

Independent Directors, may determine whether all Potential Co-Investment Transactions and Co-Investment Transactions during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the Conditions.

(b) All information presented to the Regulated Fund's Board pursuant to this Condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

(c) Each Regulated Fund's chief compliance officer, as defined in rule 38a-1(a)(4), will prepare an annual report for its Board each year that evaluates (and documents the basis of that evaluation) the Regulated Fund's compliance with the terms and Conditions of the application and the procedures established to achieve such compliance. In the case of a BDC Downstream Fund that does not have a chief compliance officer, the chief compliance officer of the BDC that controls the BDC Downstream Fund will prepare the report for the relevant Independent Party.

(d) The Eligible Directors will consider at least annually: (i) The continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions; and (ii) the continued appropriateness of any Board-Established Criteria.

11. *Record Keeping.* Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these Conditions were approved by the Required Majority under section 57(f).

12. *Director Independence.* No Independent Director (including the non-interested members of any Independent Party) of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise be an "affiliated person" (as defined in the Act) of any Affiliated Fund.

13. *Expenses.* The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their respective advisory agreements with the Regulated Funds and the Affiliated Funds, be shared by the Regulated Funds and the participating Affiliated Funds in proportion to the relative amounts of the

securities held or being acquired or disposed of, as the case may be.

14. *Transaction Fees.*³¹ Any transaction fee (including break-up, structuring, monitoring or commitment fees but excluding brokerage or underwriting compensation permitted by section 17(e) or 57(k)) received in connection with any Co-Investment Transaction will be distributed to the participants on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1), and the account will earn a competitive rate of interest that will also be divided pro rata among the participants. None of the Advisers, the Affiliated Funds, the other Regulated Funds or any affiliated person of the Affiliated Funds or the Regulated Funds will receive any additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction other than (i) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in Condition 2(c)(iii)(B)(z), (ii) brokerage or underwriting compensation permitted by section 17(e) or 57(k) or (iii) in the case of the Advisers, investment advisory compensation paid in accordance with investment advisory agreements between the applicable Regulated Fund(s) or Affiliated Fund(s) and its Adviser.

15. *Independence.* If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Fund, then the Holders will vote such Shares in the same percentages as the Regulated Fund's other shareholders (not including the Holders) when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable State law affecting the Board's composition, size or manner of election.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,
Assistant Secretary.

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³¹ Applicants are not requesting and the Commission is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94474; File No. SR-CboeBZX-2021-083]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Amend Rule 25.3, Which Governs the Exchange's Minor Rule Violation Plan, in Connection With Certain Minor Rule Violations and Applicable Fines

March 18, 2022.

I. Introduction

On December 6, 2021, Cboe BZX Exchange, Inc. ("Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ a proposed rule change to amend Rule 25.3, which governs the Exchange's Minor Rule Violation Plan ("MRVP"), in connection with certain minor rule violations and applicable fines. The proposed rule change was published for comment in the **Federal Register** on December 23, 2021.⁴ On February 3, 2022, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.⁵ On March 8, 2022, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed. On March 11, 2022, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change as modified by Amendment No. 1.⁶ The Commission received no comments on the proposed rule change. The Commission is publishing this notice to

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 93834 (December 20, 2021), 86 FR 73072.

⁵ See Securities Exchange Act Release No. 94142, 87 FR 7518 (February 9, 2022) (extending the time period to March 23, 2022).

⁶ In Amendment No. 2, the Exchange revised the proposal to: (1) Provide additional detail and clarification regarding the Exchange's current and proposed treatment of violations of a Market Maker's quoting obligations, (2) correct an inadvertent error in the Exhibit 5, and (3) remove a superfluous provision in the Exhibit 5 to provide for additional clarity. Amendment No. 2 to the proposed rule change is available at: <https://www.sec.gov/comments/sr-cboebzx-2021-083/sr-cboebzx2021083.htm>.

solicit comments on Amendment No. 2 from interested persons and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

II. The Exchange's Description of the Proposed Rule Change, as Modified by Amendment No. 2

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 MRVP in Rule 25.3 in connection with certain minor rule violations and applicable fines. Rule 25.3 provides for disposition of specific violations through assessment of fines in lieu of conducting a formal disciplinary proceeding.⁷ Current Rule 25.3(a)–(g) sets forth a list of specific Exchange Rules under which an Options Member, associated person of an Options Member, or registered or non-registered employee of an Options Member may be subject to a fine for violations of such Rules and the applicable fines that may be imposed by the Exchange.

