

provision of more displayed liquidity on IEX.

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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A)³⁴ of the Act and Rule 19b-4(f)(6)³⁵ thereunder. Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing.³⁶

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4³⁷ because it would not significantly affect the protection of investors or the public interest. Rather, the proposed rule change neither significantly affects the protection of investors or the public interest, nor does it impose any burden on competition because it would merely combine the attributes of functionality currently offered by many other equities exchanges, as discussed in the Purpose section, and does not raise any new or novel material issues that have not already been considered by the Commission. Accordingly, IEX has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act³⁸ and paragraph (f)(6) of Rule 19b-4 thereunder.³⁹

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 under Section 19(b)(2)(B)⁴⁰ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-IEX-2023-13 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-IEX-2023-13. 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-IEX-2023-13 and should be submitted on or before December 18, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority:⁴¹

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98997; File No. SR-BOX-2023-27]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing of Proposed Rule Change To Amend the Short Term Option Series Program in IM-5050-6

November 21, 2023.

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 November 16, 2023, BOX Exchange LLC ("Exchange") 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

The Exchange proposes to amend BOX IM-5050-6 (Short Term Option Series Program). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at <https://rules.boxexchange.com/rulefilings>.

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 self-regulatory organization 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

³⁴ 15 U.S.C. 78s(b)(3)(A).

³⁵ 17 CFR 240.19b-4(f)(6).

³⁶ 17 CFR 240.19b-4(f)(6)(iii).

³⁷ 17 CFR 240.19b-4(f)(6).

³⁸ 15 U.S.C. 78s(b)(3)(A).

³⁹ 17 CFR 240.19b-4(f)(6).

⁴⁰ 15 U.S.C. 78s(b)(2)(B).

⁴¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 IM-5050-6 (Short Term Option Series Program) to permit the listing of two Wednesday expirations for options on United States Oil Fund, LP ("USO"), United States Natural Gas Fund, LP ("UNG"), SPDR Gold Shares ("GLD"), iShares Silver Trust ("SLV"), and iShares 20+ Year Treasury Bond ETF ("TLT") (collectively "Exchange Traded Products" or "ETPs"). This is a competitive filing that is based on a proposal recently submitted by Nasdaq ISE, LLC ("Nasdaq ISE") and approved by the Commission.³

Currently, as set forth in IM-5050-6, after an option class has been approved for listing and trading on the Exchange as a Short Term Option Series pursuant to BOX Rule 100(a)(66)⁴ the Exchange may open for trading on any Thursday or Friday that is a business day ("Short Term Option Opening Date") series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which monthly options series or Quarterly Options Series expire ("Friday Short Term Option Expiration Dates"). The Exchange may have no more than a total of five Short Term Option Expiration Dates. Further, if the Exchange is not open for business on the respective Thursday or Friday, the Short Term

Option Opening Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that Friday.

Additionally, the Exchange may open for trading series of options on the symbols provided in Table 1 of IM-5050-6 that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which monthly options series or Quarterly Options Series expire ("Short Term Option Daily Expirations"). For those symbols listed in Table 1, the Exchange may have no more than a total of two Short Term Option Daily Expirations for each of Monday, Tuesday, Wednesday, and Thursday expirations at one time.

Proposal

At this time, the Exchange proposes to expand the Short Term Option Daily Expirations to permit the listing and trading of options on USO, UNG, GLD, SLV, and TLT expiring on Wednesdays. The Exchange proposes to permit two Short Term Option Expiration Dates beyond the current week for each Wednesday expiration at one time.⁵ In order to effectuate the proposed changes, the Exchange would add USO, UNG, GLD, SLV, and TLT to Table 1 of IM-5050-6, which specifies each symbol that qualifies as a Short Term Option Daily Expiration.

The proposed Wednesday USO, UNG, GLD, SLV, and TLT expirations will be similar to the current Wednesday SPY, QQQ, and IWM Short Term Option Daily Expirations set forth in IM-5050-6, such that the Exchange may open for trading on any Tuesday or Wednesday that is a business day (beyond the current week) series of options on USO, UNG, GLD, SLV, and TLT to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series expire ("Wednesday USO Expirations," "Wednesday UNG Expirations," "Wednesday GLD Expirations,"

"Wednesday SLV Expirations," and "Wednesday TLT Expirations") (collectively, "Wednesday ETP Expirations").⁶ In the event Short Term Option Daily Expirations expire on a Wednesday and that Wednesday is the same day that a Quarterly Options Series expires, the Exchange would skip that week's listing and instead list the following week; the two weeks would therefore not be consecutive. Today, Wednesday expirations in SPY, QQQ, and IWM similarly skip the weekly listing in the event the weekly listing expires on the same day in the same class as a Quarterly Options Series.

