

associated with protected options, while offering a tailored margin approach with respect to the margin treatment for protected options.

Further, as discussed in section II. above, the proposed rule change also will expand the protected options margin requirements to unlisted, OTC options, so that these options are permitted the same margin treatment as listed options.<sup>36</sup> Amending Rule 4210 to permit the protected options treatment to apply to both listed and unlisted OTC options will benefit market participants by allowing for consistent treatment between these option types (which will be subject to the same conditions), and thereby, facilitate trading in protected options.<sup>37</sup>

Finally, FINRA stated that if the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice*,<sup>38</sup> and that the effective date will be no later than 30 days following publication of the *Regulatory Notice* announcing Commission approval of the proposed rule change.<sup>39</sup> FINRA's proposed implementation schedule is appropriate, as market participants are aware of the Cboe Approval Order and the proposed rule change will reduce burdens for customers of broker-dealers by providing them a margin exception for protected options.

Accordingly, for the foregoing reasons, the Commission finds that this proposed rule change is consistent with the Exchange Act.

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,<sup>40</sup> that the proposed rule change (SR-FINRA-2023-010) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>41</sup>

**J. Matthew DeLesDernier,**  
Deputy Secretary.

[FR Doc. 2024-05363 Filed 3-13-24; 8:45 am]

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<sup>36</sup> As discussed in section II. above, the protected option margin requirements only apply to listed options under Cboe's margin rules.

<sup>37</sup> FINRA stated it believes a small number of investors or members would choose to make use of the protected options treatment for either listed or unlisted options, and they would be limited to institutional investors. See Notice at 46206.

<sup>38</sup> See *id.* at 46205.

<sup>39</sup> See *id.* at 46205-46206.

<sup>40</sup> 15 U.S.C. 78s(b)(2).

<sup>41</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99698; File No. SR-CboeBZX-2024-006]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Amend Rule 11.9(c)(6) and Rule 11.13(a)(4)(D) To Permit the Use of BZX Post Only Orders at Prices Below \$1.00

March 8, 2024.

On January 8, 2024, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend Rule 11.9(c)(6) and Rule 11.13(a)(4)(D) to permit the use of BZX Post Only Orders at prices below \$1.00. The proposed rule change was published for comment in the **Federal Register** on January 29, 2024.<sup>3</sup> The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission will either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is March 14, 2024. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change, so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates April 26, 2024, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-CboeBZX-2024-006).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 99414 (January 23, 2024), 89 FR 5596 (January 29, 2024) (SR-CboeBZX-2024-006).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**J. Matthew DeLesDernier,**  
Deputy Secretary.

[FR Doc. 2024-05365 Filed 3-13-24; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99695; File No. SR-PEARL-2024-11]

### Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Equities Fee Schedule Regarding the NBBO Setter Plus Program

March 8, 2024.

Pursuant to the provisions of 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 February 29, 2024, MIAX PEARL, LLC ("MIAX Pearl" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a 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

The Exchange is filing a proposal to amend the fee schedule (the "Fee Schedule") applicable to MIAX Pearl Equities, an equities trading facility of the Exchange.

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-equities/pearl-equities/rule-filings>, at MIAX Pearl's principal office, 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>6</sup> 17 CFR 200.30-3(a)(57).

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

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

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 amend the Fee Schedule to adopt an alternative method for Equity Members<sup>3</sup> to achieve an enhanced rebate pursuant to the NBBO Setter Plus Program (referred to in this filing as the "NBBO Program").<sup>4</sup>

Background of the NBBO Program

In general, the NBBO Program provides enhanced rebates for Equity Members that add displayed liquidity ("Added Displayed Volume") in securities priced at or above \$1.00 per share in all Tapes based on increasing volume thresholds and increasing market quality levels (described below), and provides an additive rebate<sup>5</sup> applied to orders that set the NBB or NBO<sup>6</sup> upon entry.<sup>7</sup> The NBBO Program was implemented beginning September 1, 2023 and subsequently amended when the Exchange adopted two additional tiers of rebates, effective January 1, 2024.<sup>8</sup>

Pursuant to the NBBO Setter Plus Table in Section 1(c) of the Fee Schedule, the NBBO Program provides six volume tiers enhanced by three market quality levels to provide increasing rebates in this segment. The six volume tiers are achievable by greater volume from the best of three alternative methods. The three market quality levels are achievable by greater NBBO participation in a minimum number of specific securities (described below).

