operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) [13] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[15] the Commission may 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 upon filing. The Exchange requested the waiver because it intended to decommission the ETF Implied Liquidity feed effective August 8, 2023, and eliminate such references from the Exchange's rulebook to alleviate potential confusion as to what data products the Exchange currently offers. Because the proposed rule change does not raise any novel legal or regulatory issues, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[16]

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.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). 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.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] 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).

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–CboeBZX–2023–059 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–CboeBZX–2023–059. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2023–059 and should be submitted on or before September 15, 2023.

[17] 17 CFR 200.30–3(a)(12), (59).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–18303 Filed 8–24–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98184; File No. SR–MRX–2023–14]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 3, Section 15 (Simple Order Risk Protections) To Adopt an Active Quote Protection

August 21, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 11, 2023, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''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

The Exchange proposes to amend Options 3, Section 15 (Risk Protections) to adopt an active quote protection.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rules,* 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 the proposed rule change is to adopt an active risk counter functionality called active quote protection (''Active Quote Protection'') in Options 3, Section 15. The Exchange intends to begin implementation prior to December 20, 2024, and will provide prior notice of the implementation date to Members in an Options Trader Alert.

The Exchange proposes to offer an optional active risk counter functionality called Active Quote Protection, which will be available to Market Makers as an alternative to existing passive risk counter functionality described in Options 3, Section 15(a)(3)(B) (*i.e.,* ''Automated Quotation Adjustments'').[3] The proposed Active Quote Protection functionality will be similar to existing active risk counter functionality on another options exchange, which currently allows exchange users to actively decrement the risk counter by a specified amount at any time, rather than waiting until a risk limit is reached or the user otherwise sends a specific instruction to the exchange to completely reset the counting program.[4]

Today, the Exchange requires Market Makers to configure risk exposure thresholds based on various metrics for each options class, including percentage of executed quotes (''Percentage Threshold''), total number of executed contracts (''Volume Threshold''), absolute value of the difference between long and short positions (''Delta Threshold''), and absolute value of the difference between contracts bought and contracts sold (''Vega Threshold'') (collectively, ''Thresholds'').[5] As set forth in Options 3, Section 15(a)(3)(B)(i), the System tracks each Threshold with a corresponding risk counter over a Market Maker-specified rolling time period not to exceed 30 seconds. Furthermore, Section 15(a)(3)(B)(i) and (ii) describes that when a risk counter exceeds the corresponding Threshold during the specified time period, the System would automatically remove the Market Maker's quotes in all series of the applicable options class (each, a ''Purge Event''). As a result of a Purge Event, the corresponding risk counter and Threshold would reset upon such removal. The Exchange also notes that pursuant to Section 15(a)(3)(B)(iii) today, the Thresholds and risk counters can be completely reset if the Market Maker specifically requests the System to remove quotes in all series of an options class. This risk protection is passive in that the risk counters wait to reset until the expiry of a specified time period, a Purge Event, or when the Market Maker otherwise sends a specific instruction to the Exchange to remove quotes to completely reset the counters.

The Exchange now proposes to introduce a new risk protection called Active Quote Protection that would enable Market Makers to actively manage their executed contract limit (''Contract Limit'') by sending an electronic instruction to the Exchange to decrement their executed contract limit counter (''Limit Counter'') by a specified amount at any time, rather than waiting until the expiry of a defined time period, when the risk limit is exceeded (like a Purge Event), or when the Market Maker otherwise sends a specific instruction to purge quotes to completely reset the risk counter. The Contract Limit, as set by the Market Maker, would apply for the duration of the trading day. Once the Market Maker's Limit Counter exceeds the Contract Limit set by the Market Maker, the System would automatically remove quotes in all series of the applicable options class submitted through the Exchange's Specialized Quote Feed protocol,[6] identical to how the quote removal mechanism works for a Purge Event today.[7] Today, Purge Events are triggered under the existing Automated Quotation Adjustments on the first execution that exceeds the applicable Threshold. Once an execution occurs, the System checks all Thresholds to see if they have been exceeded. If exceeded, the Market Maker's quote would be purged pursuant to Options 3, Section 15(a)(3)(B)(iii). In order to remain consistent with the firm quote obligations of a broker-dealer pursuant to Rule 602 of Regulation NMS, any marketable orders or quotes that are executable against a Market Maker's quotes that are received[8] prior to the time the applicable Threshold is triggered will be automatically executed up to the size of the Market Maker's quote, regardless of whether the execution would cause the Market Maker to exceed their pre-set Percentage Threshold, Volume Threshold, Delta Threshold, or Vega Threshold.[9]

