

the Exchange believes the proposal promotes competition because it may attract additional order flow from the OTC market to exchanges, which would in turn compete amongst each other for those orders. The Exchange believes market participants would benefit from being able to trade options with increased position limits in an exchange environment in several ways, including but not limited to the following: (1) Enhanced efficiency in initiating and closing out positions; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor. The Exchange notes that other options exchanges may choose to file similar proposals with the Commission to increase position limits on options on LQD and GDX.

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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act³² and Rule 19b-4(f)(6) thereunder.³³

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act³⁴ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)³⁵ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay would be

consistent with the protection of investors and the public interest because it will ensure fair competition among the exchanges by allowing the Exchange to immediately increase the relevant position limits, which will provide consistency for Exchange Members that are also members at Cboe where these increased position limits are currently in place. The Commission notes that the Exchange's corresponding exercise limits for the options covered by this proposal also would be increased, consistent with the increased exercise limits for these options already in place at Cboe. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.³⁶

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEAMER-2021-45 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-NYSEAMER-2021-45. This file number should be included on the

subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEAMER-2021-45, and should be submitted on or before January 18, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁷

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93833; File No. SR-NYSEArca-2021-105]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 6.8-O (Position Limits)

December 20, 2021.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on December 6, 2021, NYSE Arca, Inc. ("NYSE Arca"

³² 15 U.S.C. 78s(b)(3)(A).

³³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

³⁴ 17 CFR 240.19b-4(f)(6).

³⁵ 17 CFR 240.19b-4(f)(6)(iii).

³⁶ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

³⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.8–O (Position Limits) to increase position limits for options on certain exchange-traded funds. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization 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 those 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 parts of such statements.

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

1. Purpose

The Exchange proposes to amend Rule 6.8–O (Position Limits) to increase position limits for options on certain exchange-traded funds (“ETFs”). This is a competitive filing that is based on a proposal recently submitted by Cboe Exchange, Inc. (“Cboe”) and approved by the Securities and Exchange Commission (“Commission”).⁴

Position limits are designed to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. While position limits should address and discourage the potential for manipulative schemes and adverse market impact, if such

limits are set too low, participation in the options market may be discouraged. The Exchange believes that position limits must therefore be balanced between mitigating concerns of any potential manipulation and the cost of inhibiting potential hedging activity that could be used for legitimate economic purposes.

In its filing, Cboe states that it has observed an ongoing increase in demand, for both trading and hedging purposes, in options on the following ETFs: (1) iShares iBoxx \$ Investment Grade Corporate Bond ETF (“LQD”) and (2) VanEck Vectors Gold Miners ETF (“GDX”). Though the demand for these options appears to have increased, position limits for options on LQD and GDX have remained the same. The Exchange believes these unchanged position limits may have impeded, and may continue to impede, trading activity and strategies of investors, such as use of effective hedging vehicles or income generating strategies (e.g., buy-write or put-write), and the ability of Market Makers to make liquid markets with tighter spreads in these options resulting in the transfer of volume to over-the-counter (“OTC”) markets. OTC transactions occur through bilateral agreements, the terms of which are not publicly disclosed to the marketplace. As such, OTC transactions do not contribute to the price discovery process on a public exchange or other lit markets. Therefore, the Exchange believes that the proposed increases in position limits for options on LQD and GDX may enable liquidity providers to provide additional liquidity to the Exchange and other market participants to transfer their liquidity demands from OTC markets to the Exchange. As described in further detail below, the Exchange believes that the continuously increasing market capitalization of LQD and GDX, including ETF components, as well as the highly liquid markets for each, reduces the concerns for potential market manipulation and/or disruption in the underlying markets upon increasing position limits, while the rising demand for trading options on LQD and GDX for legitimate economic purposes compels an increase in position limits.

