

*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-GEMX-2023-09 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-GEMX-2023-09. 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-GEMX-2023-09 and should be submitted on or before August 31, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98059; File No. SR-CboeBZX-2023-053]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Enhance Its Drill-Through Protection Processes for Simple Orders and Make Other Clarifying Changes

August 4, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 24, 2023, 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 and II 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 enhance its drill-through protection processes for simple orders and make other clarifying changes. 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 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 purpose of this rule filing is to amend Rule 21.17, Additional Price Protection Mechanisms and Risk Controls, to enhance the drill-through protection process for simple orders and make other clarifying changes.

Drill-through price protection is currently described in Exchange Rule 21.17(d). Under Rule 21.17(d)(1), if a buy (sell) order enters the BZX Options Book<sup>3</sup> ("Book") at the conclusion of the opening auction process or would execute or post to the Book at the time of order entry, the System<sup>4</sup> executes the order up to a buffer amount (the Exchange determines the buffer amount on a class and premium basis) above (below) the offer (bid) limit of the Opening Collar<sup>5</sup> or the National Best Offer ("NBO") (National Best Bid ("NBB")) that existed at the time of order entry, respectively (the "drill-through price").<sup>6</sup>

Current Rule 21.17(d)(2) (as amended, proposed Rule 21.17(d)(3))<sup>7</sup> establishes an iterative drill-through process, whereby the Exchange permits orders to rest in the Book for multiple time periods and at more aggressive displayed prices during each time period.<sup>8</sup> Specifically, the System enters the order in the Book with a displayed price equal to the drill-through price (unless the terms of the order instruct otherwise).<sup>9</sup> The order (or unexecuted portion) will rest in the Book at the drill-through price for the duration of consecutive time periods (the Exchange determines on a class-by-class basis the

<sup>3</sup> "BZX Book" means the System's electronic file of orders. See Rule 1.5 (e).

<sup>4</sup> "System" means the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away. See Rule 1.5 (aa).

<sup>5</sup> See Rule 21.7(a) for the definition of Opening Collar.

<sup>6</sup> See Rule 21.17(d)(1).

<sup>7</sup> As part of the rule changes described herein, the Exchange proposes to renumber current subparagraph (d)(2) to be proposed subparagraph (d)(3), and to renumber current subparagraph (d)(3) to be proposed subparagraph (d)(4).

<sup>8</sup> The Exchange will announce to Members the buffer amount and the length of the time periods. The Exchange notes that each time period will be the same length (as designated by the Exchange), and the buffer amount applied for each time period will be the same.

<sup>9</sup> Currently, the drill-through protections described under current Rule 21.17(d)(2) apply only to a limit order with a Time-in-Force of Day, Good-til-Cancel ("GTC"), or Good-til-Day ("GTD"). This rule proposal also seeks to clarify which orders are subject to the drill-through protections, as described herein.

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

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

<sup>23</sup> 17 CFR 200.30-3(a)(12).

length of the time period in milliseconds, which may not exceed three seconds).<sup>10</sup> Following the end of each period, the System adds (if a buy order) or subtracts (if a sell order) one buffer amount (the Exchange determines the buffer amount on a class-by-class basis) to the drill-through price displayed during the immediately preceding period (each new price becomes the “drill-through price”).<sup>11</sup> The order (or unexecuted portion) rests in the Book at that new drill-through price for the duration of the subsequent period. The System applies a timestamp to the order (or unexecuted portion) based on the time it enters or is re-priced in the Book for priority reasons. The order continues through this iterative process until the earliest of the following to occur: (a) the order fully executes; (b) the User<sup>12</sup> cancels the order; and (c) the buy (sell) order’s limit price equals or is less (greater) than the drill-through price at any time during application of the drill-through mechanism, in which case the order rests in the Book at its limit price, subject to a User’s instructions.

Currently, the above-described iterative drill-through process does not apply to market orders. Specifically, if a buy (sell) market order would execute at the time of order entry, the System executes the order up to the Exchange-determined buffer amount above (below) the NBO (NBB) at the time of order entry and then rejects any remaining amount. For example, suppose a market order to buy two contracts enters the System; assume that the drill-through price buffer for a certain option series is \$0.90 and that the following quotes are in the Book: Quote 1 (NBB): 1 @5.00 × 1 @7.00; Quote 2: 2 @4.00 × 1 @8.00. One contract in the market order will execute against the 7.00 offer quote. The remaining one contract of the market order is cancelled, because the next best offer of 8.00 is 1.00 above the NBO, which is more than the 0.90 buffer amount.