Under Active Quote Protection, the System would similarly handle the Market Maker's quote in that the quote could be filled one execution over the Contract Limit before the Market Maker's remaining quotes are cancelled by the System in order to be consistent with the firm quote obligations under Rule 602 of Regulation NMS. Specifically, the Exchange notes that any marketable orders or quotes that are executable against a Market Maker's quotes that are received[10] prior to the time the Contract Limit is triggered will be automatically executed up to the size of the Market Maker's quote, regardless of whether the execution would cause the Market Maker to exceed the Contract Limit.[11]

Additionally, under Active Quote Protection, Market Makers will be able to submit a request (i) to decrement their Limit Counter by a specified number of contracts, or (ii) to fully decrement their Limit Counter to zero.[12] Market Makers that elect to use the proposed Active Quote Protection on a

[3] As described below, the Exchange will specifically define this passive risk counter functionality as ''Rapid Fire'' within this Rule.

[4] *See* MEMX LLC (''MEMX'') Rule 21.16(b) (Active Risk Counter). *See also* Securities Exchange Act Release No. 95445 (August 8, 2022), 87 FR 49894 (August 12, 2022) (SR–MEMX–2022–10). Similar to the proposed Active Quote Protection, the active risk counter on MEMX is voluntary and offers a way for users to proactively manage their risk. The MEMX risk protection, however, allows the user to actively manage all the risk limits specified in MEMX's rule (*e.g.,* executed contracts, notional value, etc.) whereas the Exchange's proposal would allow Market Makers to actively manage executed contracts only, as discussed later in this filing. In addition, the Exchange's proposal will only apply to quotes whereas MEMX's functionality applies to both orders and quotes.

[5] The Thresholds are described in detail in Options 3, Section 15(a)(3)(B)(i)(a)–(d). If a Market Maker does not provide a parameter for each Threshold, the Exchange will apply default parameters announced to Members.

[6] Specialized Quote Feed or ''SQF'' is an interface that only Market Makers may use to submit quotes to the Exchange. *See* Supplementary Material .03(c) to Options 3, Section 7.

[7] *See* Options 3, Section 15(a)(3)(B)(ii) (renumbered as Section 15(a)(3)(B)(iii) under this proposal, as noted below).

[8] The time of receipt for an order or quote is the time such message is processed by the Exchange's order book.

[9] *See* current Options 3, Section 15(a)(3)(B)(ii)(b). The Exchange will renumber this as Section 15(a)(3)(B)(iii)(b) and clarify this provision in the manner described later in this filing.

[10] *See supra* note 8.

[11] For both the current Automated Quotation Adjustments and proposed Active Quote Protection, the System will execute marketable interest up to the size of the Market Maker's quote, but cannot guarantee interest will be fully executed, as is the case with any execution in the Exchange's order book. There is always the possibility that the Market Maker's quote size (and/or Market Maker's quote plus other interest on the order book) may not be sufficient volume to fill the incoming interest.

[12] As discussed later in this filing, in order to re-enter the System after their quotes are purged pursuant to the Active Quote Protection, Market Makers will need to submit the same request to fully decrement their Limit Counter to zero.

badge[13] will not be able to use the existing Threshold risk protections described above on the same badge (*i.e.,* the active and passive risk counter functionality would be mutually exclusive per badge) given that it would be unnecessarily complex to implement from a technology standpoint. Market Makers may be associated with multiple badges today, so if they want to use both risk protections for their activity on the Exchange, they will be able to set either the active or passive risk counter functionality on each one.

To effectuate the foregoing changes, the Exchange proposes to set forth the new risk protection in subparagraph (B)(ii) of Options 3, Section 15(a)(3), as follows:[14]

In lieu of Rapid Fire, a Market Maker may provide an executed contract limit (''Contract Limit'') that, if exceeded, the System will automatically remove the Market Maker's quotes in all series of an options class submitted through SQF. The System will apply the Contract Limit for the duration of the trading day. For each class of options, the System will maintain an active limit counter that will track the current number of contracts executed through the Market Maker's quotes (''Limit Counter''). If the Limit Counter exceeds the Contract Limit established by the Market Maker, the System will automatically remove the Market Maker's quotes as described in Section 15(a)(3)(B)(iii). Market Makers may submit a request (i) to decrement their Limit Counter by a specified number of contracts, or (ii) to fully decrement their Limit Counter to zero, including to re-enter the System as described in Section 15(a)(3)(B)(v). For Market Makers that elect to utilize the Contract Limit, the Percentage Threshold, Volume Threshold, Delta Threshold, and Vega Threshold will not be available for use on the Market Maker's badge.

