

on market efficiency will in turn result in mixed effects on capital formation.<sup>150</sup> In contrast, the negative impact on regulatory efficiency<sup>151</sup> will negatively impact capital formation if it reduces the ability of regulators to perform surveillance and other functions. This could reduce investor confidence in the markets, leading to an increase in the cost of capital. However, as the impact of the Proposed Amendment, as modified herein, on regulatory efficiency is expected to be limited,<sup>152</sup> the impact of a reduction in regulatory efficiency on capital formation is also expected to be limited.

Compared to the Proposed Amendment, as modified herein, the Proposed Amendment would have had additional or dampening effects on capital formation through its differential effects on cost reduction, market efficiency, and regulatory efficiency, which are discussed in previous sections. For example, the additional cost reduction would have resulted in a larger positive effect on capital formation, though still not large;<sup>153</sup> the mixed effects on market efficiency would still have resulted in a mixed effect on capital formation;<sup>154</sup> and the reduced regulatory efficiency would have resulted in a larger reduction in capital formation.<sup>155</sup>

## VI. Conclusion

For the reasons set forth above, the Commission finds that the Proposed Amendment, as modified herein, is consistent with the requirements of Section 11A and Rule 608 thereunder, in that the Proposed Amendment, as modified herein, is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of a national market system, or otherwise in furtherance of the purposes of the Exchange Act.

<sup>150</sup> See *supra* Section V.B.3 for a discussion of the impact of the Proposed Amendments, as modified, on market efficiency.

<sup>151</sup> See *supra* Section V.B.2 for a discussion of the regulatory inefficiencies related to the lack of information about the Exempt Activities in CAT data.

<sup>152</sup> See *id.*

<sup>153</sup> See *supra* Section V.A.2.a for a discussion of potential CAT-reporting costs that would be incurred by floor brokers under the Proposed Amendment, as modified. Such costs would not be incurred under the Proposed Amendment.

<sup>154</sup> See *supra* Section V.B.3 for a discussion of the impact of the Proposed Amendment on market efficiency.

<sup>155</sup> See *supra* Section V.B.2 for a discussion of the impact of the Proposed Amendment on regulatory efficiency.

*It is therefore ordered*, pursuant to Section 11A of the Exchange Act,<sup>156</sup> and Rule 608(b)(2) thereunder,<sup>157</sup> that the Proposed Amendment (File No. 4–698), as modified herein, be, and hereby is, approved.

By the Commission.

**Stephanie J. Fouse,**  
*Assistant Secretary.*

## Appendix A

Approved Revisions to the CAT NMS Plan  
Additions *italicized*; deletions [bracketed]

\* \* \* \* \*

## Article VI

### Functions and Activities of CAT System

\* \* \* \* \*

### Section 6.3. Data Recording and Reporting by Participants.

\* \* \* \* \*

(d) *Participant Data.* Subject to Section 6.3(c), and Appendix D, Reporting and Linkage Requirements, and in accordance with the Technical Specifications, each Participant shall record and electronically report to the Central Repository the following details for each order and each Reportable Event (*subject to the exclusions outlined in Section 6.3(g)*), as applicable (“Participant Data”):

\* \* \* \* \*

(g) *Verbal Activity, Floor and Upstairs Activity.* Notwithstanding any other provision of SEC Rule 613 or the CAT NMS Plan, the following categories of data shall not be reportable to the Central Repository under Section 6.3(d):

(i) until July 31, 2030, floor broker verbal announcements of firm orders on an exchange that are otherwise reported as systematized orders;

(ii) until July 31, 2030, market maker verbal announcements of firm quotes on an exchange trading floor;

(iii) telephone discussions between an Industry Member and a client that may involve firm bid and offer communications; and

(iv) unstructured electronic and verbal communications that are not currently captured by Industry Member order management or execution systems (e.g., electronic chats, text messages).

\* \* \* \* \*

### Section 6.4. Data Recording and Reporting by Industry Members.

\* \* \* \* \*

(d) *Required Industry Member Data.*

(i) Subject to Section 6.4(c) and Section 6.4(d)(iii) with respect to Options Market Makers, and consistent with Appendix D, Reporting and Linkage Requirements, and the Technical Specifications, each Participant shall, through its Compliance Rule, require its Industry Members to record and electronically report to the Central Repository for each order and each

Reportable Event the information referred to in Section 6.3(d) (*subject to the exclusions outlined in Section 6.3(g)*), as applicable (“Recorded Industry Member Data”).

\* \* \* \* \*

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BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–103274; File No. SR–CboeBZX–2025–059]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Related to the 2x Long VIX Futures ETF and the –1x Short VIX Futures ETF

June 16, 2025.

