

2017, the Commission extended the time period for Commission action on all of the Systems Retirement Proposals to August 30, 2017.<sup>15</sup>

On August 24, 2017, BOX submitted Amendment No. 1 to its proposed rule change, IEX submitted Amendment No. 1 to its proposed rule change, PEARL submitted Amendment No. 2 to its proposed rule change,<sup>16</sup> and MIAX submitted Amendment No. 3 to its proposed rule change.<sup>17</sup> On August 25, 2017, Bats BZX submitted Amendment No. 1 to its proposed rule change, Bats EDGX submitted Amendment No. 1 to its proposed rule change, BX submitted Amendment No. 2 to its proposed rule change, C2 submitted Amendment No. 1 to its proposed rule change, CBOE submitted Amendment No. 1 to its proposed rule change, FINRA submitted Amendment No. 1 to its proposed rule change, ISE submitted Amendment No. 2 to its proposed rule change, NASDAQ submitted Amendment No. 2 to its proposed rule change, NYSE submitted Amendment No. 1 to its proposed rule change, NYSE Arca submitted Amendment No. 1 to each of its proposed rule changes, NYSE MKT submitted Amendment No. 1 to each of its proposed rule changes, and Phlx submitted Amendment No. 2 to its proposed rule change.

On August 30, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act<sup>18</sup> to determine whether to approve or disapprove the proposed rule changes, as modified by the respective amendments thereto.<sup>19</sup> Since then, the Commission has received nine additional comment letters on the proposed rule changes, including a response from FINRA and a response from the CAT NMS Plan Operating Committee Chair on behalf of Bats BZX, Bats EDGX, BOX, C2, CBOE, IEX, ISE, MIAX, NASDAQ, BX, Phlx, NYSE, NYSE Arca, NYSE MKT, and PEARL.<sup>20</sup> On November 21, 2017, the

Commission extended the time period for approving or disapproving the proposed rule changes, as modified by the respective amendments thereto, for an additional 60 days until January 27, 2018.<sup>21</sup>

On January 9, 2018, MIAX and PEAL withdrew their proposed rule changes (File Numbers SR-MIAX-2017-20; SR-PEARL-2017-23). On January 10, 2018, Bats BZX, Bats EDGX, C2, CBOE, and IEX withdrew their proposed rule changes (File Numbers SR-BatsBZX-2017-37; SR-BatsEDGX-2017-23; SR-C2-2017-018; SR-CBOE-2017-041; SR-IEX-2017-18). On January 11, 2018, BOX withdrew its proposed rule change (File Number SR-BOX-2017-17). On January 12, 2018, FINRA, ISE, NASDAQ, BX, and Phlx withdrew their proposed rule changes (File Numbers SR-FINRA-2017-013; SR-ISE-2017-46; SR-NASDAQ-2017-055; SR-BX-2017-027; SR-PHLX-2017-43). On January 16, 2018, NYSE withdrew its proposed rule change (File Number SR-NYSE-2017-23), and NYSE Arca and NYSE MKT each withdrew both of their proposed rule changes (File Numbers SR-NYSEArca-017-57; SR-NYSEArca-2017-59; SR-NYSEMKT-2017-29; SR-NYSEMKT-2017-30).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018-01095 Filed 1-22-18; 8:45 am]

**BILLING CODE 8011-01-P**

Director and Associate General Counsel, SIFMA, dated September 29, 2017; Brant K. Brown, Associate General Counsel, FINRA, dated October 11, 2017; William H. Herbert, Managing Director, FIF, dated November 2, 2017; Michael Simon, CAT NMS Plan Operating Committee Chair, dated November 2, 2017; and Manisha Kimmel, Chief Regulatory Officer, Wealth Management, Thomson Reuters, dated December 18, 2017. An eighth letter in response to the OIP requested additional time to submit comments on the proposed rule changes. See letter from William H. Herbert, Managing Director, FIF, dated September 27, 2017. The ninth comment letter was submitted solely to File Number SR-Phlx-2017-43. See letter from Michael Kitlas, dated November 14, 2017.

<sup>21</sup> See Securities Exchange Act Release No. 82135, 82 FR 56287 (November 28, 2017).

<sup>22</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82512; File No. SR-CboeBYX-2018-001]

### Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Harmonize the Definition of Non-Professional User in Its Fee Schedule With That of Its Affiliates

January 17, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 8, 2018, Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange filed a proposal to amend the Market Data section of its fee schedule to harmonize the definition of “Non-Professional User” with that of its affiliates, Cboe Exchange, Inc. (“Cboe”) and Cboe C2 Exchange, Inc. (“C2”).

The text of the proposed rule change is available at the Exchange’s website at [www.markets.cboe.com](http://www.markets.cboe.com), at the principal office of the Exchange, 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

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> See Securities Exchange Act Release No. 81145, 82 FR 33533 (July 20, 2017).

<sup>16</sup> PEARL filed Amendment No. 1 to its proposed rule change on August 22, 2017. On August 24, 2017, PEARL withdrew Amendment No. 1 and replaced it with Amendment No. 2.

<sup>17</sup> MIAX filed Amendment No. 1 to its proposed rule change on August 22, 2017 and withdrew and replaced it with Amendment No. 2 on the same day. On August 24, 2017, MIAX withdrew Amendment No. 2 and replaced it with Amendment No. 3.

<sup>18</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>19</sup> See Securities Exchange Act Release No. 81499, 82 FR 42168 (September 6, 2017) (“OIP”).