USO, UNG, GLD, SLV, and TLT Friday expirations would continue to have a total of five Short Term Option Expiration Dates provided those Friday expirations are not Fridays in which monthly options series or Quarterly Options Series expire ("Friday Short Term Option Expiration Dates").

Similar to Wednesday SPY, QQQ, and IWM Short Term Option Daily Expirations within IM-5050-6, the Exchange proposes that it may open for trading on any Tuesday or Wednesday that is a business day series of options on USO, UNG, GLD, SLV, and TLT that expire at the close of business on each of the next two Wednesdays that are business days and are not business days in which Quarterly Options Series expire.

The interval between strike prices for the proposed Wednesday ETP Expirations will be the same as those for the current Short Term Option Series for Friday expirations applicable to the Short Term Option Series Program.⁷ Specifically, the Wednesday ETP Expirations will have a strike interval of \$0.50 or greater for strike prices below \$100, \$1 or greater for strike prices between \$100 and \$150, and \$2.50 or greater for strike prices above \$150.⁸ As is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Wednesday ETP Expirations series will be P.M.-settled.

Pursuant to BOX Rule 100(a)(66), with respect to the Short Term Option Series Program, a Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, e.g., Tuesday of that week if the Wednesday is not a business day.

Currently, for each option class eligible for participation in the Short

³ See Securities Exchange Act Release No. 98905 (November 13, 2023) (SR-ISE-2023-11) (Order Approving a Proposed Rule Change to Amend the Short Term Option Series Program to Permit the Listing of Two Wednesday Expirations for Options on Certain Exchange Traded Products).

⁴ BOX Rule 100(a)(66) provides that a Short Term Options Series means a series in an option class that is approved for listing and trading on BOX in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Tuesday, Wednesday, Thursday, or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday, respectively. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday.

⁵ Consistent with the current operation of the rule, the Exchange notes that if it adds a Wednesday expiration on a Tuesday, it could technically list three outstanding Wednesday expirations at one time. The Exchange will therefore clarify the rule text in IM-5050-6 to specify that it can list two Short Term Option Expiration Dates beyond the current week for each Monday, Tuesday, Wednesday, and Thursday expiration.

⁶ While the relevant rule text in IM-5050-6 also indicates that the Exchange will not list such expirations on a Wednesday that is a business day in which monthly options series expire, practically speaking this would not occur.

⁷ See IM-5050-6.

⁸ *Id.*

Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.⁹ The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.¹⁰ With the proposed changes, this thirty (30) series restriction would apply to Wednesday USO, UNG, GLD, SLV, and TLT Short Term Option Daily Expirations as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list Wednesday ETP Expirations.

With this proposal, Wednesday ETP Expirations would be treated similarly to existing Wednesday SPY, QQQ, and IWM Expirations. With respect to monthly option series, Short Term Option Daily Expirations will be permitted to expire in the same week in which monthly option series on the same class expire. Not listing Short Term Option Daily Expirations for one week every month because there was a monthly on that same class on the Friday of that week would create investor confusion.

Further, as with Wednesday SPY, QQQ, and IWM Expirations, the Exchange would not permit Wednesday ETP Expirations to expire on a business day in which monthly options series or Quarterly Options Series expire. Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Wednesdays that are business days and are not business days in which monthly options series or Quarterly Options Series expire. The Exchange believes that it is reasonable to not permit two expirations on the same day in which a monthly options series or a Quarterly Options Series would expire because those options would be duplicative of each other.

The Exchange does not believe that any market disruptions will be encountered with the introduction of Wednesday ETP Expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Wednesday ETP Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Wednesday for SPY, QQQ and IWM and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has

surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Wednesday for SPY, QQQ and IWM.