Proposed Position Limits for Options on LQD and GDX

Position limits for options on ETFs are determined pursuant to Rule 6.8–O and vary according to the number of outstanding shares and the trading volumes of the underlying equity security (which includes ETFs) over the past six months. Pursuant to Rule 6.8–O, the largest in capitalization and the

most frequently traded stocks and ETFs have an option position limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and smaller capitalization stocks and ETFs have position limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market. Options on LQD and GDX are currently subject to the standard position limit of 250,000 contracts as set forth in Rule 6.8–O. Commentary .06(f) to Rule 6.8–O sets forth separate, higher position limits for specific equity options (including options on specific ETFs).⁵ The Exchange proposes to amend Commentary .06(f) to Rule 6.8–O to increase the position limits and, as a result, exercise limits, for options on LQD and GDX.⁶ The table below represents the current, and proposed, position limits for options on the ETFs subject to this proposal:

Product	Current position limit	Proposal position limit
LQD	250,000	500,000
GDX	250,000	500,000

The Exchange notes that the proposed position limit for options on LQD and GDX are consistent with current position limits for options on the iShares MSCI Brazil Capped ETF (“EWZ”), iShares 20+ Year Treasury Bond Fund ETF (“TLT”), iShares MSCI Japan ETF (“EWJ”), and iShares iBoxx High Yield Corporate Bond Fund (“HYG”). The Exchange represents that LQD and GDX qualify for either (1) the initial listing criteria set forth in Rule 5.3–O(g)(2) for ETFs holding non-U.S. component securities, or (2) the generic listing standards for series of portfolio depository receipts and index fund shares based on international or global indexes under which a comprehensive surveillance agreement (“CSA”) is not

⁵ Adjusted option series, in which one option contract in the series represents the delivery of other than 100 shares of the underlying security as a result of a corporate action by the issuer of the security underlying such option series, do not impact the notional value of the underlying security represented by those options. When an underlying security undergoes a corporate action resulting in adjusted series, the Exchange lists new standard option series across all appropriate expiration months the day after the existing series are adjusted. The adjusted series are generally actively traded for a short period of time following adjustment, but orders to open options positions in the underlying security are almost exclusively placed in the new standard option series contracts.

⁶ By virtue of Rule 6.9–O (Exercise Limits), which is not being amended by this filing, the exercise limits for LQD and GDX options would be similarly increased, because Rule 6.9–O provides that the exercise limits for index options and ETF options, respectively, are equivalent to their position limits.

⁴ See Securities Exchange Act Release No. 93525 (November 4, 2021), 86 FR 62584 (November 10, 2021) (Notice of Filing of Amendment Nos. 2 and 3 and Order Granting Accelerated Approval of SR-CBOE-2021-029).

required, as well as (3) the continued listing criteria in Rule 5.4–O (for ETFs).⁷ In compliance with its listing rules, the Exchange also represents that non-U.S. component securities that are not subject to a CSA do not, in the aggregate, represent more than more than 50% of the weight of LQD and GDX.⁸

Composition and Growth Analysis for LQD and GDX

As stated above, position (and exercise) limits are intended to prevent the establishment of options positions

that can be used to or potentially create incentives to manipulate the underlying market so as to benefit options positions. The Commission has recognized that these limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market, as well as serve to reduce the possibility for disruption of the options market itself, especially in illiquid classes.⁹ LQD and GDX, as well as the ETF components, are highly liquid and are based on a broad set of highly liquid securities and other reference assets, as

demonstrated through the trading statistics presented in this proposal. To support the proposed position limit increases, Cboe considered the liquidity of LQD and GDX, the value of LQD and GDX, their components and the relevant marketplace, the share and option volume for LQD and GDX, and, where applicable, the availability or comparison of economically equivalent products to options on LQD and GDX.