The Exchange proposes for market orders with a Time-in-Force of Day to go through the iterative drill-through process described above.<sup>13</sup> The Exchange also proposes to amend current Rule 21.17(d)(2) (as amended,

proposed Rule 21.17(d)(3) to clarify that limit orders with a Time-in-Force of Day, GTC, or GTD also go through the iterative drill-through process. In the above example, rather than cancel the remaining one contract, the System would rest the one contract in the Book at the drill-through price of 7.90 (*i.e.* the NBO plus the buffer amount) for the Exchange-determined time period. At the end of that time period, assuming the market has not changed, the remaining one contract would execute against the 8.00 offer, which is within a buffer amount of the subsequent drill-through price of 8.80. As a result, like super-aggressive limit orders (except for those with Time-in-Force of Immediate-or-Cancel (“IOC”) or Fill-or-Kill (“FOK”)) do today, market orders (except for those with Time-in-Force of IOC) will have additional execution opportunities pursuant to the drill-through process. As the proposed rule change only applies to market orders with a Time-in-Force of Day, and the drill through protections described under current Rule 21.17(d)(2) continue to apply only to limit orders with a Time-in-Force of Day, GTC, or GTD, the Exchange also proposes to adopt proposed Rule 21.17(d)(2)<sup>14</sup> to specify that the System will cancel or reject any market order with Time-in-Force of IOC (or unexecuted portion) or limit order with a Time-in-Force of IOC or FOK (or unexecuted portion) not executed pursuant to 21.17(d)(1).<sup>15</sup> The Exchange believes it is appropriate to not have a market order with a Time-in-Force of IOC to go through the iteration process, because the iteration process would be inconsistent with the IOC instruction (and thus the user’s intent). Further, the Exchange proposes to amend Rule 21.17(d)(1) to more generally describe when applicable order types may become subject to drill-through protection. Specifically, the Exchange proposes to specify that the protections described in Rule 21.17(d)(1) become applicable if a buy (sell) order, to which Rule 21.17(d)(1) would apply, (i) enters the Book at the conclusion of opening auction process, or (ii) would execute or post to the Book when it enters the Book.<sup>16</sup>

The Exchange also proposes to amend Rule 21.17(e)(1)(B) to exclude from the current protections for market orders in no-bid series certain orders that would be otherwise subject to the drill-through

protection under the proposed rule changes. Currently, under Rule 21.17(e)(1)(B), if the System receives a sell market order in a series after it is open for trading with an NBB of zero, and the NBO in the series is greater than \$0.50, the System cancels or rejects the market order. The Exchange proposes amending this protection in the event a drill-through process is in progress. Specifically, the Exchange proposes to amend Rule 21.17(e)(1)(B) to note that in the event the System receives a sell market order in a series after it is open for trading with an NBB of zero and the NBO in the series is greater than \$0.50, if the drill-through process is in progress for sell orders and the sell market order would be subject to drill-through protection, then the order would join the on-going drill-through process in the then-current iteration and at the then-current drill-through price, regardless of NBBO. The Exchange believes it is not optimal for these orders to be immediately booked at the minimum tick increment, as under the proposed rule change, such orders would instead, be subject to the drill-through protection mechanism described under Rule 21.17(d), which may allow opportunity for execution at a more beneficial price level than the minimum tick increment.

Further, the Exchange proposes to amend Rule 21.17(a) to specifically exclude orders that would be subject to drill-through protection from the market order NBBO width protections described therein. Currently, under Rule 21.17(a), if a User submits a market order to the System when the NBBO width is greater than x% of the midpoint of the NBBO, subject to a minimum and maximum dollar amount (as determined by the Exchange on a class-by-class basis), the System cancels or rejects the market order. The Exchange proposes amending Rule 21.17(a) to exclude Stop Orders<sup>17</sup> and Market-on-Close orders from this protection. Such orders may intentionally be further away from the NBBO at the time the order is entered, and the protection may cause the orders to be inadvertently rejected pursuant to this check. The Exchange believes it is not optimal for these orders to be subject to the market order NBBO width protection, as the check may

<sup>10</sup> See current Rule 21.17(d)(2)(A) (as amended, Rule 21.17(d)(3)(A)). The proposed rule change defines this time period as an “iteration.”

