

without charge for a period beginning at least 30 days before the Substitution Date through at least 30 days following the Substitution Date. Except as described in any market timing/short-term trading provisions of the relevant prospectus, the Applicants will not exercise any right they may have under the Contracts to impose restrictions on transfers between the sub-accounts under the Contracts, including limitations on the future number of transfers, for a period beginning at least 30 days before the Substitution Date through at least 30 days following the Substitution Date.

6. All affected Contract owners will be notified via the Supplement at least 30 days before the Substitution Date about: (i) The intended Substitution of the Existing Fund with the Replacement Fund; (ii) the intended Substitution Date; and (iii) information with respect to transfers as set forth in Condition 5 above. In addition, the Applicants will deliver to all affected Contract owners, at least 30 days before the Substitution Date, a prospectus for the Replacement Fund.

7. The Companies will deliver to each affected Contract owner within five business days of the Substitution Date, a written confirmation which will include: (a) A confirmation that the Substitution was carried out as previously notified; (b) a restatement of the information set forth in the Supplement; and (c) the values of the Contract owners' positions in the Original Fund before the Substitution and the Replacement Fund after the Substitution.

8. Applicants and their affiliates will not receive, for three years from the Substitution Date, any direct or indirect benefits from the Replacement Fund, their investment advisors or underwriters (or their affiliates) in connection with assets attributable to Contracts affected by the Substitution at a higher rate than they had received from the Original Fund, its investment advisors or underwriters (or their affiliates), including without limitation 12b-1 fees, shareholder service, administrative or other service fees, revenue sharing, or other arrangements.

9. The obligations of the TIAA and the rights of affected Contract owners under the Contracts will not be altered in any way.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91802; File No. SR-CboeEDGA-2021-011]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to the Exchange's Process for Re-Opening Securities Listed on Other National Securities Exchanges Following the Resumption of Trading After a Halt, Suspension, or Pause During the Early Trading Session, Pre-Opening Session, or Post-Closing Session

May 10, 2021.

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 April 26, 2021, Cboe EDGA Exchange, Inc. ("Exchange" or "EDGA") 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

The Exchange proposes a rule change to amend the Exchange's process for re-opening securities listed on other national securities exchanges following the resumption of trading after a halt, suspension, or pause during the Early Trading Session, Pre-Opening Session, or Post-Closing Session.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/edga/), 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

Purpose

The purpose of the proposed rule change is to amend the Exchange's process for re-opening securities listed on other national securities exchanges following the resumption of trading after a halt, suspension, or pause during the Early Trading Session,³ Pre-Opening Session,⁴ or Post-Closing Session.⁵ EDGA Rule 11.7 describes the Exchange's opening process for securities listed on other national securities exchanges, including the process for re-opening such securities following the resumption of trading after a halt, suspension, or pause. On November 5, 2020, the Exchange filed a proposed rule change to amend its re-opening process pursuant to EDGA Rule 11.7 for securities listed on the New York Stock Exchange LLC ("NYSE") following the resumption of trading after a halt, suspension, or pause during the Early Trading Session, Pre-Opening Session, or Post-Closing Session.⁶ That filing was approved by the Commission on December 28, 2020.⁷ The Exchange now proposes to further amend EDGA Rule 11.7 to adopt a harmonized re-opening process for securities listed on NYSE ("Tape A"), securities listed on exchanges other than The Nasdaq Stock Market LLC ("Nasdaq") and NYSE ("Tape B"); and securities listed on Nasdaq ("Tape C") following the resumption of trading after a halt, suspension, or pause during the Early Trading Session, Pre-Opening Session, or Post-Closing Session. The Exchange believes that the proposed harmonized process for Tape A, B, and C securities would simplify its procedures and provide a more effective re-opening process for securities that resume trading outside of Regular Trading

³ The term "Early Trading Session" means the time between 7:00 a.m. and 8:00 a.m. Eastern Time. See EDGA Rule 1.5(ii).

⁴ The term "Pre-Opening Session" means the time between 8:00 a.m. and 9:30 a.m. Eastern Time. See EDGA Rule 1.5(s).

⁵ The term "Post-Closing Session" means the time between 4:00 p.m. and 8:00 p.m. Eastern Time. See EDGA Rule 1.5(r).

⁶ See Securities Exchange Act Release No. 90419 (November 13, 2020), 85 FR 73829 (November 19, 2020) (SR-CboeEDGA-2020-029).