Cboe collected the following trading statistics regarding shares of and options on LQD and GDX and the values of LQD and GDX and their components:

Product	ADV ¹⁰ (ETF shares) (millions)	ADV (option contracts)	Shares outstanding (millions) ¹¹	Fund market cap (USD) (millions) ¹²	Share value (USD)
LQD	14.1	30,300	308.1	54,113.7	130.13 (NAV)
GDX	39.4	166,000	419.8	16,170.5	33.80 (NAV)

Cboe also collected the same trading statistics, where applicable, as above regarding a sample of other ETFs, as

well as the current position limits for options on such ETFs, to draw comparisons in support of proposed

position limit increases for options on LQD and GDX (see further discussion below):^{10 11 12}

Product	ADV (ETF shares) (millions)	ADV (option contracts)	Shares outstanding (millions)	Fund market cap (USD) (millions)	Share value (USD)	Current position limits
EWZ	29.2	139,400	173.8	6,506.8	33.71 (NAV)	500,000
TLT	11.5	111,800	103.7	17,121.3	136.85 (NAV)	500,000
EWJ	8.2	15,500	185.3	13,860.7	69.72 (NAV)	500,000
HYG	30.5	261,600	254.5	24,067.5	86.86 (NAV)	500,000

The Exchange believes that, overall, the liquidity in the shares of LQD and GDX and in their overlying options, the larger market capitalizations for each LQD and GDX, and the overall market landscape relevant to each LQD and GDX support the proposal to increase the position limits for each option class. Given the robust liquidity in and value of LQD and GDX and their components, the Exchange does not anticipate that the proposed increase in position limits would create significant price movements as the relevant markets are large enough to adequately absorb potential price movements that may be caused by larger trades.

LQD tracks the performance of the Markit iBoxx USD Liquid Investment Grade (“IBOXIG”) Index, which is an

index designed as a subset of the broader U.S. dollar-denominated corporate bond market which can be used as a basis for tradable products, such as ETFs, and is comprised of over 8,000 bonds.¹³ The Exchange notes that from 2019 through 2020, ADV has grown significantly in shares of LQD and in options on LQD, from approximately 9.7 million shares in 2019 to 14.1 million through 2020, and from approximately 8,200 option contracts in 2019 to 30,300 through 2020. LQD also continued to experience significant growth in ADV in the first quarter of 2021 with an ADV of approximately 140,200 option contracts. Further, LQD generally experiences higher ADV in shares than both TLT (11.5 million shares) and EWJ (8.2

million shares) and almost double the ADV in option contracts than EWJ (15,500 option contracts). Options on each EWZ, TLT and EWJ are currently subject to a position limit of 500,000 contracts—the proposed limit for options on LQD. The NAV of LQD is also higher than, or comparable to, that of the NAV of the ETFs underlying the options that are currently subject to a position limit of 500,000 option contracts (as presented in the table above), which is indicative that the total value of its underlying components is generally higher or comparable. Per the tables above, LQD’s total market capitalization of approximately \$54.1 billion is also higher than or comparable to the total market capitalization of the ETFs underlying the options currently

⁷ The Exchange notes that the initial listing criteria for options on ETFs that hold non-U.S. component securities are more stringent than the maintenance listing criteria for those same ETF options. See Rules 5.3(g)(2) and 5.4–O(k).

⁸ See Rule 5.3–O(g)(2)(B).

⁹ See Securities Exchange Act Release No. 68001 (October 5, 2012), 77 FR 62303 (October 12, 2012) (SR–NYSEArca–2012–112).

¹⁰ Average daily volume (ADV) data for ETF shares and option contracts, as well as for ETF shares and options on the comparative ETFs presented below, are for all of 2020. Additionally, reference to ADV in ETF shares and ETF options, and indexes herein this proposal are for all of calendar year 2020, unless otherwise indicated.

¹¹ Shares Outstanding and Net Asset Values (“NAV”), as well as for the comparative ETFs

presented below, are as of April 5, 2021 for all ETFs.

¹² Fund Market Capitalization data, as well as for the comparative ETFs presented below, are as of January 14, 2021.