<sup>11</sup> See current Rule 21.17(d)(2)(B) (as amended, Rule 21.17(d)(3)(B)).

<sup>12</sup> The term “User” shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3. See Rule 1.5(cc).

<sup>13</sup> See proposed Rule 21.17(d)(3).

<sup>14</sup> See *supra* note 9.

<sup>15</sup> There is no change to the handling of market orders with a Time-in-Force of GTC or GTD as a result of this rule change; such orders will continue to be rejected by the Exchange.

<sup>16</sup> This includes, for example, when a Stop (Stop-Loss) or Stop-Limit order is elected.

<sup>17</sup> A “Stop Order”, or Stop (Stop-Loss) Order, is an order that becomes a BZX market order when the stop price is elected. A Stop Order to buy is elected when the consolidated last sale in the security occurs at, or above, the specified stop price. A Stop Order to sell becomes a limit order when the consolidated last sale in the security occurs at, or below, the specified stop price. See Rule 11.9(c)(16).

inadvertently cause rejections for orders that may otherwise not have an opportunity to execute if they are immediately cancelled due to market width. Under the proposed rule change, such orders would instead, upon entry into the Book (when elected in accordance with their definitions), be subject to the drill-through protection mechanism described under Rule 21.17(d). The Exchange also proposes a clarification to proposed Rule 21.17(d)(4).<sup>18</sup> Currently, under Rule 21.17(d)(4), if multiple Stop (Stop-Loss) or Stop-Limit<sup>19</sup> orders to buy (sell) have the same stop price and are thus triggered by the same trade price or NBBO, and would execute or post to the Book, the System uses the contra-side NBBO that existed at the time the first order in sequence was entered into the Book as the drill-through price for all orders. The Exchange proposes to remove the conditional language noting that such Stop (Stop-Loss) or Stop-Limit orders to buy (sell) must have the same stop price, as it is possible that orders with different stop prices may be triggered by the same trade price or NBBO. Further, the Exchange proposes to add language stating that, where multiple orders are simultaneously re-priced, the orders will be prioritized under proposed Rule 21.17(d)(3)(E)<sup>20</sup> and will be sequenced based on the original time each order was entered into the Book.

For example, assume that the drill-through price buffer for a certain option series is \$0.90, and that the following quotes are in the Book: Quote 1 (NBBO): 1 @5.00 × 1 @7.00; Quote 2: 2 @4.00 × 1 @8.00. Additionally, the following Stop orders are being held in the System when Quote 2 is updated to 2 @4.00 × 1 @6.50 (the System received these stop orders in the below sequence):

Order 1: Sell 1 @Market, Stop Price = \$6.50  
Order 2: Sell 1 @Market, Stop Price = \$6.55  
Order 3: Sell 1 @\$3.95, Stop Price = \$6.60

Each of orders 1, 2 and 3 have a stop price less than the NBO, and will therefore be triggered by the 6.50 quote and enter the Book for execution or posting. A drill-through price for all three orders is set at the contra-side NBB of 5.00. Per proposed Rule 21.17(d)(3), the orders will go through the drill-through process as follows:

1. Order 1 will execute against Quote 1 @\$5.00.

2. Orders 2 and 3 are posted to sell at \$4.10 for the Exchange-determined time period.

3. Drill-through process continues for orders 2 and 3 until they are canceled or executed.

As amended, under Rule 21.17(d)(4), all Stop (Stop-Loss) and Stop-Limit orders elected as a result of the same election trigger (NBBO update or last sale price) will continue to use the same reference price for drill-through (even though they may have different stop prices).

