

*ii. Consistency With Rule 17Ad-22(e)(2)(i)*

Rule 17Ad-22(e)(2)(i) requires that ICE Clear Europe establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent.<sup>17</sup> The Commission believes that deleting the requirement that the ICE Clear Europe Board approve the issuance of a Termination Notice from Section 2.4.2., as discussed in Part II.iii above, would help to clarify the process for issuing such a Termination Notice. Because Board approval is not a requirement of Rule 209, and because Board approval could potentially conflict with a delegation issued under ICE Clear Europe Rule 114, the Commission believes this proposed change would reduce the possibility for conflict and thereby clarify the governance arrangement for issuing a Termination Notice.

Therefore, the Commission finds that the proposed rule change is consistent with Rule 17Ad-22(e)(2)(i).<sup>18</sup>

*iii. Consistency With Rule 17Ad-22(e)(18)*

Rule 17Ad-22(e)(18) requires that ICE Clear Europe establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, establish objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access by direct and, where relevant, indirect participants and other financial market utilities, require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the clearing agency, and monitor compliance with such participation requirements on an ongoing basis.<sup>19</sup> As discussed above, the proposed rule change would require that Clearing Members provide, as part of the Annual Member Return, updated information about the legal entity that is the Clearing Member, such as its address and legal name. The Commission believes this requirement is an objective, risk-based, and publicly disclosed criteria for participation by Clearing Members.

Therefore, the Commission finds that the proposed rule change is consistent with Rule 17Ad-22(e)(18).<sup>20</sup>

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act<sup>21</sup> and Rules 17Ad-22(e)(2)(i) and 17Ad-22(e)(18).<sup>22</sup>

*It is therefore ordered* pursuant to section 19(b)(2) of the Act<sup>23</sup> that the proposed rule change (SR-ICEEU-2022-010) be, and hereby is, approved.<sup>24</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270-244, OMB Control No. 3235-0208]**

#### Submission for OMB Review; Comment Request; Extension: Rule 17a-1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for approval of extension of the previously approved collection of information provided for in Rule 17a-1 (17 CFR 240.17a-1) under the Securities Exchange Act of 1934, as amended (the “Act”) (15 U.S.C. 78a *et seq.*).

Rule 17a-1 requires that every national securities exchange, national securities association, registered clearing agency, and the Municipal Securities Rulemaking Board keep on file for a period of not less than five years, the first two years in an easily accessible place, at least one copy of all

documents, including all correspondence, memoranda, papers, books, notices, accounts, and other such records made or received by it in the course of its business as such and in the conduct of its self-regulatory activity, and that such documents be available for examination by the Commission.

There are 35 entities required to comply with the rule: 24 national securities exchanges, 1 national securities association, 9 registered clearing agencies, and the Municipal Securities Rulemaking Board. The Commission staff estimates that the average number of hours necessary for compliance with the requirements of Rule 17a-1 is 52 hours per year. In addition, 4 national securities exchanges notice-registered pursuant to section 6(g) of the Act (15 U.S.C. 78f(g)) are required to preserve records of determinations made under Rule 3a55-1 under the Act (17 CFR 240.3a55-1), which the Commission staff estimates will take 1 hour per exchange per year, for a total of 4 hours per year. Accordingly, the Commission staff estimates that the total number of hours necessary to comply with the requirements of Rule 17a-1 is 1,824 hours per year. The total internal cost of compliance for all respondents is \$142,272 per year, based on an average cost per hour of \$78.

Compliance with Rule 17a-1 is mandatory. Rule 17a-1 does not assure confidentiality for the records maintained pursuant to the rule. The records required by Rule 17a-1 are available only for examination by the Commission staff, state securities authorities, and the self-regulatory organizations. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522, and the Commission’s rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

<sup>21</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>22</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (e)(18).

<sup>23</sup> 15 U.S.C. 78s(b)(2).

<sup>24</sup> In approving the proposed rule change, the Commission considered the proposal’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>25</sup> 17 CFR 200.30-3(a)(12).

<sup>17</sup> 17 CFR 240.17Ad-22(e)(2)(i).

<sup>18</sup> *Id.*

<sup>19</sup> 17 CFR 240.17Ad-22(e)(18).

<sup>20</sup> *Id.*

The public may view background documentation for this information collection at the following website: [www.reginfo.gov](http://www.reginfo.gov). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Written comments and recommendations for the proposed information collection should be sent by November 28, 2022 to (i) [MBX.OMB.OIRA.SEC\\_desk\\_officer@omb.eop.gov](mailto:MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov) and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: October 24, 2022.