Specifically, the proposed rule change amends Rule 25.3 by: (1) Eliminating violations of Rule 22.6(a) (regarding Market Maker firm quotes) in Rule 25.3(c), which currently imposes fines for violations of Rules 22.6(a) through (c) (Market Maker Quotations); (2) relocating violations of Rule 22.6(b) (regarding Market Maker initial quote volume requirements) and Rule 22.6(c) (regarding Market Maker two-sided quote requirements) to Rule 25.3(d),⁸

⁷ The Exchange may, with respect to any such violation, proceed under Rule 8.15 (Imposition of Fines for Minor Violation(s) of Rules) and impose the fine set forth in Rule 25.3(a)–(g).

⁸ As a result of the proposed elimination or relocation of the rule violations listed under Rule 25.3(c), the proposed rule change ultimately eliminates Rule 25.3(c) from the MRVP and subsequently renumbers current Rules 25.3(d), 25.3(e), 25.3(f) and 25.3(g) to Rules 25.3(c), 25.3(d), 25.3(e) and 25.3(f), respectively. In addition to this, the proposed rule change makes a nonsubstantive formatting change to Rule 25.3(e) (25.3(d), as amended) to denote with a “(2)” where subparagraph (2) begins, which is titled “American-Style, Cash-Settled Index Options”.

which currently imposes fines for violations of Rule 22.6(d) (regarding Market Maker continuous quoting obligations) so that a single MRVP provision governs violations of a Market Maker's quoting obligations; and (3) updating the fine schedule applicable to minor rule violations related to Market Maker quoting obligations (*i.e.*, Rules 22.6(b)–(d), as proposed) in Rule 25.3(d).

First, the proposed rule change eliminates the violation of 22.6(a) currently in Rule 25.3(c) of the MRVP. Specifically, Rule 22.6(a) requires a Market Maker to submit bids and offers that are firm for all orders. The Exchange no longer believes violations of Rule 22.6(a) to be minor in nature and therefore proposes to remove it from the list of rules in Rule 25.3 eligible for a minor rule fine disposition. Particularly, the Exchange believes that violations of Rule 22.6(a), to the extent they would occur,⁹ may directly impact trading on the Exchange, the maintenance of a fair and orderly market and customer protections because honoring firm quotations is vital in promoting efficient functioning of intermarket price priority and trading in general. Pursuant to Rule 25.3, the Exchange is not required to proceed under said Rules as to any rule violation and may, whenever such action is deemed appropriate, commence a disciplinary proceeding under Chapter VIII (Discipline) rules as to any such violation. The Exchange notes that the proposed rule change is consistent with the MRVP of its affiliated options exchange, Cboe Exchange, Inc. (“Cboe Options”), which recently filed a proposal, approved by the Commission,¹⁰ to no longer include such violations as eligible for a minor rule disposition on Cboe Options for the same reason—it no longer believed violations of the firm quote requirement to be minor in nature.

The proposed rule change next relocates violations of Rules 22.6(b) and (c), currently in Rule 25.3(c) of the MRVP, to Rule 25.3(d) (Rule 25.3(c), as amended)¹¹ of the MRVP. The

⁹ The Exchange notes that Market Maker bids and offers entered on the Exchange's all-electronic trading platform are firm for all orders for the number of contracts specified in the bid and offer, subject to the exceptions noted in Rule 22.6(a) and in Rule 602 of Regulation NMS under the Exchange Act of 1934 (the “Act”), and that the electronic execution of marketable orders against resting bids and offers is system-enforced by the Exchange as provided in the Exchange Rules.

¹⁰ See Securities Exchange Act Release No. 92702 (August 18, 2021), 86 FR 47346 (August 24, 2021) (SR–CBOE–2021–045) (Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Amend Rule 13.15, Which Governs the Exchange's Minor Rule Violation Plan).

¹¹ See *supra* note 9.

Exchange notes that Rule 22.6 governs Market Maker quoting obligations on the Exchange and, more specifically, Rule 22.6(b) requires a Market Maker to submit initial quotes that contain a minimum size (currently, at least one contract) and Rule 22.6(c) requires a Market Maker to submit two-sided quotes. As stated above, Rule 25.3(d) currently imposes certain fines for a Market Maker's failure to meet the continuous quoting obligations in Rule 22.6(d). By relocating violations of Rules 22.6(b) and (c) to join violations of Rule 22.6(d) in Rule 25.3(d) of the MRVP, the proposed rule change amends the MRVP to impose the same fine schedule for violations of a Market Maker's quoting obligations. As a result of combining these into Rule 25.3(d), the proposed rule change subsequently renames Rule 25.3(d) as “Market Maker Quoting Obligations”. The Exchange notes that the proposed rule change is consistent, and intended to harmonize to the extent possible, with the MRVP of the Exchange's affiliated options exchange, Cboe Options, which imposes one fine schedule for a market maker's failure to meet its quoting obligations on Cboe Options, including failure to meet continuous quoting requirements and failure to meet initial quote volume requirements.¹² The Exchange's other affiliated options exchanges, Cboe EDGX Exchange, Inc. (“EDGX Options”) and Cboe C2 Exchange, Inc. (“C2 Options”), have also filed proposals to update their MRVPs in connection with the violations of market maker quoting requirements on EDGX Options and C2 Options, to the extent possible, in an identical manner.¹³