The Exchange proposes to amend Rule 21.17(d)(3)(B),<sup>21</sup> to specify that if at any time during the drill-through process, the NBO (NBB) changes to be below (above) the current drill-through price, such NBO (NBB) will become the new drill-through price and a new drill-through will immediately begin. As a result, any improvements to the market that occur while the drill-through is in process will be incorporated, thereby providing Users with further opportunity to be priced within the market while still being protected. Under the proposed rule change, any limit order with a price that is less aggressive than the new drill-through price would be entered in the Book at its limit price.

The Exchange also proposes to add Rule 21.17(d)(3)(D)<sup>22</sup> to provide that if the System receives a market or limit order that would be subject to the drill-through process while a drill-through is in progress in the same series, the order joins the ongoing drill-through process in the then-current iteration and at the then-current drill-through price. Under the proposed rule, orders that come in while a drill-through is in process receive the benefit of joining the drill-through at the NBBO at the time of entry, as opposed to immediately executing or being displayed at a more aggressive price than the drill-through price. By way of illustration, consider the following example:

Assume that the drill-through price buffer for a certain option series is \$0.90, and that the following quotes are in the Book: Quote 1 (NBBO): 1 @5.00 × 1 @7.00; Quote 2: 2 @4.00 × 1 @8.00. The System receives the following orders in the below sequence:

Order 1: Sell 1 @Market, Stop Price = \$6.50  
Order 2: Sell 1 @Market, Stop Price = \$6.55  
Order 3: Sell 1 @\$3.95, Stop Price \$6.60

<sup>21</sup> See supra note 9.

<sup>22</sup> As a result of the additional provisions described herein, the proposed rule change renumbers current subparagraph (D) to be proposed subparagraph (F) and current subparagraph (E) to be proposed subparagraph (H). See also supra note 9.

Order 4: Sell 2 @Market, Stop Price = \$4.50

During this time, Quote 2 is updated to: 2 @4.00 × 1 @6.50. Orders 1, 2, and 3 are elected, and the drill-through reference price for all three orders is set to contra-side NBB of 5.00.

1. Order 1 executes Quote 1 @\$5.00.

2. Orders 2 and 3 are posted to sell @ \$4.10 (drill-through price) for the Exchange-determined time period.

3. Order 4 is elected due to updated best offer of \$4.10, and joins Orders 2 and 3 at the iterative drill-through price of \$4.10. The offer is updated to 4 @ \$4.10.

4. Order 5 (Sell 10 @Market (Day)) and Order 6 (Sell 1 @\$4.05 Limit (Day)) enter the Book. Per proposed Rule 21.17(d)(3)(D), Orders 5 and 6 join the drill-through iteration at the drill-through reference price of \$4.10, and the best offer is updated to 15 @ \$4.10.

5. The drill-through process continues for orders 2, 3, 4, 5, and 6 until the contracts are canceled or executed.

Because the proposed rule change may result in multiple orders going through the drill-through process at the same price and at the same time, the proposed rule change also describes how these orders will be prioritized and allocated when executing against resting interest or incoming interest.

Specifically, proposed Rule 21.17(d)(3)(E)<sup>23</sup> states the System prioritizes orders that are part of the same drill-through iteration (A) based on the time the System enters or reprices them in the Book (*i.e.*, in time priority) when, after an iteration, the new drill-through price makes the order(s) marketable against resting orders and (B) in accordance with the applicable base allocation algorithm when executing against any incoming interest. The Exchange believes this is appropriate because incoming marketable orders would ultimately execute in time priority today. Additionally, having multiple orders execute in accordance with the applicable base allocation algorithm when executing against incoming interest is consistent with how resting orders execute against incoming interest.

Continuing from the above example, assume the drill-through process iterates to the next drill-through price, which would be \$3.20. In doing so, Order 6 posts at its limit price of \$4.05, and the rest of the orders are eligible to execute in time sequence against the resting \$4.00 bid. Per proposed Rule 21.17(d)(3)(E), the orders will go through the drill-through process as follows:

<sup>23</sup> *Id.*

<sup>18</sup> See supra note 9.

<sup>19</sup> A "Stop-Limit" order is an order that becomes a limit order when the stop price is elected. A Stop Limit Order to buy is elected when the consolidated last sale in the security occurs at, or above, the specified stop price. A Stop Limit Order to sell becomes a sell limit order when the consolidated last sale in the security occurs at, or below, the specified stop price. See Rule 11.9(c)(17).