As described above, once the Limit Counter exceeds the Contract Limit set by the Market Maker under the proposed Active Quote Protection, the System would automatically remove quotes in the same manner as currently specified for a Purge Event in proposed subparagraph (B)(iii) of Options 3, Section 15(a)(3). Accordingly, the Exchange proposes to add Active Quote Protection's Contract Limit throughout this Rule. Specifically, proposed subparagraph (B)(iii) will provide that the System will automatically remove quotes in all series of an options class when the Percentage Threshold, Volume Threshold, Delta Threshold, Vega Threshold, or Contract Limit has been exceeded. The System will send a Purge Notification Message to the Market Maker for all affected series when the above thresholds have been exceeded. Proposed subparagraph (B)(iii)(a) will provide that the Percentage Threshold, Volume Threshold, Delta Threshold, Vega Threshold, and Contract Limit are considered independently of each other.

Further, as discussed above, any marketable orders or quotes that are executable against a Market Maker's quotes that are received[15] prior to the time the applicable Threshold or Contract Limit is triggered will be automatically executed up to the size of the Market Maker's quote, even if such execution would cause the Market Maker to exceed any of their pre-set risk limits with respect to any of the foregoing risk parameters. The Exchange notes that the current related Rule in sub-paragraph (B)(ii)(b)(3) only mentions that quotes will execute up to the Market Maker's size, and is silent on marketable orders. In addition, the current Rule does not specify the time of receipt of such marketable interest that is executable against the size of the Market Maker's quote. As such, the Exchange proposes to add this specificity in proposed sub-paragraph (B)(iii)(b)(3) to better describe how the System operates today for Automated Quotation Adjustments and how the System will operate for proposed Active Quote Protection. In particular, sub-paragraph (B)(iii)(b)(3) will provide:

> The System will execute any marketable orders or quotes that are executable against a Market Maker's quote and received prior to the time the Percentage Threshold, Volume Threshold, Delta Threshold, Vega Threshold, or Contract Limit is triggered up to the size of the Market Maker's quote, even if such execution results in executions in excess of the Market Maker's applicable Threshold or Contract Limit with respect to any parameter.

In addition, when the System removes quotes as a result of exceeding the Contract Limit under Active Quote Protection, the Exchange proposes to require the Market Maker to submit a request to re-enter the System. This request will be the same type of message as the request described in proposed subparagraph (B)(ii) where the Market Maker must request to fully decrement their Limit Counter back to zero in order to re-enter the System. This requirement will be added in proposed subparagraph (B)(v) of Options 3, Section 15(a)(3), and will be similar to how the existing quote purge mechanism works for the Thresholds today, except the Market Maker needs to send a separate message (*i.e.,* a re-entry indicator) to re-enter the System when their quotes are purged as a result of exceeding any of the existing Thresholds.

Similar to how default parameters are currently applied for each of the existing Thresholds described above, the Exchange proposes to apply a default parameter for the Active Quote Protection Contract Limit (which would be announced to Members) if the Market Maker opting to use Active Quote Protection does not provide a Contract Limit at the outset.[16] Accordingly, proposed subparagraph (B)(vi) will provide that if a Market Maker does not provide a parameter for each of the automated quotation removal protections described in (B)(i)(a)–(d) and (B)(ii) above, the Exchange will apply default parameters, which are announced to Members.

The Exchange also proposes that the new Active Quote Protection would leverage the existing market-wide speed bump (''MWSB'') functionality currently set forth in Options 3, Section 15(a)(3)(B)(vi) (renumbered as Section 15(a)(3)(B)(vii) under this proposal). Today, MWSB is a risk protection offered alongside the current Automated Quotation Adjustments and triggers when, during a time period established by the Market Maker, the total number of Purge Events exceeds a market-wide parameter provided to the Exchange by the Market Maker. When MWSB is triggered, the Exchange automatically purges the Market Maker's quotes in all classes, and the Market Maker must request re-entry to the System by contacting the Exchange's Operations Department. Today, MWSB is meant to provide Market Makers with protection from the risk of multiple executions across multiple series of an option or across multiple options. This risk protection recognizes that risk to Market Makers is not limited to a single series in an option or even to all series in an option; Market Makers that quote in multiple series of multiple options have significant exposure, requiring them to offset or hedge their overall positions. Market Makers are required to continuously quote in assigned options, and quoting across many series in an option or multiple options creates the possibility of executions that can create large, unintended principal positions that could expose Market Makers to

[13] A ''badge'' shall mean an account number, which may contain letters and/or numbers, assigned to Market Makers. A Market Maker account may be associated with multiple badges. *See* Options 1, Section 1(a)(5).