MIAX Pearl Equities first determines the applicable NBBO Program tier based

on three different volume calculation methods. The three volume-based methods to determine the Equity Member's tier for purposes of the NBBO Program are calculated in parallel in each month, and each Equity Member receives the highest tier achieved from any of the three methods each month. All three volume calculation methods are based on an Equity Member's respective ADAV,<sup>9</sup> NBBO Set Volume, or ADV, each as a percent of industry TCV<sup>10</sup> as the denominator.

Under volume calculation Method 1, the Exchange provides tiered rebates based on an Equity Member's ADAV as a percentage of TCV. An Equity Member qualifies for the base rebates in Tier 1 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.00% and less than 0.035% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 2 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.035% and less than 0.05% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 3 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.05% and less than 0.08% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 4 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.08% and less than 0.25% of TCV. An Equity Member qualifies for the enhanced

rebates in Tier 5 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.25% and less than 0.40% of TCV. Finally, an Equity Member qualifies for the enhanced rebates in Tier 6 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.40% of TCV.

Under volume calculation Method 2, the Exchange provides tiered rebates based on an Equity Member's NBBO Set Volume as a percentage of TCV. Under volume calculation Method 2, an Equity Member qualifies for the base rebates in Tier 1 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.00% and less than 0.01% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 2 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.01% and less than 0.015% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 3 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.015% and less than 0.02% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 4 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.02% and less than 0.03% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 5 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.03% and less than 0.08% of TCV. Finally, an Equity Member qualifies for the enhanced rebates in Tier 6 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.08% of TCV.

Under volume calculation Method 3, the Exchange provides tiered rebates based on an Equity Member's ADV as a percentage of TCV. An Equity Member qualifies for the base rebates in Tier 1 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.00% and less than 0.15% of TCV. An Equity Member qualifies for the

<sup>9</sup> "ADAV" means average daily added volume calculated as the number of shares added per day and "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. "NBBO Set Volume" means the ADAV in all securities of an Equity Member that sets the NBB or NBO on MIAX Pearl Equities. The Exchange excludes from its calculation of ADAV, ADV, and NBBO Set Volume shares added or removed on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours, on any day with a scheduled early market close, and on the "Russell Reconstitution Day" (typically the last Friday in June). Routed shares are not included in the ADAV or ADV calculation. See the Definitions section of the Fee Schedule.

<sup>10</sup> "TCV" means total consolidated volume calculated as the volume in shares reported by all exchanges and reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. The Exchange excludes from its calculation of TCV volume on any given day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours, on any day with a scheduled early market close, and on the "Russell Reconstitution Day" (typically the last Friday in June). See *id.*

<sup>3</sup> The term "Equity Member" is a Member authorized by the Exchange to transact business on MIAX Pearl Equities. See Exchange Rule 1901.

<sup>4</sup> See, generally, Fee Schedule, Section 1(c).

<sup>5</sup> The Exchange does not propose to amend the NBBO Setter Additive Rebate, which is an additive rebate of (\$0.0003) per share for executions of orders in securities priced at or above \$1.00 per share that set the NBB or NBO on MIAX Pearl Equities with a minimum size of a round lot. See Fee Schedule, Section 1(c).

<sup>6</sup> With respect to the trading of equity securities, the term "NBB" shall mean the national best bid, the term "NBO" shall mean the national best offer, and the term "NBBO" shall mean the national best bid and offer. See Exchange Rule 1901.