¹³ See Markit iBoxx USD Liquid Investment Grade Index, available at <https://cdn.ihsmarkit.com/www/pdf/MKT-iBoxx-USD-Liquid-Investment-Grade-Index-factsheet.pdf> (January 14, 2021).

subject to a position limit of 5000,000 [sic] contracts. In addition to this, the Exchange notes that, although there are currently no options listed for trading on the IBOXIG Index, the components¹⁴ of the IBOXIG Index, which can be used in creating a basket of securities that equate to the LQD ETF, are made up of over 8,000 bonds for which the outstanding face value of each must be greater than or equal to \$2 billion.¹⁵

The Exchange believes that the total value of the bonds in the IBOXIG Index, coupled with LQD's share and option volume, total market capitalization, and NAV price indicates that the market is large enough to absorb potential price movements caused by a large trade in LQD. Also, as evidenced above, trading volume in LQD shares has increased over the past few years and the Exchange understands that market participants' need for options have continued to grow alongside the ETF. Particularly, the Exchange notes that in the last year, market participants have sought more cost-effective hedging strategies through the use of LQD options as a result of the borrow on other fixed income ETFs, such as HYG. Therefore, the Exchange believes that because LQD options are being increasingly utilized as an alternative to similar products, such as HYG options, then it is appropriate that options on LQD be subject to the same 500,000 contract position limit that currently exists for options on HYG.

GDX seeks to replicate as closely as possible the price and yield performance of the NYSE Arca Gold Miners ("GDMNTR") Index, which is intended to track the overall performance of companies involved in the gold mining industry.¹⁶ ADV in GDX options has increased from 2019 through 2020, with an ADV of approximately 117,400 option contracts in 2019 to an ADV of approximately 166,000 option contracts in 2020. The Exchange notes that ADV in GDX shares did not increase from 2019 to 2020. GDX options also experienced an ADV of approximately 287,800 option contracts in the first quarter of 2021. The Exchange notes that the ADV in GDX shares (39.4 million) and options on GDX (166,000 option contracts) are greater than the ADV in EWZ (29.2 million shares and 139,300 option contracts), TLT (11.5 million shares and 111,800 option contracts), EWJ (8.2 million shares and 15,500 option

contracts) and HYG (30.5 million shares and 261,600 option contracts), each of which is currently subject to a position limit of 500,000 option contracts—the proposed limit for options on GDX. GDX also experiences a comparable, or higher, market capitalization (approximately \$16.2 billion) than EWZ, TLT and EWZ. The Exchange particularly notes that many of the Brazil-based gold mining constituents included in GDX are also included in EWZ, which tracks the investment results of an index composed of Brazilian equities, and that the Exchange has not identified any issues with the continued listing and trading of EWZ options or any adverse market impact on EWZ in connection with the current 500,000 position limit in place for EWZ options. Additionally, like that of LQD above, there is currently no index option analogue for the GDX ETF on the GDMNTR Index approved for options trading, however, the components of the GDMNTR Index, which can be used to create the GDX ETF, currently must each have a market capitalization greater than \$750 million, an ADV of at least 50,000 shares, and an average daily value traded of at least \$1 million in order to be eligible for inclusion in the GDMNTR Index. The Exchange believes that the GDMNTR Index component inclusion requirements, as well as GDX's share and option volume and total market capitalization, indicate that the GDX market is sufficiently large and liquid enough to absorb price movements as a result of potentially oversized trades.

Creation and Redemption for ETFs

The Exchange believes that the creation and redemption process for the ETFs subject to this proposal will lessen the potential for manipulative activity with options on LQD and GDX. When an ETF provider wants to create more shares, it looks to an Authorized Participant ("AP") (generally a Market Maker or other large financial institution) to acquire the underlying components the ETF is to hold. For instance, when an ETF is designed to track the performance of an index, the AP can purchase all the constituent securities in the exact same weight as the index, then deliver those shares to the ETF provider. In exchange, the ETF provider gives the AP a block of equally valued ETF shares, on a one-for-one fair value basis. The price is based on the NAV, not the market value at which the ETF is trading. The creation of new ETF units can be conducted during an entire trading day and is not subject to position limits. This process works in reverse where the ETF provider seeks to

decrease the number of shares that are available to trade. The creation and redemption processes for LQD and GDX creates a direct link to the underlying components of the ETF and serves to mitigate potential price impact of the ETF shares that might otherwise result from increased position limits for the options on LQD and GDX.