<sup>20</sup> See supra note 9.

1. Order 2 (Sell 1 @Market) will execute against Quote 2 @\$4.00.

2. Order 3 (Sell 1 @\$3.95) will execute against Quote 2 @\$4.00.

3. The Quote 2 is exhausted, and the next best bid is Quote 1 for 5 @\$3.00.

4. Remaining drill-through is Order 4 (Sell 2 @Market) and Order 5 (Sell 10 @Market). Market is now 5 @\$3.00 × 12 @\$3.20, and the drill-through process continues until these contracts are executed or cancelled.

If, prior to the next drill-through iteration, Order 7 (buy 5 @\$3.25) is entered and executes against Orders 4 and 5 at \$3.20, the allocation will depend on the allocation algorithm for the relevant class, under the amended Rule.

1. If pro-rata, Order 7 trades 1 contract against Order 4 and 4 contracts against Order 5.

2. If price-time, Order 7 trades 2 contracts against Order 4 and 3 contracts against Order 5.

3. Remaining size on Order 4 (if applicable) and Order 5 will continue to drill-through as described in previous examples.

The Exchange also proposes to amend Rule 21.17(d)(3)(F).<sup>24</sup> Currently, the rule states that an order will continue through the drill-through process until the earliest of the following to occur: (a) the order fully executes; (b) the User cancels the order; and (c) the buy (sell) order's limit price equals or is less (greater) than the drill-through price at any time during application of the drill-through mechanism, in which case the orders rests in the Book at its limit price, subject to a User's instruction. The Exchange proposes to amend part (c) to remove reference to when the order's limit price equals the drill-through price, since under the drill-through process, if a buy (sell) order's limit price equals the drill-through price during the application of the drill-through mechanism it will remain part of the drill-through process, until the order's limit price is less (greater) than the drill-through price, at which point it will rest in the Book at its limit price. The Exchange also proposes to remove reference to a User's instruction, as there is no additional instruction that would allow a User to choose a different order handling option once the buy (sell) order limit price is less (greater) than the drill-through price.

Finally, the Exchange proposes to add Rule 21.17(d)(3)(G) to specify that if an order(s) (or unexecuted portion(s)) is undergoing the drill-through process at the end of its last eligible trading session for that trading day (*i.e.*, RTH),

the drill-through process concludes.

Any order (or unexecuted portion) with a Time-in-Force of (i) Day is canceled, and (ii) GTC or GTD enters the Queuing Book for the next eligible trading session as a market order or limit order (at its limit price).

## 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.<sup>25</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>26</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>27</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change to enhance drill-through protections for simple orders and to make certain market orders eligible for drill-through protection will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors, because it will provide these orders with additional and consistent execution opportunities and protections. The primary purpose of the drill-through price protection is to prevent orders from executing at prices "too far away" from the market when they enter the Book for potential execution. The Exchange believes the proposed rule change is consistent with this purpose, because Users who submit market orders with a Time-in-Force of Day will receive the same level of drill-through price protection against execution at potentially erroneous prices that is currently afforded to supermarketable limit orders while receiving the same additional execution

opportunities. Supermarketable limit orders currently go through the drill-through process, and market orders with a Time-in-Force of Day are functionally similar to supermarketable limit orders. Therefore, the Exchange believes it is appropriate to provide both types of orders with the same price protection.

Further, the proposed rule change to provide that any new market and limit orders that would be subject to drill-through protection will join any in-progress drill-through iterations and display at the then-current drill-through price (and the corresponding changes regarding allocation and prioritization) allows new orders to receive the same level of price protection as other orders undergoing the drill-through process. The proposed rule change will allow all orders additional execution opportunities while continuing to protect them against execution at potentially erroneous prices. Similarly, the Exchange believes the proposed change to consider changes to the NBO (NBB) during drill-through and to update the drill-through price to such NBO (NBB) should it be lower (higher) than the drill-through price will further provide opportunity for execution at reasonable prices by capturing any market moves that may result in more aggressive prices.