<sup>7</sup> See *supra* note 4.

<sup>8</sup> See Securities Exchange Act Release Nos. 98472 (September 21, 2023), 88 FR 66533 (September 27, 2023) (SR-PEARL-2023-45) and 99318 (January 11, 2024), 89 FR 3488 (January 18, 2024) (SR-PEARL-2023-73).

enhanced rebates in Tier 2 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.15% and less than 0.18% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 3 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.18% and less than 0.20% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 4 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.20% and less than 0.60% of TCV. Finally, an Equity Member qualifies for the enhanced rebates in Tier 5 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.60% and less than 1.00% of TCV. Finally, an Equity Member qualifies for the enhanced rebates in Tier 6 for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 1.00% of TCV.

After the volume calculation is performed to determine highest tier achieved by the Equity Member, the applicable rebate is calculated based on two different measurements based on the Equity Member's participation at the NBBO on the Exchange in certain securities (referenced below).

The Exchange provides one column of base rebates (referred to in the NBBO Program table as "Level A") and two columns of enhanced rebates (referred to in the NBBO Program table as "Level B" and "Level C"),<sup>11</sup> depending on the Equity Member's Percent Time at

<sup>11</sup> For the purpose of determining qualification for the rebates described in Level B and Level C of the Market Quality Tier columns in the NBBO Setter Plus Program, the Exchange will exclude from its calculation: (1) any trading day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours; (2) any day with a scheduled early market close; and (3) the "Russell Reconstitution Day" (typically the last Friday in June). See the Definitions section of the Fee Schedule.

NBBO<sup>12</sup> on MIAX Pearl Equities in a certain amount of specified securities ("Market Quality Securities" or "MQ Securities").<sup>13</sup> The NBBO Setter Plus Table specifies the percentage of time that the Equity Member must be at the NBB or NBO on MIAX Pearl Equities in at least 200 symbols out of the full list of 1,000 MQ Securities (which symbols may vary from time to time based on market conditions). The list of MQ Securities is generally based on the top multi-listed 1,000 symbols by ADV across all U.S. securities exchanges. The list of MQ Securities is updated monthly by the Exchange and published on the Exchange's website.<sup>14</sup>

The base rebates ("Level A") are as follows: (\$0.00240)<sup>15</sup> per share in Tier 1; (\$0.00290) per share in Tier 2; (\$0.00300) per share in Tier 3; (\$0.00310) per share in Tier 4; (\$0.00345) per share in Tier 5; and (\$0.00350) per share in Tier 6. Under Level B, the Exchange provides enhanced rebates for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes if the Equity Member's Percent Time at NBBO is at least 25% and less than 50% in at least 200 MQ Securities per trading day during the month. The Level B rebates are as follows: (\$0.00250) per share in Tier 1; (\$0.00295) per share in Tier 2; (\$0.00305) per share in Tier 3; (\$0.00315) per share in Tier 4; (\$0.00350) per share in Tier 5; and (\$0.00355) per share in Tier 6. Under

<sup>12</sup> "Percent Time at NBBO" means the aggregate of the percentage of time during regular trading hours where a Member has a displayed order of at least one round lot at the national best bid ("NBB") or national best offer ("NBO"). See *id.*

<sup>13</sup> "Market Quality Securities" or "MQ Securities" shall mean a list of securities designated as such, that are used for the purposes of qualifying for the rebates described in Level B and Level C of the Market Quality Tier columns in the NBBO Setter Plus Program. The universe of these securities will be determined by the Exchange and published on the Exchange's website. See *id.*

<sup>14</sup> See e.g., MIAX Pearl Equities Exchange—Market Quality Securities (MQ Securities) List, effective February 1 through February 29, 2024, available at <https://www.miaxglobal.com/markets/us-equities/pearl-equities/fees> (last visited February 26, 2024).