⁷ See Securities Exchange Act Release No. 90804 (December 28, 2020), 86 FR 158 (January 4, 2021) (Approval Order).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Hours.⁸ The Exchange also proposes to make non-substantive changes to Rule 11.7 to conform the text to Cboe BZX Exchange, Inc. (“BZX”) Rule 11.24.

As amended pursuant to SR–CboeEDGA–2020–029, EDGA Rule 11.7(e)(3) provides that during the Early Trading Session, Pre-Opening Session, or Post-Closing Session, Tape A securities that resume trading after a halt, suspension, or pause will be automatically re-opened pursuant to the Exchange’s contingent open procedures, as described in EDGA Rule 11.7(d), after one second has passed following the Exchange’s receipt of the first NBBO following such resumption of trading. This rule was adopted to automate the prior manual process that would otherwise be used to initiate the re-opening of Tape A securities when NYSE was not open for trading. Consistent with that intent, the Exchange proposed to continue to re-open Tape A securities using the same contingent open procedures that would apply when the Exchange manually initiated its re-opening process pursuant to EDGA Rule 11.7(e)(2). As a result, when the Exchange re-opens Tape A securities during pre- and post-market trading sessions today, orders are handled in time sequence and placed on the EDGA Book, routed, cancelled, or executed in accordance with the terms of the order. This differs from the standard process used by the Exchange during Regular Trading Hours, where the Exchange seeks to execute queued orders at the midpoint of the national best bid or offer (“NBBO”).⁹ After additional consideration, the Exchange believes that market participants and investors would be better served by utilizing its standard midpoint re-opening in these circumstances as doing so would promote greater consistency with the process used by the Exchange in other circumstances and may generally provide executions that better reflect the applicable market for the security.

The Exchange therefore proposes to amend EDGA Rule 11.7(e) such that the process for re-opening Tape A securities after the Exchange has determined to initiate a re-opening would generally mirror the standard process described in EDGA Rule 11.7(e)(1), which as discussed is designed to provide an execution at the midpoint of the NBBO. The determination of *whether* to re-open such Tape A securities would, however, continue to follow the process discussed

in SR–CboeEDGA–2020–029. Thus, during the Early Trading Session, Pre-Opening Session, or Post-Closing Session, the re-opening process for Tape A securities would occur at the midpoint of the NBBO after one second has passed following the Exchange’s receipt of the first NBBO following the resumption of trading after a halt, suspension, or pause. Although the Exchange has determined to use a midpoint re-opening process similar to that currently described in EDGA Rule 11.7(e)(1), for the reasons discussed in SR–CboeEDGA–2020–029, it remains important that the trigger for initiating this process outside of Regular Trading Hours not be tied to the resumption of trading on the primary listing market as NYSE does not trade its listed securities at times when the Exchange is open for pre- and post-market trading.

In addition, the Exchange proposes to amend the process for re-opening Tape B and C securities to mirror the proposed process for Tape A securities, except that the Exchange would require the primary listing market to have begun quoting the security before it initiates its own re-opening process. As explained in SR–CboeEDGA–2020–029, the Exchange amended EDGA Rule 11.7 to permit Tape A securities listed on NYSE to re-open based on quoting activity on other national securities exchanges during pre- and post-market trading when NYSE does not trade its listed securities. However, this limitation does not exist for Tape B or C securities as the applicable primary listing markets for those securities each offer pre- and post-market trading sessions where market participants can trade their listed securities.¹⁰ As a result, the Exchange believes that it is desirable for Tape B and C securities to be opened on the Exchange only *after* the primary listing exchange has begun trading its listed securities, consistent with the current EDGA Rule 11.7(e), which would continue to be applied during Regular Trading Hours. However, similar to the proposed process for re-opening Tape A securities, the Exchange would simplify the triggers for re-opening trading pursuant to EDGA Rule 11.7(e)(1) such that its re-opening process for Tape B and C securities during the Early Trading Session, Pre-Opening Session, and Post-Closing Session would occur at the midpoint of the NBBO after one second has passed following the publication of the first two-sided quotation by the listing exchange following the resumption of

trading after a halt, suspension, or pause. In its effort to simplify the re-opening process employed during these timeframes, the Exchange would not retain a separate trigger to allow the re-opening process to be initiated immediately when the Exchange receives both a two-sided quotation and a trade from the listing exchange.