The Exchange understands that the ETF creation and redemption processes seek to keep an ETF's share price trading in line with the product's underlying net asset value. Because an ETF trades like a stock, its share price will fluctuate during the trading day, due to simple supply and demand. If demand to buy an ETF is high, for instance, an ETF's share price might rise above the value of its underlying components. When this happens, the AP or issuer believes the ETF may now be overpriced, so it may buy shares of the component securities or assets and then sell ETF shares in the open market. This may drive the ETF's share price back toward the underlying net asset value. Likewise, if an ETF share price starts trading at a discount to the component securities or assets it holds, the AP or issuer can buy shares of the ETF and redeem them for the underlying components. Buying undervalued ETF shares may drive the share price of an ETF back toward fair value. This arbitrage process helps to keep an ETF's share price in line with the value of its underlying portfolio.

Surveillance and Reporting Requirements

The Exchange believes that increasing the position limits for the options on LQD and GDX would lead to a more liquid and competitive market environment for these options, which will benefit customers interested in trading these products. The reporting requirement for the options on LQD and GDX would remain unchanged. Thus, the Exchange would still require that each Member¹⁷ that maintains positions in the options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information would include, but would not be limited to, the options' positions, whether such positions are hedged and, if so, a description of the hedge(s). Market Makers would continue to be exempt from this reporting requirement, however, the Exchange may access

¹⁴ Investment grade corporate bonds.

¹⁵ See *id.*

¹⁶ See VanEck Vectors Gold Miners ETF, available at <https://www.vanec.com/library/vanec-vectors-etfs/gdx-fact-sheet-pdf/> (January 14, 2021).

¹⁷ The term "Member" means an individual or organization approved to exercise the trading rights associated with an OTP. OTP Holders and OTP Firms are deemed "members" under the Exchange Act. See Rule 1.1.

Market-Maker position information.¹⁸ Moreover, the Exchange's requirement that Members file reports with the Exchange for any customer who held aggregate large long or short positions on the same side of the market of 200 or more option contracts of any single class for the previous day will remain at this level for the options subject to this proposal and will continue to serve as an important part of the Exchange's surveillance efforts.¹⁹

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange and other SROs are capable of properly identifying disruptive and/or manipulative trading activity. The Exchange also represents that it has adequate surveillances in place to detect potential manipulation, as well as reviews in place to identify potential changes in composition of LQD and GDX and continued compliance with the Exchange's listing standards. These procedures utilize daily monitoring of market activity via automated surveillance techniques to identify unusual activity in both options and the underlyings, as applicable.²⁰ The Exchange also notes that large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G,²¹ which are used to report ownership of stock which exceeds 5% of a company's total stock issue and may assist in providing information in monitoring for any potential manipulative schemes.

The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in the options on LQD and GDX. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a Member must maintain for a large position held by itself or by its customer.²² In addition, Rule

15c3-1²³ imposes a capital charge on Members to the extent of any margin deficiency resulting from the higher margin requirement.

Non-Substantive Changes

The Exchange also proposes to make two non-substantive changes to remove the quotation marks around HYG and Financial Select Sector SPDR Fund ("XLF"), which would add internal consistency to the rule making it easier to navigate to the benefit of market participants.²⁴

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act²⁵ in general, and furthers the objectives of Sections 6(b)(5) of the Act,²⁶ in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁷ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed increase in position limits for options on LQD and GDX will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it will provide market participants with the ability to more effectively execute their trading and hedging activities. The proposed increases will allow market participants to more fully implement hedging strategies in related derivative products and to further use options to achieve investment strategies (*e.g.*, there are other exchange-traded products ("ETPs") that use options on the ETFs subject to this proposal as part of their investment strategy, and the applicable position limits as they stand today may inhibit these other ETPs in achieving their investment objectives, to the detriment of investors). Also, increasing the applicable position limits may allow Market Makers to provide the markets for these options with more liquidity in amounts commensurate with increased consumer demand in such markets. The proposed position limit increases may

also encourage other liquidity providers to shift liquidity, as well as encourage consumers to shift demand, from OTC markets onto the Exchange, which will enhance the process of price discovery conducted on the Exchange through increased order flow.