Implementation

The Exchange will issue a notice to Participants via Regulatory Notice with appropriate advanced notice announcing the implementation date of the proposed rule change. The Exchange notes that Nasdaq ISE applied a similar process to govern the implementation of its proposed rule change.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of section 6(b) of the Securities Exchange Act of 1934 (the "Act"),¹¹ in general, and section 6(b)(5) of the Act,¹² in particular, in that it is 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 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. Similar to Wednesday expirations in SPY, QQQ, and IWM, the proposal to permit Wednesday ETP Expirations, subject to the proposed limitation of two expirations beyond the current week, would protect investors and the public interest by providing the investing public and other market participants more choice and flexibility to closely tailor their investment and hedging decisions in these options and allow for a reduced premium cost of buying portfolio protection, thus allowing them to better manage their risk exposure.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed option expirations, in the same way that it monitors trading in the current Short Term Option Series for Wednesday SPY, QQQ and IWM expirations. The Exchange also represents that it has the necessary system capacity to support the new expirations. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of these option expirations. As discussed above, the Exchange believes that its proposal is a modest expansion of weekly expiration dates for GLD, SLV, USO, UNG, and TLT given that it will be limited to two Wednesday

expirations beyond the current week. Lastly, the Exchange believes its proposal will not be a strain on liquidity provides because of the multi-class nature of GLD, SLV, USO, UNG, and TLT and the available hedges in highly-correlated instruments, as described above.

The Exchange believes that the proposal is consistent with the Act as the proposal would overall add a small number of Wednesday ETP Expirations by limiting the addition of two Wednesday expirations beyond the current week. The addition of Wednesday ETP Expirations would remove impediments to and perfect the mechanism of a free and open market by encouraging Market Makers to continue to deploy capital more efficiently and improve market quality. The Exchange believes that the proposal will allow Participants to expand hedging tools and tailor their investment and hedging needs more effectively in USO, UNG, GLD, SLV, and TLT as these funds are most likely to be utilized by market participants to hedge the underlying asset classes.

Similar to Wednesday SPY, QQQ, and IWM expirations, the introduction of Wednesday ETP Expirations is consistent with the Act as it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Wednesday ETP Expirations will allow market participants to purchase options on USO, UNG, GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively, thus allowing them to better manage their risk exposure. Today, the Exchange lists Wednesday SPY, QQQ, and IWM Expirations.¹³

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that Wednesday ETP Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging.

There are no material differences in the treatment of Wednesday SPY, QQQ and IWM expirations compared to the proposed Wednesday ETP Expirations. Given the similarities between Wednesday SPY, QQQ and IWM expirations and the proposed Wednesday ETP Expirations, the

⁹ See *id.*

¹⁰ See IM-5050-6.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

¹³ See IM-5050-6.

Exchange believes that applying the provisions in IM-5050-6 that currently apply to Wednesday SPY, QQQ and IWM expirations is justified. For example, the Exchange believes that allowing Wednesday ETP Expirations and monthly Exchange Traded Product expirations in the same week will benefit investors and minimize investor confusion by providing Wednesday ETP Expirations in a continuous and uniform manner.

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 not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to a filing submitted by Nasdaq ISE that was recently approved by the Commission.¹⁴

While the proposal will expand the Short Term Options Expirations to allow Wednesday ETP Expirations to be listed on BOX, the Exchange believes that this limited expansion for Wednesday expirations for options on USO, UNG, GLD, SLV, and TLT will not impose an undue burden on competition; rather, it will meet customer demand. The Exchange believes that Participants will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in USO, UNG, GLD, SLV, and TLT given multi-class nature of these products and the available hedges in highly-correlated instruments, as described above.

Similar to Wednesday SPY, QQQ and IWM expirations, the introduction of Wednesday ETP Expirations does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Wednesday ETP Expirations will allow market participants to purchase options on USO, UNG, GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Wednesday ETP Expirations. Further, the Exchange does not believe the proposal will impose any burden on

intra-market competition, as all market participants will be treated in the same manner under this proposal.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act¹⁵ and Rule 19b-4(f)(6) thereunder.¹⁶ 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 Act¹⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁸

A proposed rule change filed under Rule 19b-4(f)(6)¹⁹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁰ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, the proposed rule change is a competitive response to a filing submitted by Nasdaq ISE that was recently approved by the Commission.²¹ The Exchange has stated that waiver of the 30-day operative delay would ensure fair competition among the exchanges by allowing the Exchange to permit the listing of two Wednesday expirations for options on ETPs.²² The Commission believes that

¹⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ 17 CFR 240.19b-4(f)(6)(iii).

