

Subject to approval by the Trust's board of trustees, an Adviser (as defined below) will serve as investment adviser to each Fund. The Adviser is, and any other Adviser will be, registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). An Adviser may enter into sub-advisory agreements with other investment advisers to act as sub-advisers with respect to the Funds (each a "Sub-Adviser"). Any Sub-Adviser to a Fund will be registered under the Advisers Act.

3. The Distributor is a Delaware limited liability company and a broker-dealer registered under the Securities Exchange Act of 1934, as amended, and will act as the principal underwriter of Shares of the Funds. Applicants request that the requested relief apply to any distributor of Shares, whether affiliated or unaffiliated with the Adviser and/or Sub-Adviser (included in the term "Distributor"). Any Distributor will comply with the terms and conditions of the Order.

Applicants' Requested Exemptive Relief

4. Applicants seek the requested Order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act and under Section 12(d)(1)(J) of the Act for an exemption from Sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested Order would permit applicants to offer Funds that operate as contemplated by the Reference Order. Because the relief requested is the same as certain of the relief granted by the Commission under the Reference Order and because the Adviser has entered into a licensing agreement with Fidelity Management & Research Company, or an affiliate thereof, in order to offer Funds that operate as contemplated by the Reference Order,³ the Order would incorporate by reference the terms and conditions of the same relief of the Reference Order.

5. Applicants request that the Order apply to the Initial Funds and to any other existing or future registered open-end management investment company or series thereof that: (a) Is advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser (any such entity included in the term "Adviser"); (b)

offers exchange-traded shares utilizing active management investment strategies as contemplated by the Reference Order; and (c) complies with the terms and conditions of the Order and the terms and conditions of the Reference Order that are incorporated by reference into the Order (each such company or series and each Initial Fund, a "Fund").⁴

6. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants submit that for the reasons stated in the Reference Order the requested relief meets the exemptive standards under sections 6(c), 17(b) and 12(d)(1)(J) of the Act.

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

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91548; File No. SR-CboeBYX-2021-008]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Current Pilot Program Related to BYX Rule 11.17, Clearly Erroneous Executions, to the Close of Business on October 20, 2021

April 14, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 5, 2021, Cboe BYX Exchange, Inc. ("Exchange" or "BYX") 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 Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 BYX Exchange, Inc. ("BYX" or the "Exchange") is filing with the Securities and Exchange Commission (the "Commission") a proposed rule change to extend the current pilot program related to BYX Rule 11.17, Clearly Erroneous Executions, to the close of business on October 20, 2021. 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/byx/), 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

³ Certain aspects of how the Funds will operate (as described in the Reference Order) are the intellectual property of Fidelity Management & Research Company (or its affiliates).

⁴ All entities that currently intend to rely on the Order are named as applicants. Any other entity that relies on the Order in the future will comply with the terms and conditions of the Order and the terms and conditions of the Reference Order that are incorporated by reference into the Order.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions to the close of business on October 20, 2021. Portions of Rule 11.17, explained in further detail below, are currently operating as a pilot program set to expire on April 20, 2021.⁵

On September 10, 2010, the Commission approved, on a pilot basis, changes to BYX Rule 11.17 that, among other things: (i) Provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.⁶ In 2013, the Exchange adopted a provision designed to address the operation of the Plan.⁷ Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) A series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially

ended according to the primary listing market.⁸

On December 26, 2018, the Commission published the proposed Eighteenth Amendment⁹ to the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the "Limit Up-Limit Down Plan" or the "Plan")¹⁰ to allow the Plan to operate on a permanent, rather than pilot, basis. On April 8, 2019, the Exchange amended BYX Rule 11.17 to untie the pilot program's effectiveness from that of the Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019 in order allow the Exchange and other national securities exchanges additional time to consider further amendments, if any, to the clearly erroneous execution rules in light of the proposed Eighteenth Amendment to the Plan.¹¹ On April 17, 2019, the Commission published an approval of the Eighteenth Amendment to allow the Plan to operate on a permanent, rather than pilot, basis.¹² On October 21, 2019, the Exchange amended BYX Rule 11.17 to extend the pilot's effectiveness to the close of business on April 20, 2020.¹³ On March 18, 2020, the Exchange amended BYX Rule 11.17 to extend the pilot's effectiveness to the close of business on October 20, 2020.¹⁴ Finally, on October 20, 2020, the Exchange amended BYX Rule 11.17 to extend the pilot's effectiveness to the close of business on April 20, 2021.¹⁵