<sup>15</sup> Rebates are indicated by parentheses. See the General Notes section of the Fee Schedule.

Level C, the Exchange provides enhanced rebates for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume across all Tapes if the Equity Member's Percent Time at NBBO is at least 50% in at least 200 MQ Securities per trading day during the month. The Level C rebates are as follows: (\$0.00260) per share in Tier 1; (\$0.00300) per share in Tier 2; (\$0.00310) per share in Tier 3; (\$0.00320) per share in Tier 4; (\$0.00355) per share in Tier 5; and (\$0.00360) per share in Tier 6.

Proposal To Adopt Alternative Method To Achieve Tier 5, Level C Rebate for the NBBO Program

The Exchange proposes to amend the NBBO Setter Plus Table in Section 1(c) of the Fee Schedule to adopt an alternative method for Equity Members to qualify for the Tier 5, Level C rebate of (\$0.00355) per share for the NBBO Program. In particular, the Exchange proposes to adopt new footnote 4 below the NBBO Setter Plus table, which will provide that an Equity Member may qualify for the enhanced rebate of Tier 5, Level C via an alternative method by satisfying the following three requirements in the relevant month: (1) Midpoint ADAV<sup>16</sup> of at least 2,500,000 shares; (2) Displayed ADAV of at least 10,000,000 shares; and (3) Percent Time at the NBB or NBO of at least 50% in 200 or more symbols from the list of MQ Securities. The volume calculation tier thresholds and rebate levels will remain unchanged.

<sup>16</sup> Midpoint ADAV means the ADAV for the current month consisting of Midpoint Peg Orders in securities priced at or above \$1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange. A Midpoint Peg Order is a non-displayed Limit Order that is assigned a working price pegged to the midpoint of the PBBO. A Midpoint Peg Order receives a new timestamp each time its working price changes in response to changes in the midpoint of the PBBO. See Exchange Rule 2614(a)(3). With respect to the trading of equity securities, the term "Protected NBB" or "PBB" shall mean the national best bid that is a Protected Quotation, the term "Protected NBO" or "PBO" shall mean the national best offer that is a Protected Quotation, and the term "Protected NBBO" or "PBBO" shall mean the national best bid and offer that is a Protected Quotation. See Exchange Rule 1901.

The purpose of adding an alternative method for Equity Members to achieve the enhanced Tier 5, Level C rebate is for business and competitive reasons in light of recent volume growth on the Exchange. The Exchange believes the proposed alternative method for Equity Members to achieve the enhanced rebate of Tier 5, Level C of the NBBO Program is a reasonable means to incentivize additional liquidity at the midpoint of the Protected NBBO and Added Displayed Volume, which in turn should increase the attractiveness of the Exchange as a destination venue as Equity Members seeking price improvement would be more motivated to direct their orders to the Exchange because they would have a heightened expectation of the availability of liquidity at the midpoint of the Protected NBBO.

The Exchange notes that the base rebates, enhanced rebates and volume requirements of the NBBO Program remain competitive with, or better than, the rebates and volume requirements provided by other exchanges for executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to those exchanges.<sup>17</sup>

#### Implementation

The proposed changes are effective beginning March 1, 2024.

#### 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>18</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>19</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Equity Members and issuers and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>20</sup> requirement that the rules of an exchange not be designed to permit

unfair discrimination between customers, issuers, brokers or dealers.

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of sixteen registered equities exchanges, and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange had more than approximately 15–16% of the total market share of executed volume of equities trading for the month of January 2024.<sup>21</sup> Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange represented approximately 1.90% of the overall market share for the month of January 2024. The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and also recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>22</sup>

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange’s transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would

enhance liquidity and market quality in both a broad manner and in a targeted manner with respect to the MQ Securities and the modified NBBO Program.

