

of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the proposed changes will apply in the same manner to all Book Only orders and bulk messages submitted through a bulk port. The proposed rule change to codify that bulk messages will only be subject to single price adjust is appropriate given that Market-Makers' automated quote streaming systems review their resting interest when the markets change and update as appropriate in accordance with their business and risk models. Therefore, the Exchange does not believe it is necessary for it also to review resting Market-Maker interest continuously and reprice as the market changes. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition, as the proposed rule change applies to functionality that applies to incoming interest that may only rest or execute on the Exchange's book.

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

The Exchange neither solicited nor received comments on 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:

- A. Significantly affect the protection of investors or the public interest;
- B. impose any significant burden on competition; and

C. 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 Act<sup>22</sup> and Rule 19b-4(f)(6)<sup>23</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

<sup>22</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>23</sup> 17 CFR 240.19b-4(f)(6).

**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](mailto:rule-comments@sec.gov). Please include File Number SR-CboeEDGX-2021-035 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-CboeEDGX-2021-035. 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 the 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-CboeEDGX-2021-035 and should be submitted on or before September 1, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-17081 Filed 8-10-21; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-92575; File No. SR-CboeBZX-2021-054]**

**Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Bulk Message Fat Finger Check**

August 5, 2021.

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 July 28, 2021, Cboe BZX Exchange, Inc. ("Exchange" or "BZX") 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 Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 Options") proposes to modify the bulk message fat finger check. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/equities/regulation/rule\\_filings/bzx/](http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements

<sup>24</sup> 17 CFR 200.30-3(a)(12).

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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 modify the bulk message<sup>5</sup> fat finger check in Rule 21.17(a)(6). In accordance with the fat finger check, the System cancels or rejects any bulk message bid (offer) above (below) the national best offer ("NBO") (national best bid ("NBB")) by more than a specified amount determined by the Exchange.<sup>6</sup> The proposed rule change indicates that the Exchange may also determine a minimum and maximum dollar value for the bulk message fat finger check.<sup>7</sup> The Exchange believes Market-Makers may be willing to accept an execution at a price beyond the NBBO at the time of order entry, but not too far away. The purpose of the fat finger check is intended to reject bulk message bids and offers that on their face are likely to be entered at erroneous prices and thus prevent potentially erroneous executions. The proposed rule change to permit the Exchange to set a minimum and maximum value will provide the Exchange with the opportunity to set a meaningful buffer that is not "too close" to the NBBO (in other words, a de minimis buffer) but not "too far" from the NBBO (in other words, a buffer that is more likely to accept erroneously priced bulk messages). The proposed rule change also permits the Exchange to set the relevant amounts for the bulk message fat finger check on a class-by-

class basis. Option classes have different characteristics and trading models, and the proposed flexibility will permit the Exchange to apply different parameters to address those differences.

**2. Statutory Basis**

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>10</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed change to the bulk message fat finger check will protect investors and the public interest as the check will continue to mitigate potential risks associated with Market-Makers submitting bulk message bids and offers at unintended prices, and risks associated with orders and quotes trading at prices that are extreme and potentially erroneous, which may likely have resulted from human or operational error. The proposed enhancement that the Exchange will apply a minimum and maximum to the fat finger check will permit the Exchange to apply the fat finger check to bulk messages in a more meaningful way. The Exchange believes class flexibility is appropriate to permit the Exchange to apply reasonable buffers to classes, which may exhibit different trading characteristics and have different market models. The Exchange has other price checks and risk controls that permit it to set a minimum and maximum, as well as apply parameters on a class basis.<sup>11</sup>

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the proposed changes will apply in the same manner to all bulk messages submitted through a bulk port. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition, as the proposed rule change applies to functionality that applies to incoming interest that may only rest or execute on the Exchange's book.

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

The Exchange neither solicited nor received comments on 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:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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 Act<sup>12</sup> and Rule 19b-4(f)(6)<sup>13</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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.

<sup>5</sup> The term "bulk message" means a bid or offer included in a single electronic message a User submits with an M Capacity to the Exchange in which the User may enter, modify, or cancel up to an Exchange-specified number of bids and offers (which number the Exchange announces via Exchange notice or publicly available technical specifications). A User may submit a bulk message through a bulk port as set forth in Rule 21.1(j)(3). The System handles a bulk message in the same manner as it handles an order or quote, unless the Rules specify otherwise. See Rule 16.1.

<sup>6</sup> This check does not apply to bulk messages submitted prior to the conclusion of the opening process or when no NBBO is available.

<sup>7</sup> The proposed rule change also makes a nonsubstantive change to say the System cancels or rejects any bulk message bid (offer) more than a buffer amount above (below) the NBO (NBB) to align the language with other rules.

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

<sup>9</sup> 15 U.S.C. 78ff(b)(5).

<sup>10</sup> *Id.*

<sup>11</sup> See, e.g., Rule 21.17(a)(1) (market order NBBO width protection).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

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](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBZX-2021-054 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-2021-054. 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 the 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-CboeBZX-2021-054 and should be submitted on or before September 1, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Jill M. Peterson,**  
Assistant Secretary.

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92577; File No. SR-ISE-2021-16]

### Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend ISE's Options Regulatory Fee

August 5, 2021.

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 July 30, 2021, Nasdaq ISE, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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

The Exchange proposes to amend ISE's Pricing Schedule at Options 7, Section 9, Part C related to the Options Regulatory Fee or "ORF".

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on October 1, 2021.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/ise/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 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

Currently, ISE assesses an ORF of \$0.0018 per contract side as specified in ISE's Pricing Schedule at Options 7, Section 9, Part C. The Exchange proposes to waive its ORF from October 1, 2021 to January 31, 2022, and then recommence the ORF on February 1, 2022.

By way of background, the options industry has experienced extremely high options trading volumes and volatility. This historical anomaly of persistent increased options volumes has impacted ISE's ORF collection which, in turn, has caused the Exchange to continue to revisit its financial forecast to reflect the sustained elevated options volumes and volatility. As the Exchange continues to monitor the amount of revenue collected from the ORF to ensure that our ORF collection, in combination with other regulatory fees and fines, does not exceed regulatory costs, the Exchange has found it difficult to determine when volumes will return to more normal levels. In order to avoid iterative rule changes to amend its ORF, the Exchange believes it is prudent to instead waive its ORF from October 1, 2021 to January 31, 2022, to permit the Exchange to plan future forecasts without the need to account for any ORF collection during that timeframe. This proposal would ensure that revenue collected from the ORF, in combination with other regulatory fees and fines, would not exceed the Exchange's total regulatory costs. ISE would recommence assessing its current ORF rate of \$0.0018 per contract side as of February 1, 2022. Furthermore, prior to February 1, 2022, ISE will examine its ORF rate to determine if the \$0.0018 per contract side ORF is justified given the current Exchange regulatory expenses at that time. ISE would file a proposed rule change to amend its per contract ORF if changes are necessary to ensure an equitable allocation of reasonable ORF, if e.g., the Exchange believes that the volumes ISE experiences in the second half of 2021 are likely to persist throughout 2022. Of note, ISE proposes to continue to operate with the ORF fee waived in January 2022 to allow its members and other broker dealers time to align their systems for February 1, 2022, allowing for time after the holiday period which traditionally have year-end code freezes in place.

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

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

<sup>14</sup> 17 CFR 200.30-3(a)(12).