The Exchange notes that, under current Rule 25.3(c), violations of the Market Maker initial quote volume requirement (Rule 22.6(b)) and violations of the Market Maker two-sided quote requirement (Rule 22.6(c)) are to be treated separately for purposes of determining the number of cumulative violations under the applicable fine schedule. For example,

¹² See Cboe Options Rule 13.15(g)(9).

¹³ The Exchange notes that C2 Option's proposal has been approved by the Commission and EDGX Option's proposal is currently pending approval by the Commission. See Securities Exchange Act Release Nos. 93887 (December 30, 2021), 87 FR 504 (January 5, 2022) (SR–C2–2021–019) (Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Certain Fine Amounts in Rule 13.15, Which Governs the Exchange's Minor Rule Violation Plan, and Non-Substantive Clarifying Changes); and 93815 (December 17, 2021), 86 FR 73029 (December 23, 2021) (SR–CboeEDGX–2021–052) (Notice of Filing of a Proposed Rule Change To Amend Rule 25.3, Which Governs the Exchange's Minor Rule Violation Plan, in Connection With Certain Minor Rule Violations and Applicable Fines).

if during the same period, a Market Maker violates the initial quote volume requirement five times and also violates the two-sided quote requirement four times, the current provision would provide for two separate Letters of Caution (one for the initial quote size violations and one for the two-sided quote violations).¹⁴ The Cboe Options MRVP applicable to violations of market maker quoting obligations does not contain this language and, as proposed, the amended MRVP language would not include this “separate treatment” provision for Market-Maker quoting obligations to be consistent with corresponding Cboe Options MRVP provision. Additionally, while current Rule 25.3(c) provides that Rules 22.6(b) and (c) shall be treated separately for purposes of determining the number of cumulative violations, pursuant to Rule 8.15(a), the Exchange, like Cboe Options, is permitted to “aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors, or the violations resulted from a single systemic problem or cause that has been corrected.”¹⁵ The Exchange, like Cboe Options, considers violations of a Market Maker’s quoting obligations Rule 22.6(b), (c) and (d) to be similar in nature.¹⁶ The Exchange believes moving violations of Rule 22.6(b) and (c) from Rule 25.3(c) to Rule 25.3(d) and removing the language to treat each paragraph separately for purposes of determining the cumulative violations aligns with how the Exchange generally surveils for and sanctions violations across market maker quoting obligations while still allowing the flexibility to

treat the violations separately, if necessary. By aligning the fine schedule across each of the Market Maker quoting obligations the proposed rule change will allow for consistent application of the MRVP for the various Market Maker quoting obligations whether the violations are sanctioned separately or aggregation is warranted pursuant to Rule 8.15(a).

Further, the Exchange notes that Rule 25.3(d) currently provides that violations occurring during a calendar month are aggregated and sanctioned as a single offense. In line with the proposed change to allow the Exchange the flexibility to choose to aggregate violations across different sections governing market maker quoting obligations (upon the proposed relocation of the Market Maker two-sided quote and initial quote volume requirements to Rule 25.3(d)), the proposed rule change removes this language.¹⁷ Without the explicit requirement that the Exchange must aggregate and sanction violations as a single offense, the Exchange is free to determine whether or not violations of a Market Maker’s quoting obligations across different sections, and across different review periods (*e.g.*, calendar months),¹⁸ should be aggregated and sanctioned as a single offense pursuant to Rule 8.15(a);¹⁹ just as the Exchange may choose to aggregate violations, pursuant to Rule 8.15(a), across different sections without time constraints (*e.g.*, in a calendar month) under other MRVP provisions that otherwise do not contain any explicit aggregation requirement.²⁰ Moreover, the Exchange believes that, notwithstanding the relocation of the

two-sided quote and initial quote volume requirements to Rule 25.3(d), the aggregation requirement in Rule 25.3(d) currently conflicts with Rule 22.6(d) and a Market Maker’s continuous quoting obligations. Specifically, Rule 22.6(d)(1) provides that the Exchange determines compliance by a Market Maker with the continuous quoting obligation in Rule 22.6(d) on a monthly basis. Rule 22.6(d)(1) goes on to provide that determining compliance with the continuous quoting obligations on a monthly basis does not relieve a Market Maker from meeting this obligation on a daily basis, nor does it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet this obligation each trading day. Therefore, the Exchange believes that it should have the flexibility to be able to separately charge for violations of a Market Maker’s continuous quoting obligations on a monthly basis and a daily basis.