In addition, the Exchange believes that the structure of LQD and GDX, the considerable market capitalization of the funds and underlying components, and the liquidity of the markets for the applicable options and underlying components will mitigate concerns regarding potential manipulation of the products and/or disruption of the underlying markets upon increasing the relevant position limits. As a general principle, increases in market capitalizations, active trading volume, and deep liquidity of the underlying components do not lead to manipulation and/or disruption. This general principle applies to the recently observed increased levels of market capitalization and trading volume and liquidity in shares of and options on LQD and GDX (as described above), and, as a result, the Exchange does not believe that the options markets or underlying markets would become susceptible to manipulation and/or disruption as a result of the proposed position limit increases. Indeed, the Commission has previously expressed the belief that not just increasing, but removing, position and exercise limits may bring additional depth and liquidity to the options markets without increasing concerns regarding intermarket manipulation or disruption of the options or the underlying securities.²⁸

Further, the Exchange notes that the proposed rule change to increase position limits for select actively traded options is not novel and the Commission has approved similar proposed rule changes to increase position limits for options on similar, highly liquid and actively traded ETPs.²⁹ Furthermore, the Exchange again notes that that the proposed position limits for options on LQD and GDX are consistent with existing position limits for options on other ETFs in Commentary .06(f) to Rule 6.8-O. The Exchange's surveillance and reporting safeguards continue to be designed to deter and detect possible manipulative behavior that might arise

¹⁸ The Options Clearing Corporation ("OCC") through the Large option Position Reporting ("LOPR") system acts as a centralized service provider for Member compliance with position reporting requirements by collecting data from each Member, consolidating the information, and ultimately providing detailed listings of each Member's report to the Exchange, as well as Financial Industry Regulatory Authority, Inc. ("FINRA"), acting as its agent pursuant to a regulatory services agreement ("RSA").

¹⁹ See Rule 6.6-O for reporting requirements.

²⁰ The Exchange believes these procedures have been effective for the surveillance of trading the options subject to this proposal and will continue to employ them.

²¹ 17 CFR 240.13d-1.

²² See Rule 4-O, Section 3 for a description of margin requirements.

²³ 17 CFR 240.15c3-1.

²⁴ See proposed Commentary .06(f) to Rule 6.8-O.

²⁵ 15 U.S.C. 78f(b).

²⁶ 15 U.S.C. 78f(b)(5).

²⁷ *Id.*

²⁸ See Securities Exchange Act Release No. 62147 (October 28, 2005) (SR-CBOE-2005-41), at 62149.

²⁹ See Securities Exchange Act Release Nos. 88768 (April 29, 2020), 85 FR 26736 (May 5, 2020) (SR-CBOE-2020-015); 83415 (June 12, 2018), 83 FR 28274 (June 18, 2018) (SR-CBOE-2018-042); and 68086 (October 23, 2012), 77 FR 65600 (October 29, 2012) (SR-CBOE-2012-066).

from increasing or eliminating position and exercise limits in certain classes. The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged position in the options on LQD and GDX, further promoting just and equitable principles of trading, the maintenance of a fair and orderly market, and the protection of investors.

Finally, the Exchange also proposes to make two non-substantive changes to remove the quotation marks around HYG and XLF, which would add internal consistency to the rule making it easier to navigate to the benefit of market participants.³⁰

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. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to a filing submitted by Cboe.³¹

The Exchange does not believe the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the increased position limits (and exercise limits) will be available to all market participants and apply to each in the same manner. The Exchange believes that the proposed rule change will provide additional opportunities for market participants to more efficiently achieve their investment and trading objectives.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act. On the contrary, the Exchange believes the proposal promotes competition because it may attract additional order flow from the OTC market to exchanges, which would in turn compete amongst each other for those orders. The Exchange believes market participants would benefit from being able to trade options with increased position limits in an exchange environment in several ways, including but not limited to the following: (1) Enhanced efficiency in initiating and closing out positions; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the

role of OCC as issuer and guarantor. The Exchange notes that other options exchanges may choose to file similar proposals with the Commission to increase position limits on options on LQD and GDX.