²¹ See *supra* note 3.

²² See SR-CboeBZX-2022-37 (July 8, 2022).

the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.²³

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. Please include file number SR-BOX-2023-27 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-BOX-2023-27. 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

²³ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ See *supra* note 3.

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-BOX-2023-27 and should be submitted on or before December 18, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Christina Z. Milnor,
Assistant Secretary.

[FR Doc. 2023-26092 Filed 11-24-23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98991; File No. SR-CboeBZX-2023-092]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delineate the Application Fee From the Entry Fee, To Increase the Application Fee for Tier I and Tier II Securities Listed on the Exchange in Certain Circumstances, To Change the Assessment Date of the Entry Fee, and To Clarify That Both the Entry Fee and Application Fee Are Non-Refundable as Provided in Exchange Rule 14.13

November 20, 2023.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,² notice is hereby given that on November 8, 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, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. ("BZX" or the "Exchange") is filing with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change to delineate the Application Fee from the Entry Fee, to increase the Application Fee for Tier I and Tier II securities listed on the Exchange in certain circumstances, to change the assessment date of the Entry Fee, and to clarify that both the Entry Fee and Application Fee are non-refundable as provided in Exchange Rule 14.13. The 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its rules related to an application to list any class of securities (not otherwise identified in Rule 14.13) on the Exchange as a Tier I or Tier II security to specifically delineate the Application Fee³ from the Entry Fee,⁴ to increase the Application Fee for Tier I and Tier II Securities applying to list on the Exchange in certain circumstances, and to change the assessment date of the

³ See proposed Rule 14.13(b)(1).

⁴ The Entry Fee is currently set forth in Exchange Rule 14.13(b)(1)(A) and (B) for Tier I and Tier II securities, respectively. As described therein, the Entry Fee includes a non-refundable Application Fee that must be submitted with the Company's application to list on the Exchange.

Entry Fee.⁵ The Exchange is also proposing to clarify that both the Entry Fee and Application Fee are non-refundable. The Exchange is not proposing to change the total combined Entry Fee and Application Fee for either Tier I (\$100,000) or Tier II (\$50,000) securities, but rather to increase the Application Fee in situations that it's less likely that an applicant will list on the Exchange (as further described below) and to assess the Entry Fee at the point that the Exchange has completed the majority of the work associated with a potential listing.⁶

Currently, under Exchange Rule 14.13(b)(1)(A) and (B), a Company that submits an application to list a Tier I or Tier II security on the Exchange is assessed an Entry Fee totaling \$100,000 or \$50,000, respectively. The rules further stipulate that the Entry Fee will be assessed on the date of listing on the Exchange, except for \$25,000 which represents the Application Fee, and which must be submitted with the Company's application.

The Exchange is now proposing to delineate the Application Fee from the Entry Fee under proposed Rules 14.13(b)(1) and (2), respectively. However, the Exchange is not proposing a change to the combined total of the Entry Fee and Application Fee for either Tier I or Tier II securities that list on the Exchange. The Application Fee would continue to be \$25,000 for both Tier I and Tier II securities unless the Company is at any point during the Exchange's review of the application simultaneously engaged in the application process to list on another national securities exchange, in which case the application fee will be \$50,000. In such circumstances, there is a higher likelihood that the Company may withdraw its application to list on the Exchange prior to the issuance of conditional approval, and thus prior to assessment of the remainder of the Entry Fee. Given this and because of the significant resources necessary to review an application to list on the Exchange, the Exchange believes that a higher Application Fee will more

⁵ The Exchange initially filed the proposed fee change on September 29, 2023 (SR-CboeBZX-2023-077). On October 10, 2023, the Exchange withdrew that filing and submitted another proposed fee change (SR-CboeBZX-2023-082). On October 20, 2023, the Exchange withdrew that filing and submitted another proposed fee change (SR-CboeBZX-2023-086). On October 31, 2023, the Exchange withdrew that filing and [sic] another proposed fee change (SR-CboeBZX-2023-088). On November 8, 2023, the Exchange withdrew that filing and submitted this proposal.

⁶ The Exchange notes that the proposed Fees will be applied prospectively to all applications submitted after the date of this proposal.

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.