The proposed rule change also updates the fine schedule heading in Rule 25.3(d) to reflect that fines may be imposed per the number of offenses, rather than violations, within one period (*i.e.*, any rolling 24-month period), which more accurately reflects the manner in which the Exchange aggregates violations as a single offense under Rule 25.3(d), currently and as proposed, and further harmonizes Rule 25.3(d) with that of Cboe Options corresponding MRVP provision, which also counts the number of offenses in connection with market maker violations of quoting obligations in any rolling 24-month period.

Ultimately, the Exchange believes that the proposed flexibility to choose whether to aggregate violations of a Market Maker’s quoting obligations across sections will allow it to administer discipline in a manner it deems most appropriate. For example, if a Market Maker violates its continuous quoting obligation pursuant to Rule 22.6(d) on multiple trading days, January 27, 28 and 31, 2022, due to a systemic error, and also violates the initial quote volume requirement pursuant to Rule 22.6(b) multiple times during the next trading day, February 1, 2022,²¹ due to the same systemic error that has since been corrected, the

¹⁴ The Exchange notes that Rule 22.6(b) requires the best bid and best offer entered by a Market Maker to have a size of at least one contract. The System requires a bid or offer to include a size of at least one contract, as a bid or offer with a size of zero results in any existing bid/offer quote for that series to be cancelled. As a result, the Exchange does not observe violations of Rule 22.6(b), but retains the provision in MRVP should the minimum size requirement be greater than one in the future.

¹⁵ Cboe Options Rule 13.15(a) contains the same language. The Exchange, like Cboe Options, may consider violations of a Market Maker’s quoting obligations under Rule 22.6(b), (c), and (d) to be similar in nature.

¹⁶ The Exchange notes that Rule 22.6(d) requires a Market Maker to provide continuous bids and offers in accordance with, among other things, the Rule 22.6(c) requirement to provide two-sided quotes. Because two-sided quotes are an element of the continuous electronic quote obligation, and violations of continuous quoting requirements can be the direct result of failure to provide two-sided quotes, the Exchange commonly cites Rule 22.6(d) in connection with two-sided quote violations. However, depending on the particular facts and circumstances, a Market Maker may be cited for a violation of continuous electronic quotes under Rule 22.6(d) or two-sided quotes under Rule 22.6(c) or both.

¹⁷ Amendment No. 2 corrects an inadvertent error made to the rule text in the Exhibit 5. Amendment No. 1 inadvertently did not delete the proposed rule text changes to the Exhibit 5 made by the Initial Rule Filing to the sentence that provides that “Violations occurring during a calendar month are aggregated and sanctioned as a single offense” before making proposed rule text changes to remove this entire sentence. As such, Amendment No. 2 corrects this inadvertent error by removing the rule text changes to the Exhibit 5 made by the Initial Rule Filing to this sentence and updating the Exhibit 5 to correctly reflect the deletion of the entire sentence, as made pursuant to Amendment No. 1.

¹⁸ See *infra* note 22.

¹⁹ See *supra* note 16.

²⁰ If the current provision were to be maintained in Rule 25.3(d) upon the relocation of the initial quote volume requirement and the two-sided quote requirement to Rule 25.3(d), then violations of a Market Maker’s quoting obligations would never amount to more than one offense if they occurred in the same month. For example, if a Market Maker were to violate Rule 22.6(d) in February 2022 and violate Rule 22.6(b) and/or Rule 22.6(c) during the same month, then, pursuant to the current provision, such violations would have to be treated as a single offense and could not constitute more than one offense.

²¹ The Exchange is not required to treat violations occurring in separate review periods (*e.g.*, a monthly review, a weekly review, etc.) as separate offenses and the Exchange is not required to treat violations occurring in the same review period as a single offense (including as proposed—in connection with removing the provision in Rule 25.3(d) that requires the Exchange to aggregate and sanction violations occurring in a month as a single offense).