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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act³² and Rule 19b-4(f)(6) thereunder.³³

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act³⁴ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)³⁵ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay would be consistent with the protection of investors and the public interest because it will ensure fair competition among the exchanges by allowing the Exchange to immediately increase the relevant position limits, which will provide consistency for Exchange Members that are also members at Cboe where these increased position limits are currently in place. The Commission notes that the Exchange's corresponding exercise limits for the options covered by this proposal also would be increased, consistent with the increased exercise limits for these options already

in place at Cboe. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.³⁶

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2021-105 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-NYSEArca-2021-105. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

³² 15 U.S.C. 78s(b)(3)(A).

³³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

³⁴ 17 CFR 240.19b-4(f)(6).

³⁵ 17 CFR 240.19b-4(f)(6)(iii).

³⁰ See proposed Commentary .06(f) to Rule 6.8-O.

³¹ See *supra* note 4 (approval of Cboe filing).

³⁶ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2021-105, and should be submitted on or before January 18, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁷

Jill M. Peterson,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93829; File No. SR-CboeBZX-2021-084]

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

December 20, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 10, 2021, Cboe BZX Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 as follows: (1) Modify the Add/Remove Volume Tiers, (2) adopt a new Non-Displayed Add Volume Tier, (3) modify Tier 2 of the Step-Up Tiers, and (4) eliminate the Total Volume Tier. The Exchange proposes to implement the proposed change to its fee schedule on December 1, 2021.³

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct 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 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly available information,⁴ no single registered equities exchange has more than 16% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities

exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a "Maker-Taker" model whereby it pays credits to Members that add liquidity and assesses fees to those that remove liquidity. The Exchange's fee schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Add/Remove Volume Tiers

Pursuant to footnote 1 of the Fee Schedule, the Exchange currently offers Add/Remove Volume Tiers (tiers 1 through 5) that provide Members an opportunity to receive an enhanced rebate from the standard rebate for liquidity adding orders that yield fee codes B,⁵ V,⁶ and Y⁷ and meet certain required volume-based criteria. Specifically, the Tiers are as follows:

- Tier 1 offers an enhanced rebate of \$0.0025 per share for qualifying orders (*i.e.*, yielding fee codes B, V, or Y) where a Member has an ADAV⁸ as a percentage of TCV⁹ equal to or greater than 0.08% or where a Member has an ADAV equal to or greater than 8 million shares.
- Tier 2 offers an enhanced rebate of \$0.0027 per share for qualifying orders (*i.e.*, yielding fee codes B, V, or Y) where a Member has an ADAV as a percentage of TCV equal to or greater than 0.15% or where a Member has an ADAV equal to or greater than 15 million shares.
- Tier 3 offers an enhanced rebate of \$0.0029 per share for qualifying orders (*i.e.*, yielding fee codes B, V, or Y) where a Member has an ADAV as a percentage of TCV equal to or greater than 0.35%

⁵ Orders yielding Fee Code "B" are displayed orders adding liquidity to BZX (Tape B).

⁶ Orders yielding Fee Code "V" are displayed orders adding liquidity to BZX (Tape A).

⁷ Orders yielding Fee Code "Y" are displayed orders adding liquidity to BZX (Tape C).

⁸ "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.

⁹ "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

³⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange initially filed the proposed fee changes on December 1, 2021 (SR-BZX-2021-081). On December 10, 2021, the Exchange withdrew that filing and submitted this proposal.

⁴ See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (November 24, 2021), available at https://markets.cboe.com/us/equities/market_statistics/.