The Exchange now proposes to amend BYX Rule 11.17 to extend the pilot's effectiveness to the close of business on October 20, 2021. The Exchange understands that the other national securities exchanges and Financial Industry Regulatory Authority ("FINRA") have filed similar proposals to extend their respective clearly erroneous execution pilot programs, the

substance of which are identical to BYX Rule 11.17.¹⁶

The Exchange does not propose any additional changes to BYX Rule 11.17. The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a limited six month pilot basis. As the Plan was approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the operation of the clearly erroneous execution rules. Extending the effectiveness of BYX Rule 11.17 for an additional six months should provide the Exchange and other national securities exchanges additional time to consider further amendments, if any, to the clearly erroneous execution rules.

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.¹⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ 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)¹⁹ 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 that extending the clearly erroneous execution pilot under BYX Rule 11.17 for an additional six months would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure

⁵ See Securities Exchange Act Release No. 90230 (October 20, 2020), 85 FR 67802 (Oct. 26, 2020) (SR-CboeBYX-2020-030).

⁶ See Securities Exchange Act Release No. 63097 (Oct. 13, 2010), 75 FR 64767 (Oct. 20, 2010) (SR-BYX-2010-002).

⁷ See Securities Exchange Act Release No. 68798 (Jan. 31, 2013), 78 FR 8628 (Feb. 6, 2013) (SR-BYX-2013-005).

⁸ See Securities Exchange Act Release No. 71796 (March 25, 2014), 79 FR 18099 (March 31, 2014) (SR-BYX-2014-003).

⁹ See Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (File No. 4-631) ("Eighteenth Amendment").

¹⁰ See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the "Limit Up-Limit Down Release").

¹¹ See Securities Exchange Act Release No. 85542 (Apr. 8, 2019), 84 FR 15009 (Apr. 12, 2019) (SR-CboeBYX-2019-003).

¹² See Securities Exchange Act Release No. 85623 (Apr. 11, 2019), 84 FR 16086 (Apr. 17, 2019) (File No. 4-631).

¹³ See Securities Exchange Act Release No. 87364 (Oct. 21, 2019), 84 FR 57528 (Oct. 25, 2019) (SR-CboeBYX-2019-018).

¹⁴ See Securities Exchange Act Release No. 88496 (March 27, 2020), 85 FR 18600 (April 2, 2020) (SR-CboeBYX-2020-010).

¹⁵ See supra note 5.

¹⁶ See SR-FINRA-2021-004 (Filed March 15, 2021).

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ *Id.*

consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the amended clearly erroneous executions rule should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for clearly erroneous execution reviews.

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange understands that FINRA and other national securities exchanges have or will also file similar proposals to extend their respective clearly erroneous execution pilot programs.²⁰ Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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

No comments were solicited or received 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) of the Act²¹ and Rule 19b-4(f)(6) thereunder.²²

A proposed rule change filed under Rule 19b-4(f)(6)²³ normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii)²⁴ permits the Commission to designate a shorter time

if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current clearly erroneous execution pilot program to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider a permanent proposal for clearly erroneous execution reviews. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.²⁵

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 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBYX-2021-008 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-CboeBYX-2021-008. This file number should be included on the subject line if email is used. To help the Commission process and review your

²⁵ 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).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBYX-2021-008 and should be submitted on or before May 11, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91558; File No. SR-CboeBZX-2021-027]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Current Pilot Program Related to BZX Rule 11.17, Clearly Erroneous Executions, to the Close of Business on October 20, 2021

April 14, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 5, 2021, Cboe BZX Exchange, Inc.

²⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁰ See supra note 16.

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 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.

²³ 17 CFR 240.19b-4(f)(6).

²⁴ 17 CFR 240.19b-4(f)(6)(iii).