[14] As a result, the Exchange will also renumber existing subparagraphs (B)(ii)–(vi) as proposed subparagraphs (B)(iii)–(vii).

[15] *See supra* note 8.

[16] The Exchange will initially set the default Contract Limit at 100 contracts.

unnecessary risk. MWSB is therefore intended to assist Market Makers in managing their market risk by tracking the number of Purge Events relative to the market-wide parameter set by the Market Maker. The Exchange believes that tracking the number of Active Quote Protection Purge Events for a Market Maker against its MWSB market-wide parameter would be similarly useful for managing market risk.

To that end, the Exchange proposes to update MWSB to add purge events under Active Quote Protection to the MWSB counter such that Active Quote Protection purge events and Purge Events under the current Automated Quotation Adjustments will be aggregated together as counting toward the specified market-wide parameter. Accordingly, the Exchange proposes to add references to the Active Quote Protection rule (*i.e.,* proposed subparagraph (B)(ii) of Options 3, Section 15(a)(3)) throughout the MWSB rule in proposed subparagraph (B)(vii), specifically:

In addition to the automated quotation removal protections described in (B)(i)(a)–(d) and (B)(ii) above, a Market Maker must provide a market wide parameter by which the Exchange will automatically remove a Market Maker's quotes in all classes when, during a time period established by the Market Maker, the total number of quote removal events specified in (B)(i)(a)–(d) and (B)(ii) exceeds the market wide parameter provided to the Exchange by the Market Maker. Market Makers must request the Exchange enable re-entry by contacting the Exchange's Operations Department.

The following example illustrates the proposed behavior of the Active Quote Protection risk protection:

Market Maker AAPL

Contract Limit: 100.

• Market Maker trades a transaction for 10 contracts in AAPL; Limit Counter goes from 0 to 10.

• Market Maker sends a request to decrement its Limit Counter in AAPL for 10 contracts; Limit Counter goes from 10 to 0.

• Market Maker trades a transaction for 20 contracts in AAPL; Limit Counter goes from 0 to 20.

• Market Maker trades a transaction for 50 contracts in AAPL; Limit Counter goes from 20 to 70.

• Market Maker sends a request to decrement its Limit Counter in AAPL for 20 contracts; Limit Counter goes from 70 to 50.

• Market Maker trades a transaction for 60 contracts in AAPL; Limit Counter goes from 50 to 110 and all Market Maker quotes in AAPL are automatically purged after the execution because the Limit Counter exceeded the Market Maker's Contract Limit of 100 executed contracts.

• At this point, the Market Maker must send a request to fully decrement its Limit Counter in AAPL back to zero in order to begin quoting again.

The following example illustrates how MWSB will work with the proposed Active Quote Protection functionality:

• Assume Market Maker in AAPL and SPY has Automated Quotation Adjustments set for AAPL and Active QP set for SPY.

• Market Maker sets its MWSB market-wide parameter so that it is triggered at 25 purge events within a 20 second time period.

• On a given trading day, if an Active Quote Protection Purge Event is triggered 15 times in SPY and an Automated Quotation Adjustment Purge Event is triggered 10 times in AAPL, all within 20 seconds, then the Exchange will automatically remove all of the Market Maker's quotes AAPL and SPY.