<sup>20</sup> Seven substantive comment letters were submitted in response to the OIP. See letters from Manisha Kimmel, Chief Regulatory Officer, Wealth Management, Thomson Reuters, dated September 27, 2017; William H. Herbert, Managing Director, FIF, dated September 29, 2017; Ellen Greene, Managing Director and Theodore R. Lazo, Managing

the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend the Market Data section of its fee schedule to harmonize the definition of "Non-Professional User" with that of its affiliate, Cboe and C2. In late 2016, the Exchange and its affiliates Cboe EDGA Exchange, Inc. ("EDGA"), Cboe EDGX Exchange, Inc. ("EDGX"), and Cboe BZX Exchange, Inc. ("BZX") received approval to effect a merger (the "Merger") of the Exchange's parent company, Bats Global Markets, Inc., the parent of EDGA, EDGX, BYX, and BZX with CBOE Holding, Inc. (now known as Cboe Global Markets, Inc.) the parent company of Cboe and C2.<sup>5</sup> In order to provide consistent rules and terminology amongst the Exchange, Cboe, and C2, the Exchange proposes to amend the definition of "Non-Professional User" to harmonize it with that of its affiliates, Cboe Exchange, Inc. ("Cboe") and Cboe C2 Exchange, Inc. ("C2"). The Exchange fee schedule currently defines "Non-Professional User" as:

a natural person who is not: (i) registered or qualified in any capacity with the Commission, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an "investment adviser" as that term is defined in Section 202(a)(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt. As amended, "Non-Professional User" would be defined as:

a natural person or qualifying trust that uses Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an "investment adviser" as that term is

<sup>5</sup> See Securities Exchange Act Release No. 79585 (December 16, 2016), 82 FR 6961 (December 22, 2016) (SR-BatsEDGX-2016-60; SR-BatsEDGA-2016-24; SR-BatsBYX-2017-29; and SR-BatsBYX-2016-68).

defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States.

The revised definition is substantially identical to the definition of "Non-Professional User" included within the Cboe and C2 fee schedules.<sup>6</sup> The Exchange's current definition of "Non-Professional User" does differ from that contained in the Cboe and C2 fee schedules in following minor, non-substantive ways. First, the harmonized definition will make clear that a Non-Professional User may be a natural person or qualifying trust that uses Data only for personal purposes and not for any commercial purpose. To date, the Exchange is not aware of any entity that receives an Exchange market data product would be deemed a qualifying trust and, therefore, has not had to determine whether such entity is a Professional or Non-Professional User under the prior definition. Second, the harmonized definition would specify that a natural person who works outside of the United States would not be deemed a Non-Professional User where that person does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States. The definition with regard to natural persons who work in the United States are substantively identical amongst the old and harmonized definition.

None of these differences impact the manner in which the Exchange would characterize a User and a Professional or Non-Professional. The harmonized definition would provide additional specificity while harmonizing the definition with that of its affiliates. Doing so would ensure consistent terms amongst the Exchange and its affiliates, thereby reducing the potential for confusion amongst market data subscribers regarding the type of User they may be considered by the Exchange.

<sup>6</sup> See the Cboe fee schedule available at [https://www.cboe.org/general-info/pdf/framed?content=/publish/mdx/fees/cboe-cds-fees-schedule-for-cboe-datafeeds.pdf&section=SEC\\_MD\\_X\\_CSM&title=Cboe%20CDS%20Fees%20Schedule](https://www.cboe.org/general-info/pdf/framed?content=/publish/mdx/fees/cboe-cds-fees-schedule-for-cboe-datafeeds.pdf&section=SEC_MD_X_CSM&title=Cboe%20CDS%20Fees%20Schedule) and the C2 fee schedule available at [https://www.cboe.org/general-info/pdf/framed?content=/publish/mdx/fees/c2-cds-fees-schedule.pdf&section=SEC\\_MD\\_X\\_CSM&title=C2%20CDS%20Fees%20Schedule](https://www.cboe.org/general-info/pdf/framed?content=/publish/mdx/fees/c2-cds-fees-schedule.pdf&section=SEC_MD_X_CSM&title=C2%20CDS%20Fees%20Schedule).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>8</sup> in particular, in that it is designed 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. The harmonized definition of Non-Professional User is equitable, reasonable, and removes impediments to and perfect the mechanism of a free and open market and a national market system it would provide additional specificity while harmonizing the definition with that of its affiliates. Doing so would ensure consistent terms amongst the Exchange and its affiliates, thereby reducing the potential for confusion amongst market data subscribers regarding the type of User they may be considered by the Exchange.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The harmonized definition of Non-Professional User would have no impact on competition because it does not materially alter the definition.

*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 written 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>9</sup> and

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>10</sup> 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, 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.

In its filing, the Exchange requested that the Commission waive the 30-day operative delay in order to enable the Exchange to immediately ensure consistent use of terms amongst the Exchange and its affiliates, thereby reducing the potential for confusion amongst market data subscribers regarding the type of User they may be considered by the Exchange. The Commission believes that such waiver is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing. 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.<sup>11</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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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 (<http://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-CboeBYX-2018-001 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 CboeBYX-2018-001. 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 CboeBYX-2018-001 and should be submitted on or before February 13, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-01086 Filed 1-22-18; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82517; File No. SR-CboeBZX-2018-003]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Harmonize the Definition of Non-Professional User in Its Fee Schedule With That of Its Affiliates

January 17, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 8, 2018, 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 and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6)(iii) thereunder,<sup>4</sup> which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange filed a proposal to amend the Market Data section of its fee schedule applicable to its equity options platform ("BZX Options") to harmonize the definition of "Non-Professional User" with that of its affiliates, Cboe Exchange, Inc. ("Cboe") and Cboe C2 Exchange, Inc. ("C2").

The text of the proposed rule change is available at the Exchange's website at [www.markets.cboe.com](http://www.markets.cboe.com), at the principal office of the Exchange, 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

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> See 15 U.S.C. 78c(f).

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