The Exchange believes the proposal will enhance risk protections, the individual firm benefits of which flow downstream to counterparties both at the Exchange and at other options exchanges, which increases systemic protections as well. The Exchange believes enhancing risk protections will allow Users to enter orders and quotes with further reduced fear of inadvertent exposure to excessive risk, which will benefit investors through increased exposure to liquidity for the execution of their orders.

Additionally, the Exchange believes changes to specifically exclude from market order NBBO width and market order in no-bid series protections certain orders that would be subject to drill-through protection will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors. Specifically, the Exchange believes the changes to exclude certain orders that would be subject to drill-through protection from market order NBBO width protections may reduce inadvertent rejection of such orders which may be purposely priced far away from the NBBO at the time of entry and may otherwise miss an opportunity for execution if immediately cancelled. The Exchange also believes the changes to exclude

<sup>25</sup> 15 U.S.C. 78f(b).

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> *Id.*

<sup>24</sup> *Id.*

certain orders that would be subject to drill-through protection from market order in no-bid series protections may allow opportunity for execution at a more beneficial price level than if they were immediately booked at the minimum tick increment. This proposed rule change may increase execution opportunities for Users that submit such Stop (Stop-Loss) and Market-on-Close orders (in the case of market order NBBO width protections) and sell market orders with an NBB of zero when the NBO in the series is greater than \$0.50 (in the case of market orders in no-bid series protections).

The Exchange believes the proposed change to Rule 21.17(d)(4) will protect investors because it clarifies that if multiple Stop (Stop-Loss) and Stop-Limit orders are triggered by the same trade price or NBBO (even if the orders have different stop prices), and would execute or post to the Book, the System uses the contra-side NBBO that existed at the time the first order in sequence was entered into the Book as the drill-through price for all orders. The Exchange believes that the proposed rule change will bring greater transparency and clarity to the rulebook, thus benefitting investors.

Finally, the Exchange believes the proposed changes to specify what happens to orders undergoing drill-through at the end of a trading session will protect investors by adding transparency to the rules regarding the drill-through functionality and provide greater certainty as to the application of the drill-through process.

#### *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 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 enhanced drill-through protection will apply to all marketable orders in the same manner. Additionally, it will provide the same price protection and execution opportunities to relevant market orders that are currently provided to supermarketable limit orders, which function in a similar manner.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed enhancement to the drill-

through protection is consistent with the current protection and provides relevant market orders with improved protection against execution at potentially erroneous prices through drill-through price protection in accordance with User instructions. Additionally, the proposed rule change relates specifically to a price protection offered on the Exchange and how the System handles orders as part of this price protection mechanism.

The Exchange believes the proposed rule change would ultimately provide all market participants with additional execution opportunities when appropriate while providing protection from erroneous execution. The Exchange believes the proposal will enhance risk protections, the individual firm benefits of which flow downstream to counterparties both at the Exchange and at other options exchanges, which increases systemic protections as well. The Exchange believes enhancing risk protections will allow Users to enter orders and quotes with further reduced fear of inadvertent exposure to excessive risk, which will benefit investors through increased exposure to liquidity for the execution of their orders. Without adequate risk management tools, Members could reduce the amount of order flow and liquidity they provide. Such actions may undermine the quality of the markets available to customers and other market participants. Accordingly, the proposed rule change is designed to encourage Members to submit additional order flow and liquidity to the Exchange. Accordingly, the proposed rule change is designed to encourage Members to submit additional order flow and liquidity to the Exchange. The proposed flexibility may similarly provide additional execution opportunities, which further benefits liquidity in potentially volatile markets. In addition, providing Members with more tools for managing risk will facilitate transactions in securities because, as noted above, Members will have more confidence protections are in place that reduce the risks from potential system errors and market events.

Finally, the proposed clarifying changes are not intended to have any impact on competition, but rather codify current functionality to add transparency to the Rules.

#### *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**

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)(iii) of the Act<sup>28</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>29</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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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 (<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-2023-053 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-2023-053. 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/>

<sup>28</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>29</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. The Exchange has satisfied this requirement.