Technical Amendments

The Exchange proposes a few technical, non-substantive amendments in Options 3, Section 15(a)(3)(B). With the addition of the new Active Quote Protection rule in proposed subparagraph (B)(ii), the Exchange proposes to renumber existing subparagraphs (B)(ii)–(vi) as proposed subparagraphs (B)(iii)–(vii) and make related changes to update existing cross-cites within Section 15(a)(3)(B). The Exchange also proposes to title subparagraph (B)(i) as ''Rapid Fire'' and subparagraph (B)(vii) as ''Market-Wide Speed Bump'' to more clearly identify which rules apply to which risk protections.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[17] in general, and furthers the objectives of section 6(b)(5) of the Act,[18] in particular, in that it is designed to promote just and equitable principles of trade, 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 Exchange believes that the proposed Active Quote Protection risk protection is consistent with the Act because it will enhance the risk protection tools available to Market Makers by introducing a new method of establishing and monitoring for risk parameters that will be offered as an alternative to existing Rapid Fire risk parameters, thereby supporting a Market Maker's ability to manage their risk on the Exchange, and also providing them with flexibility to use additional tools to manage risk. As noted above, while the passive (Rapid Fire) and active (Active QP) risk counter functionality will be mutually exclusive on each badge, Market Makers will still be able to use both to cover their activity on the Exchange by getting multiple badges and setting each risk counter by badge. The Exchange believes that offering more risk management tools to Market Makers would mitigate their exposure to excessive risk. The Exchange further believes that having the new Active Quote Protection functionality leverage the existing MWSB functionality will similarly support a Market Maker's ability to manage their risk on the Exchange by including Active Quote Protection purge events to the MWSB counter. As noted above, the risk to Market Makers is not limited to a single series in an option or even multiple series in an option as Market Makers that quote in multiple series of multiple options have significant exposure, requiring them to offset or hedge their overall positions. Market Makers are required to continuously quote in assigned options, and quoting across many series in an option or multiple options creates the possibility of executions that can create large, unintended principal positions that could expose Market Makers to unnecessary risk. Today, MWSB is designed to assist Market Makers in managing their market risk by tracking the number of Purge Events relative to the market-wide parameter set by the Market Maker. The Exchange therefore believes that tracking the number of Active Quote Protection purge events for a Market Maker against its MWSB market-wide parameter would be similarly useful for managing market risk so that they can provide deep and liquid markets to the benefit of all investors. Ultimately, the Exchange believes that providing Market Makers with additional tools in the manner described above to manage their risk parameters serves to perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest because Market Makers will be better able to manage risks with these tools.

With regard to the impact of this proposal on system capacity, the Exchange notes that it has analyzed its capacity and represents that it and the

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

Options Price Reporting Authority have the necessary systems capacity to handle any potential additional traffic associated with the proposed rule change. The Exchange believes that its members will not have a capacity issue as a result of this proposal.

The Exchange further represents that its proposal will continue to operate consistently with the firm quote obligations of a broker-dealer pursuant to Rule 602 of Regulation NMS. Specifically, any marketable interest that is executable against a Market Maker's quotes that are received [19] by the Exchange prior to the time this functionality is triggered will be automatically executed at the price up to the Market Maker's size, regardless of whether such execution results in executions in excess of the Market Maker's pre-set Contract Limit.[20] As discussed above, this is also in line with how current Rapid Fire operates today. The Exchange believes that the proposed changes in proposed sub-paragraph (B)(iii)(b) to specify that this Rule will apply to marketable orders and quotes (currently silent on marketable orders), and to specify the time of receipt of such marketable interest that is executable against the size of the Market Maker's quote, will promote clarity in how the System currently operates for Rapid Fire and will operate for Active Quote Protection.

As noted above, the proposed Active Quote Protection functionality is similar to existing active risk counter functionality on another options exchange, which currently allows users to actively decrement the risk counter by a specified amount at any time, rather than waiting until a risk limit is reached or the user otherwise sends a specific instruction to the exchange to completely reset the counting program.[21]

Technical Amendments

The Exchange believes that the technical amendments in Options 3, Section 15(a)(3)(B) described above are consistent with the Act because they will promote clarity in the rules and make the Rulebook easier to navigate for market participants by updating rule numbering and existing cross-cites as described above. Furthermore, the Exchange also believes that adding the defined terms for Rapid Fire and MWSB in the rule text will promote clarity so that Members can more easily locate the relevant functionalities in the Rulebook.

[19] *See supra* note 8.

[20] *See* proposed subparagraph (B)(iii)(b) of Options 3, Section 15(a)(3).

[21] *See supra* note 4.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed Active Quote Protection functionality will impose any undue burden on intra-market competition as it is aimed at mitigating exposure to excessive risk when trading on the Exchange. While the Exchange will offer the proposed functionality to Market Makers only, the proposed risk protection is intended to provide Market Makers with an additional tool to manage their risk parameters in a manner they deem appropriate. As such, the Exchange believes that the proposed functionality may facilitate Market Makers' provision of liquidity on the Exchange, thereby benefitting all market participants through additional execution opportunities at potentially improved prices.