The Exchange also proposes to make a number of structural changes to EDGA Rule 11.7(e) to facilitate the amendments described above, and non-substantive changes to conform the rule text to BZX Rule 11.24. First, the Exchange proposes to structure EDGA Rule 11.7(e)(1) such that it would contain subparagraphs (A), (B), and (C), which each would describe applicable differences between the Exchange’s opening process at the beginning of the Regular Trading Session, as described in EDGA Rule 11.7(a)(2) and (b), and the re-opening process employed by the Exchange after a halt. As amended, EDGA Rule 11.7(e)(1)(A) would describe the types of orders that are eligible for participation in the re-opening process. Further, the Exchange proposes to amend the text of the paragraph to partially conform to BZX Rule 11.24(e)(1). As proposed, EDGA Rule 11.7(e)(1)(A) would state that non-RHO¹¹ orders will be eligible for participation in the Re-Opening Process, but IOC,¹² FOK,¹³ EDGA Post Only Orders,¹⁴ and Minimum Execution Quantity Orders¹⁵ will be cancelled or rejected, as applicable, and any ISO¹⁶ that is not IOC or FOK will be converted into a non-ISO and be queued for participation in the Re-Opening Process.

As amended, EDGA Rule 11.7(e)(2)(B) would describe the Exchange’s current re-opening process, which the Exchange now proposes to limit to Regular Trading Hours. Further, the Exchange proposes to partially conform EDGA Rule 11.7(e)(2)(B)(ii) with BZX Rule BZX Rule 11.24(e)(1). Specifically, as amended EDGA Rule 11.7(e)(2)(B)(ii) would provide that during Regular Trading Hours, the Re-Opening Process will occur at the (i) first NBBO subsequent to the first reported trade and first two-sided quotation on the listing exchange following the resumption of trading after a halt, suspension, or pause; or (ii) NBBO

¹¹ See Exchange Rule 11.6(q)(6) Regular Hours Only (“RHO”).

¹² See Exchange Rule 11.6(q)(1) Immediate-or-Cancel (“IOC”).

¹³ See Exchange Rule 11.6(q)(3) Fill-or-Kill (“FOK”).

¹⁴ See Exchange Rule 11.6(n)(4).

¹⁵ See Exchange Rule 11.6(h).

¹⁶ See Exchange Rule 11.8(c) Intermarket Sweep Order (“ISO”).

⁸ The term “Regular Trading Hours” means the time between 9:30 a.m. and 4:00 p.m. Eastern Time. See EDGA Rule 1.5(y).

⁹ See EDGA Rule 11.7(e)(1).

¹⁰ See Nasdaq Rules, Equity 1, Section 1(a)(9); NYSE Arca, Inc. Rule 7.34–E(a); NYSE American LLC Rule 7.34E(a).

when the first two-sided quotation published by the listing exchange following the resumption of trading after a halt, suspension, or pause if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange.

As proposed, EDGA Rule 11.7(e)(2) would contain language discussed above that describes the Exchange's re-opening process during the Early Trading Session, Pre-Opening Session, or After Hour Trading Session, *i.e.*, for Tape A, B, and C securities.¹⁷

Lastly, the Exchange proposes to amend EDGA Rule 11.7(e)(2) to reflect the changes discussed above. As amended, the lead in to EDGA Rule 11.7(e)(2) would state that this section applies where the conditions required to establish the price of the re-opening process in the now restructured EDGA Rule 11.7(e)(1)(B) or (C) have not occurred, which reflects the now renumbered sections of the rule, including language that is in current EDGA Rule 11.7(e)(1) and EDGA Rule 11.7(e)(3).¹⁸

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,¹⁹ in general, and Section 6(b)(5) of the Act,²⁰ in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest as it would implement a streamlined process for re-opening Tape A, B, and C securities during the Early

¹⁷ The Exchange would also eliminate EDGA Rule 11.7(e)(3), which currently addresses the re-opening of Tape A securities listed on NYSE during pre- and post-market trading. As discussed, the Exchange is proposing to harmonize the process for re-opening Tape A, B, and C securities outside of Regular Trading Hours, and the harmonized process discussed in this proposed rule change would be described in EDGA Rule 11.7(e)(2)(C).