On March 21, 2025, Cboe BZX Exchange, Inc. (“BZX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to amend certain representations relating to the 2x Long VIX Futures ETF and the –1x Short VIX Futures ETF, shares of which have been approved by the Commission to list and trade on the Exchange as Trust Issued Receipts pursuant to BZX Rule 14.11(f)(4). The proposed rule change was published for comment in the **Federal Register** on May 9, 2025.<sup>3</sup> The Commission has not received any comments regarding the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is June 23, 2025. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 102991 (May 5, 2025), 90 FR 19741.

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

<sup>156</sup> 15 U.S.C. 78k–1.

<sup>157</sup> 17 CFR 242.608.

rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates August 7, 2025, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-CboeBZX-2025-059).

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

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2025-11302 Filed 6-18-25; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103264; File No. SR-GEMX-2025-12]

### Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fees for Nasdaq 100 Index Options in Options 7, Section 3

June 16, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 2, 2025, Nasdaq GEMX, LLC (“GEMX” or “Exchange”) filed with the Securities and Exchange Commission (“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 the fees for Nasdaq 100 Index options in the Exchange’s Pricing Schedule at Options 7, Section 3 to adopt a new surcharge for removing liquidity.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/gemx/rulefilings>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

<sup>6</sup> 17 CFR 200.30-3(a)(31).

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

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

#### 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 purpose of the proposed rule change is to amend the fees for NDX<sup>3</sup> in Options 7, Section 3.

Today, the Exchange assesses transaction fees of \$0.75 per contract for all Non-Priority Customer<sup>4</sup> orders in NDX and \$0.25 per contract for all Priority Customers<sup>5</sup> NDX orders. The Exchange now proposes to assess a surcharge of \$1.50 per contract to all regular Non-Priority Customer orders that remove liquidity.<sup>6</sup> Priority Customer NDX fees will remain unchanged under this proposal. The proposed surcharge is aimed at encouraging Non-Priority Customers to add more liquidity and reduce “take” behavior that removes liquidity from the order book. The Exchange notes that the proposed surcharge amount is within the range of surcharges assessed for transactions in other proprietary products at another options exchange.<sup>7</sup>

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5)

<sup>3</sup> NDX represents A.M. settled options on the full value of the Nasdaq 100 Index traded under the symbol NDX.

<sup>4</sup> “Non-Priority Customers” include Market Makers, Non-Nasdaq GEMX Market Makers (FarMMs), Firm Proprietary/Broker-Dealers, and Professional Customers.

<sup>5</sup> A “Priority Customer” is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq GEMX Options 1, Section 1(a)(36).

<sup>6</sup> See proposed note 18 in Options 7, Section 3.

<sup>7</sup> For example, Cboe Options (“Cboe”) currently assesses market participants LEAPS surcharge fees for SPX ranging from \$1.00 to \$2.50 per contract. See Cboe Fees Schedule.

<sup>8</sup> 15 U.S.C. 78f(b).

of the Act,<sup>9</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that its proposal to add a \$1.50 per contract surcharge to all regular Non-Priority Customer orders that remove liquidity is reasonable because the proposed pricing reflects the proprietary nature of this product. Similar to other proprietary products like options overlying the Nasdaq 100 Micro Index (“XND”), the Exchange seeks to recoup the operational costs of listing proprietary products.<sup>10</sup> Also, pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in particular products. As noted above, another options exchange assesses surcharges for its proprietary index options products that are within the range (or higher) of what the Exchange is proposing herein.<sup>11</sup> Further, the Exchange notes that market participants are offered different ways to gain exposure to the Nasdaq 100 Index, whether through the Exchange’s proprietary products like options overlying NDX or XND, or separately through multi-listed options overlying Invesco QQQ Trust (“QQQ”).<sup>12</sup> Offering such products provides market participants with a variety of choices in selecting the product they desire to utilize in order to gain exposure to the Nasdaq 100 Index. When exchanges are able to recoup costs associated with offering proprietary products, it incentivizes growth and competition for the innovation of additional products.

The Exchange believes that its proposal is equitable and not unfairly discriminatory because it will be applied uniformly to all regular Non-Priority Customer NDX orders that remove liquidity. Assessing this surcharge only to Non-Priority Customers is equitable and not unfairly discriminatory because Priority Customers have historically been assessed more favorable pricing on the Exchange, including on NDX orders

<sup>9</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>10</sup> By way of example, in analyzing an obvious error, the Exchange would have additional data points available in establishing a theoretical price for a multiply listed option as compared to a proprietary product, which requires additional analysis and administrative time to comply with Exchange rules to resolve an obvious error.

<sup>11</sup> See *supra* note 7.

<sup>12</sup> QQQ is an exchange-traded fund based on the same Nasdaq 100 Index as NDX and XND.