The Exchange also believes that its Active Quote Protection proposal does not impose an undue burden on inter-market competition as the proposed risk protection is similar to an existing risk protection on MEMX [22] as described above, and any options market could adopt similar rules.

Lastly, the Exchange does not believe that the proposed technical amendments in Options 3, Section 15(a)(3)(B) will impose an undue burden on competition as these are non-substantive changes to promote clarity in the rules and make the Rulebook easier to navigate for market participants.

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

No written comments were either solicited or received.

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 [23] and subparagraph (f)(6) of Rule 19b–4 thereunder.[24]

[22] *See supra* note 4.

[23] 15 U.S.C. 78s(b)(3)(A)(iii).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MRX–2023–14 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–MRX–2023–14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public

[24] 17 CFR 240.19b–4(f)(6). 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 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.

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–MRX–2023–14 and should be submitted on or before September 15, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98183; File No. SR–CboeBZX–2023–060]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Eliminate Reference to the ETF Implied Liquidity Feed and Corresponding Fees

August 21, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 8, 2023, 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'' or ''BZX Equities'') 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/*), 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 amend its Fee Schedule applicable to its equities trading platform (''BZX Equities'') to eliminate reference to the ETF Implied Liquidity Feed and corresponding fees, effective August 8, 2023.

The Exchange proposes to amend the Market Data section of its fee schedule to eliminate reference to, and corresponding fees for, a market data product called the ETF Implied Liquidity Feed.[3] The ETF Implied Liquidity feed is an optional data feed that provides the Exchange's proprietary calculation of the implied liquidity and the aggregate best bid and offer (''BBO'') of all displayed orders on the Exchange and its affiliated exchanges[4] for all standard, non-leveraged U.S. equity Exchange Traded Funds (''ETFs'') traded on the System.[5] An ETF's implied liquidity disseminated via the feed consists of the ETF's implied BBO (including the implied size) calculated via a proprietary methodology based on the national best bid and offer (''NBBO''), the number of shares of securities underlying one creation unit of the ETF, and the estimated cash included in one creation unit of the ETF. The Exchange disseminates the aggregate BBO through the ETF Implied Liquidity feed no earlier than it provides its BBO to the processors under the CTA Plan or the Nasdaq/UTP Plan. The Exchange currently assesses (i) Distribution Fees for both Internal and External, Distributors[6] (ii) Usage Fees for both Professional[7] and Non-Professional[8] Users; and a (iii) Data Consolidation fee. Specifically, the Exchange assesses (i) Internal Distributors a monthly fee of $1,500 and External Distributors a monthly fee of $5,000; (ii) Professional Users a monthly fee of $0.25 (if receiving internally) or $25 (if receiving externally); (iii) Non-Professional Users a monthly fee of $1.00 (whether receiving internally or externally); and a monthly Data Consolidation Fee of $500. The Fee Schedule currently provides that Distributors of the Cboe One Feed (as described in Rule 11.22(j)) may also receive upon request access to the ETF Implied Liquidity Feed without incurring an additional Logical Port fee for the ETF Implied Liquidity Feed. It also provides that External Distributors of the Cboe One Feed will also receive

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[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The ETF Implied Liquidity Feed was adopted in 2017. *See* Securities Exchange Act Release No. 80580 (May 3, 2017), 82 FR 21585 (May 9, 2017) (SR–BatsBZX–2017–25) and Securities Exchange Act Release No. 80772 (May 25, 2017), 82 FR 25389 (June 1, 2017) (SR–BatsBZX–2017–036).

[4] The Exchange's affiliates are Cboe EDGA Exchange, Inc., (''EDGA''), Cboe EDGX Exchange, Inc. (''EDGX''), and Cboe BYX Exchange, Inc. (''BYX'') (''collectively, the ''Bats Exchanges'').

[5] The securities underlying each of the U.S. equity ETFs included in the proposed feed must be considered NMS Securities as defined under Rule 600(b)(46) of Regulation NMS. 17 CFR 242.600(b)(46)

[6] A ''Distributor'' is defined as ''any entity that receives the Exchange Market Data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party.'' An ''Internal Distributor'' is defined as ''a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor's own entity.'' An ''External Distributor'' is defined as ''a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.''

[7] A Professional User of an Exchange Market Data product is any User other than a Non-Professional User.

[8] A ''Non-Professional User'' of an Exchange Market Data product is 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 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.