*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-2023-053 and should be submitted on or before August 31, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>30</sup>

**Sherry R. Haywood,**  
Assistant Secretary.

[FR Doc. 2023-17106 Filed 8-9-23; 8:45 am]

**BILLING CODE 8011-01-P**

## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2023-0017]

### Notice of Verification Transaction Fee Increase for Consent Based Social Security Number Verification Service

**AGENCY:** Social Security Administration.

**ACTION:** Notice of fee increase.

**SUMMARY:** The Social Security Administration (SSA) is announcing a fee increase for the Consent Based Social Security Number (SSN) Verification (CBSV) service. We provide a fee-based SSN verification service to enrolled private businesses and government agencies who obtain a valid, signed consent form from the Social Security number holder.

**DATES:** *Applicability date for fee increase:* The verification transaction fee increase will go into effect on October 1, 2023.

**FOR FURTHER INFORMATION CONTACT:** Vivian Adebayo, Branch Chief, Office of

Data Exchange, Policy Publications, and International Negotiations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, (866) 395-8801, email [CBSV@ssa.gov](mailto:CBSV@ssa.gov).

For information on eligibility or filing for benefits, call SSA's national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit SSA's internet site, Social Security Online, at <https://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:** Based on the consent forms, we verify the number holders' SSNs for the requesting party. The Privacy Act of 1974 (5 U.S.C. 552a(b)), section 1106 of the Social Security Act (42 U.S.C. 1306) and our regulation at 20 CFR 401.100, establish the legal authority for us to provide SSN verifications to third party requesters based on the written consent of the subject of the record. The CBSV process provides the business community and other government entities with consent-based SSN verifications in high volume. We developed CBSV as a user-friendly, internet-based application with safeguards that will protect the public's information. In addition to the benefit of providing high volume, centralized SSN verification services to the business community in a secure manner, CBSV provides us with cost and workload management benefits.

*New Information:* Currently, to use CBSV, interested parties must pay a one-time non-refundable enrollment fee of \$5,000 and pay a fee of \$1.00 per SSN verification transaction in advance of services. This \$1.00 fee has been in place since fiscal year (FY) 2017. We calculate our costs periodically for providing CBSV services and adjust the fees as needed. We will notify our customers who currently use the service and allow them to cancel or continue using the service at the new transaction fee. Based on the most recent cost and transaction analysis, we will adjust the FY 2024 fee to \$2.25 per SSN verification transaction in advance of services. New customers will still be responsible for the one-time \$5,000 enrollment fee.

The primary reason for the fee increase is the declining volume in CBSV services. CBSV transactional volumes have decreased from 3.1 million transactions in FY 2021 to 2.1 million transactions in FY 2022. For FY 2023, we are projecting less than 1 million transactions based on current usage. Due to the significant decline in transactions, the per transaction costs are increasing. We will reevaluate transactional volumes in FY 2024. If the transaction volumes continue to

decline, we will issue a subsequent notice to increase the CBSV fees again during FY 2024. We note that any unused advances and any fees collected in excess of our actual costs per transactions each year for CBSV services are refunded after the end of the fiscal year.

**Stephen Evangelista,**

Acting Deputy Commissioner, Office of Retirement and Disability Policy, Social Security Administration.

[FR Doc. 2023-17146 Filed 8-9-23; 8:45 am]

**BILLING CODE 4191-02-P**

## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2023-0007]

### Privacy Act of 1974; Matching Program

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a new matching program.

**SUMMARY:** In accordance with the provisions of the Privacy Act, as amended, this notice announces a new matching program with the Bureau of the Fiscal Service (Fiscal Service), Department of the Treasury (Treasury). Under this matching program, Fiscal Service, Treasury will disclose savings security data to SSA. SSA will use the data to determine continued eligibility for Supplemental Security Income (SSI) applicants and recipients SSA will also use the data to determine the correct benefit amount for recipients and deemors who either did not report or who incorrectly reported their ownership of savings securities.

**DATES:** The deadline to submit comments on the proposed matching program is September 11, 2023. The matching program will be applicable on December 26, 2023, or once a minimum of 30 days after publication of this notice has elapsed, whichever is later. The matching program will be in effect for a period of 18 months.

**ADDRESSES:** You may submit comments by any one of three methods—internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA-2023-0007 so that we may associate your comments with the correct regulation. Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social

<sup>30</sup> 17 CFR 200.30-3(a)(12).