¹⁸ The Exchange would also eliminate language that states that this section applies when the security has not otherwise been re-opened for trading on the Exchange pursuant to EDGA Rule 11.7(e)(3). As discussed, the content of EDGA Rule 11.7(e)(3) would be moved to EDGA Rule 11.7(e)(1)(C) with further amendments as discussed herein.

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(5).

Trading Session, Pre-Opening Session, or Post-Closing Session.

The Exchange currently employs different processes for re-opening Tape A, B, and C securities during pre- and post-market trading. The Exchange believes, however, that market participants would be better served by a harmonized process that: (1) Ensures that the Exchange's automated re-opening process executes orders at the midpoint of the NBBO; and (2) eliminates unnecessary distinctions between the process utilized for Tape A, B, and C securities. Executing the Exchange's re-opening process during pre- and post-market trading at the midpoint of the NBBO is beneficial to market participants as the NBBO midpoint may more closely reflect market prices and conditions for the security being re-opened. As a result, the Exchange believes that using the NBBO midpoint to price its re-opening process for all securities would help to promote a fair and orderly market. In addition, using generally consistent triggers for initiating the Exchange's re-opening process in Tape A, B, and C securities that resume trading during pre- and post-market trading sessions would reduce the overall complexity of the re-opening process employed during these timeframes. The Exchange notes, however, that it would nevertheless require the primary listing market to begin trading its own securities prior to re-opening trading on the Exchange in Tape B and C securities. This limitation would not apply to Tape A securities that NYSE does not trade outside of its regular trading session as doing so would require unnecessary and inefficient manual intervention by the Exchange to manually initiate trading, as was the case prior to the filing and Commission approval of SR-CboeEDGA-2020-029. The Exchange believes that this distinction continues to be appropriate as it is based on applicable differences between each primary listing market's hours of operation and would continue to promote a more streamlined automated process for initiating the re-opening process in Tape A securities at times when NYSE does not trade its own listed securities.

The Exchange believes the proposed structural changes and non-substantive amendments to Rule 11.7(e)(1) will simplify the Exchange's rules and harmonize the text to the corresponding BZX rule.

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

The Exchange does not believe that the proposed rule change would impose

any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to facilitate a more efficient and harmonized re-opening process for all securities that resume trading outside of Regular Trading Hours, and is not designed to address any competitive issues. All members would have their orders handled in the same manner based on the proposed changes to the Exchange's re-opening process, and other national securities exchanges are free to adopt the same or similar processes if they believe that the proposed process is beneficial for their own members. The Exchange therefore does not believe that the proposed rule change would have any significant impact on competition.

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

No written comments were solicited or received 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-CboeEDGA-2021-011 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-CboeEDGA-2021-011. 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 (<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-CboeEDGA-2021-011 and should be submitted on or before June 4, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91831; File No. SR-CboeBZX-2021-038]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

May 10, 2021.

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 May 3, 2021, 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. (the “Exchange” or “BZX”) 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/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 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 to amend its Fee Schedule for its equity options platform (“BZX Options”) in connection with certain fee codes and volume tiers, effective May 3, 2021.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow.

Based on publicly available information, no single options exchange has more than 16% of the market share and currently the Exchange represents only approximately 7.5% of the market share.³ Thus, in such a low-concentrated and highly competitive market, no single options exchange, including the Exchange, possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange's Fee Schedule sets forth standard rebates and rates applied per contract, which varies depending on the Member's capacity (Customer, Firm, Market Maker, etc.), whether the order adds or removes liquidity, and whether the order is in Penny or Non-Penny Program Securities. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

In particular, the Fee Codes and Associated Fees section of the Fee Schedule lists all available fee codes for orders on BZX Options. Currently, fee code PP is appended to all Non-Customer (*i.e.*, Firm, Broker Dealer, Joint Back Office, Market Maker, Away Market Maker and Professional capacities) orders that remove liquidity in Penny securities and assesses a fee of \$0.50. The proposed rule change amends fee code PP so that it applies only to Market Maker, Away Market Maker and Professional orders that remove liquidity in Penny securities (the rate of \$0.50 remains the same), and adopts fee code PD, which would apply to Firm, Broker Dealer and Joint Back Office orders that remove liquidity in Penny securities and also assesses the same rate of \$0.50. In order to reflect the

³ See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (April 27, 2021), available at https://markets.cboe.com/us/options/market_statistics/.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²¹ 17 CFR 200.30-3(a)(12).