADAV in applicable orders greater than or equal to 1.45% of average OCV rather than 1.65% of average OCV. Otherwise the criteria of Tier 3 are the same as Tier 4. The Exchange also notes that the proposed enhanced rebate of \$0.53 is also the same as the enhanced rebate provided pursuant to Tier 2.

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule on October 2, 2017.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent

¹¹ "ADV" means average daily volume calculated as the number of contracts added or removed, combined, per day. *Id.*

¹² "OCV" means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation ("OCC") for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. *Id.*

¹³ "ADAV" means average daily added volume calculated as the number of contracts added per day. See the Exchange's fee schedule available at http://www.bats.com/us/options/membership/fee_schedule/bzx/.

¹⁴ "Away Market Maker" applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is not registered with the Exchange as a Market Maker, but is registered as a market maker on another options exchange. *Id.*

¹⁵ "Non-Customer" applies to any transaction identified by a Member for clearing which is not in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a "Professional" as defined in Exchange Rule 16.1. *Id.*

¹⁶ "Penny Pilot Securities" are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01. *Id.* Non-Penny securities are all other securities.