The Exchange believes that the proposal to add an alternative method for Equity Members to achieve the enhanced rebate in Tier 5, Level C of the NBBO Program provides a reasonable means to continue to encourage Equity Members to not only increase their order flow to the Exchange but also to contribute to price discovery and market quality on the Exchange by submitting aggressively priced displayed liquidity (including Midpoint Peg Orders) in securities priced at or above \$1.00 per share. The Exchange believes that the NBBO Program, as modified with this proposal, continues to be equitable and not unfairly discriminatory because it is open to all Equity Members on an equal basis and provides enhanced rebates that are reasonably related to the value of the Exchange’s market quality associated with greater order flow by Equity Members that set the NBBO, and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes the proposal is equitable and not unfairly discriminatory because it is designed to incentivize the entry of aggressively priced displayed liquidity that will create tighter spreads, thereby promoting price discovery and market quality on the Exchange to the benefit of all Equity Members and public investors.

The Exchange believes that the proposal is reasonable because it is designed to incentivize market participants to direct additional order flow to the Exchange, which should enhance the Exchange’s market quality and provide price improvement through the use of orders that are designed to execute at the midpoint of the Protected NBBO as part of the alternative method requirements to achieve the enhanced rebate of Tier 5, Level C of the NBBO Program.<sup>23</sup> The Exchange believes its proposal will promote price improvement and increased liquidity on the Exchange, which will benefit all market participants.

The Exchange believes that its proposal is reasonable and not unfairly discriminatory because the base rebates,

<sup>17</sup> See Cboe BZX Equities Fee Schedule, Add/Remove Volume Tiers section, available at [https://www.cboe.com/us/equities/membership/fee\\_schedule/bzx/](https://www.cboe.com/us/equities/membership/fee_schedule/bzx/) (providing an enhanced rebate in Tier 4 of (\$0.0028) per share for executions of added displayed volume in securities priced at or above \$1.00 per share, so long as the member meets all three volume requirements, including minimum NBBO Time and NBBO Size requirements from a list of specified securities); see also NYSE Arca Equities Fee Schedule, available at [https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE\\_Arca\\_Marketplace\\_Fees.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf) (providing standard rebates of (\$0.0020) per share (Tapes A and C) and (\$0.0016) per share (Tape B) for adding displayed liquidity in securities priced at or above \$1.00 per share).

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(4).

<sup>20</sup> 15 U.S.C. 78f(b)(5).

<sup>21</sup> See the “Market Share” section of the Exchange’s website, available at <https://www.miaxglobal.com/> (last visited February 26, 2024).

<sup>22</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

<sup>23</sup> The Exchange notes that Equity Members that do not satisfy the higher Midpoint ADAV requirement of the proposed alternative method (*i.e.*, Midpoint ADAV of at least 2,500,000 shares) for the enhanced rebate in Tier 5, Level C of the NBBO Program may still qualify for other enhanced rebates applicable to Equity Members that satisfy lower Midpoint ADAV requirements of the Midpoint Peg Order Adding Liquidity at Midpoint Volume Tiers table. See Fee Schedule, Section 1(e).

enhanced rebates and volume requirements of the NBBO Program remain competitive with, or better than, the rebates and volume requirements provided by other exchanges for executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to those exchanges.<sup>24</sup>

#### *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.

#### *Intra-Market Competition*

The Exchange believes the proposed rule change does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed alternative method for Equity Members to achieve the enhanced rebate of Tier 5, Level C of the NBBO Program will be eligible to all Equity Members equally in that all Equity Members have the opportunity to participate and therefore qualify for the proposed enhanced rebate via the proposed alternative method. Furthermore, the Exchange believes that the NBBO Program, as modified by this proposal, will continue to incentivize Equity Members to submit additional aggressively priced displayed liquidity to the Exchange, and to increase their order flow on the Exchange generally, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. The Exchange believes that this, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Equity Members by providing more trading opportunities and encourages Equity Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants.