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96130; File No. SR–CboeBZX–2022–051]

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

October 24, 2022.

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 October 11, 2022, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website ([http://markets.cboe.com/us/equities/regulation/rule\\_filings/bzx/](http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/)), at

the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

The Exchange proposes to update its Fee Schedule for its equity options platform (“BZX Options”) to correct inadvertent marking errors in the Standard Rates table in the Fee Schedule made in connection with previous rule changes.

First, the Exchange proposes to update the Add rebates for Customer, Non-Penny Program Securities transactions (fee code “NY”) in the Standard Rates table. Initially, the Exchange submitted a rule filing in August 2021 (“August Filing”), which among other things, amended the enhanced rebates provided under the Customer Non-Penny Add Volume Tiers under Footnote 12 to range from between \$0.92 and \$1.06 per contract across 5 tiers, to between \$0.90 and \$1.05 per contract across eight tiers.<sup>3</sup> On January 4, 2022, the Exchange submitted a cleanup rule filing (“January Filing”),<sup>4</sup> to amend the Fee Schedule to reflect the new volume tier enhanced rebates that were proposed in the August Filing under the Customer Non-Penny Add Volume Tiers under Footnote 12, but inadvertently not added to the corresponding Standard Rates table for Customer, Non-Penny Program Securities Add transactions. In the January Filing however, the Exchange also inadvertently removed the standard rebate for Customer, Non-Penny Program Securities Add transactions

(which was, and still is, \$0.85) in its entirety. The Exchange now proposes to add the standard rebate of \$0.85 back in the Standard Rates table under the Non-Penny Program Securities for Add transactions for corresponding fee code “NY.”

Next, the Exchange proposes to add a reference to fee code “PD” in the Standard Rates table for Firm, Broker Dealer and Joint Back Office orders in Penny Program Securities, which are subject to a standard rate of \$0.50 per contract. On May 3, 2021, the Exchange submitted a filing (“May Filing”), which among other things, adopted new fee code “PD”.<sup>5</sup> Particularly, prior to the May Filing, fee code “PP” was appended to all Non-Customer (*i.e.*, Firm, Broker Dealer, Joint Back Office, Market Maker, Away Market Maker and Professional capacities) orders that removed liquidity in Penny securities and which were assessed a fee of \$0.50 per contract. In the May Filing, the Exchange proposed to create a remove Penny liquidity fee code specific to Firm, Broker Dealer and Joint Back Office orders (*i.e.*, fee code “PD”), which would continue to yield the same standard rate of \$0.50 per contract. The Exchange however inadvertently omitted adding new fee code “PD” to the Standard Rates table applicable to Firm Broker Dealer and Joint Back Office orders that remove volume in Penny Program Securities. The Exchange now proposes to add in the fee code “PD” in the Standard Rates table.

Next, the Exchange proposes to update the Remove fees listed for Market Maker, Away Market Maker, and Professional transactions in Penny Program Securities in the Standard Rates table. Specifically, in the previously mentioned August Filing, the Exchange also amended the reduced fees offered under Tiers 1–3 of the Market Maker, Away Market Maker, and Professional Penny Take Volume Tiers under Footnote 3 from \$0.45, \$0.45 [sic] and \$0.47 [sic] to \$0.47 [sic], \$0.48 and \$0.49 [sic] across the three tiers.<sup>6</sup> The Exchange however at that time inadvertently omitted to also update the corresponding rates listed in the Standard Rates table of the Fees Schedule applicable to Market Maker, Away Market Maker, and Professional orders that remove volume in Penny Program Securities (*i.e.*, the current Standard Rates table still only reflects

<sup>3</sup> See Securities Exchange Act Release No. 92635 (August 11, 2021), 86 FR 46028 (August 17, 2021) (SR–CboeBZX–2021–055).

<sup>4</sup> See Securities Exchange Act Release No. 93974 (January 13, 2022), 87 FR 3160 (January 20, 2022) (SR–CboeBZX–2022–002).

<sup>5</sup> See Securities Exchange Act Release No. 91831 (May 10, 2021), 86 FR 26577 (May 14, 2021) (SR–CboeBZX–2021–038).

<sup>6</sup> See Securities Exchange Act Release No. 92635 (August 11, 2021), 86 FR 46028 (August 17, 2021) (SR–CboeBZX–2021–055).

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

<sup>2</sup> 17 CFR 240.19b–4.