#### *Intermarket Competition*

The Exchange believes its proposal will benefit competition, and the Exchange notes that it operates in a highly competitive market. Equity Members have numerous alternative venues they may participate on and direct their order flow to, including fifteen other equities exchanges and

numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently had more than 15–16% of the total market share of executed volume of equities trading for the month of January 2024.<sup>25</sup> Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow in response to new or different pricing structures being introduced to the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates generally, including with respect to executions of Added Displayed Volume, and market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and self-regulatory organization ("SRO") revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>26</sup> The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. circuit stated: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . .".<sup>27</sup> Accordingly, the Exchange does not believe its proposed pricing changes

impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>28</sup> and Rule 19b-4(f)(2)<sup>29</sup> thereunder. 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-PEARL-2024-11 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-PEARL-2024-11. 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

<sup>25</sup> See *supra* note 21.

<sup>26</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

<sup>27</sup> *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR-NYSE-2006-21)).

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

<sup>29</sup> 17 CFR 240.19b-4(f)(2).

<sup>24</sup> See *supra* note 17.

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-PEARL-2024-11 and should be submitted on or before April 4, 2024.

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

**J. Matthew DeLesDernier,**  
Deputy Secretary.

[FR Doc. 2024-05362 Filed 3-13-24; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-99697; File No. SR-CboeBYX-2024-003]

**Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 11.9(c)(6) and Rule 11.13(a)(4)(D) To Permit the Use of BYX Post Only Orders at Prices Below \$1.00**

March 8, 2024.

On January 8, 2024, Cboe BYX Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend Rule 11.9(c)(6) and Rule 11.13(a)(4)(D) to permit the use of BYX Post Only Orders at prices below \$1.00. The proposed rule change was published for comment in the **Federal Register** on January 29,

2024.<sup>3</sup> The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission will either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is March 14, 2024. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change, so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates April 26, 2024, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-CboeBYX-2024-003).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**J. Matthew DeLesDernier,**  
Deputy Secretary.

[FR Doc. 2024-05364 Filed 3-13-24; 8:45 am]

**BILLING CODE 8011-01-P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #20192 and #20193; NEW YORK Disaster Number NY-20008]

**Administrative Declaration of a Disaster for the State of New York**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of New York dated 03/11/2024.

*Incident:* Severe Storms and Flooding.  
*Incident Period:* 01/09/2024 through 01/10/2024.

**DATES:** Issued on 03/11/2024.

<sup>3</sup> See Securities Exchange Act Release No. 99413 (January 23, 2024), 89 FR 5582 (January 29, 2024) (SR-CboeBYX-2024-003).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(57).

*Physical Loan Application Deadline Date:* 05/10/2024.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/11/2024.

**ADDRESSES:** Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

**FOR FURTHER INFORMATION CONTACT:** Vanessa Morgan, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal <https://lending.sba.gov> or other locally announced locations. Please contact the SBA disaster assistance customer service center by email at [disastercustomerservice@sba.gov](mailto:disastercustomerservice@sba.gov) or by phone at 1-800-659-2955 for further assistance.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Suffolk

*Contiguous Counties:*

New York: Nassau

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere .....	5.375
Homeowners without Credit Available Elsewhere .....	2.688
Businesses with Credit Available Elsewhere .....	8.000
Businesses without Credit Available Elsewhere .....	4.000
Non-Profit Organizations with Credit Available Elsewhere ...	3.250
Non-Profit Organizations without Credit Available Elsewhere .....	3.250
<i>For Economic Injury:</i>	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere .....	4.000
Non-Profit Organizations without Credit Available Elsewhere .....	3.250

The number assigned to this disaster for physical damage is 201926 and for economic injury is 201930.

The State which received an EIDL Declaration is New York.

(Catalog of Federal Domestic Assistance Number 59008)

**Isabella Guzman,**  
Administrator.

[FR Doc. 2024-05452 Filed 3-13-24; 8:45 am]

**BILLING CODE 8026-09-P**

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

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

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