Exchange may deem it appropriate to treat such violations as a single offense²² and issue a Letter of Caution, which is applicable to a first offense pursuant to Rule 25.3(d). This would be in lieu of treating such violations as two separate offenses—the violation of the Market Maker’s continuous quoting obligations (22.6(d)) as a first offense, for which the Exchange would issue a Letter of Caution, and the violations of its initial quote volume requirement aggregated into a separate, second offense, for which the Exchange would then issue a fine applicable to a second offense pursuant to Rule 25.3(d) (as proposed and described in detail below). If, in June 2022 (*i.e.*, within the same 24-month period as the above referenced violations),²³ the Market Maker violates the initial quote volume requirement multiple times throughout the month due to another systemic error, and also violates the continuous quote requirement pursuant to Rule 22.6(d) on multiple days throughout June 2022 due to the same systemic error, the Exchange may again deem it appropriate to treat these violations as a single offense, constituting the Market Maker’s second offense within the previous rolling 24-month period for which the Exchange would then issue a fine applicable to a second offense pursuant to Rule 25.3(d) (as proposed). The Exchange could, alternatively, choose to aggregate the June 2022 violations of the initial quote volume requirement as one offense and the June 2022 violations of the continuous quote requirement as another offense, which would result in the issuance of two offenses stemming from the same review period (*i.e.*, a review of June 2022)²⁴ to which the Exchange would then issue a fine applicable to a second and third offense within the previous rolling 24-month period pursuant to Rule 25.3(d) (as proposed).

The proposed rule change next amends the fine schedule in Rule 25.3(d) (Rule 25.3(c), as amended)²⁵ applicable to Market Makers for violations of their quoting obligations (Rules 22.6(b)–(d), as proposed) in order to harmonize, to the extent possible, this MRVP provision with the corresponding Cboe Options MRVP provision applicable to violations of a market maker’s quoting obligations on Cboe Options. The current fine schedule in Rule 25.3(d), currently applicable to

violations of a Market Maker’s continuous quoting obligations, sets forth the following:

For the first violation during any rolling 24-month period (*i.e.*, one period),²⁶ the fine schedule imposed by Rule 25.3(d) currently permits the Exchange to give a Letter of Caution. For a second violation during the same period, the fine schedule currently permits the Exchange to apply a fine of \$1,000. For a third violation in the same period, the fine schedule currently permits the Exchange to apply a fine of \$2,500. For a fourth violation in the same period, the fine schedule currently permits the Exchange to apply a fine of \$5,000. Finally, for five or more violations in the same period, the fine schedule currently permits the Exchange to proceed with formal disciplinary action.

The proposed rule change updates the fine schedule to provide that, during any rolling 24-month period, the Exchange may continue to give a Letter of Caution for a first offense,²⁷ may apply a fine of \$1,500 for a second offense,²⁸ may apply a fine of \$3,000 for a third offense, and may proceed with formal disciplinary action for subsequent offenses. As described above, and as is the case for all rule violations covered under Rule 25.3, the Exchange may determine that it is appropriate to commence a formal disciplinary proceeding for a violation of Market Maker quoting obligations and may choose to proceed under the Exchange’s formal disciplinary rules rather than its MRVP. The Exchange may continue to aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors, or the violations resulted from a single systemic problem or cause that has been corrected, and treat such violations as a single offense.²⁹

The Exchange believes it is appropriate to increase the fine amounts for a second and third offense and to remove the fine imposed for a fourth offense and proceed with formal disciplinary proceedings for subsequent

offenses following a third offense. Particularly, the Exchange believes that applying a higher fine per second and third offenses in connection with a Market Maker’s quoting obligations³⁰ and, ultimately, formal disciplinary proceedings for any subsequent offenses during a rolling 24-month period, will allow the Exchange to levy progressively larger fines and greater penalties (*i.e.*, formal disciplinary proceedings following a third offense) against repeat-offenders. The Exchange believes this fine structure may serve to more effectively deter repeat-offenders while continuing to provide reasonable warning for a first offense during a rolling 24-month period. The Exchange notes that the proposed fine schedule for violations of a Market Maker’s quoting obligations is identical to the fine schedule under the MRVP of Cboe Options for market maker violations of quoting obligations on Cboe Options, including a continuous quoting requirement and initial volume requirement. The Exchange further notes that the proposed change is intended to provide for consistency across the Exchange’s MRVP and the MRVPs of its affiliated options exchanges, Cboe Options, EDGX Options and C2 Options, as EDGX Options and C2 Options also intend to file proposals to update their minor rule violation fines for violations of market maker quoting requirements on their exchanges in an identical manner.

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.³¹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³² 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

²² See *supra* note 16.

²³ See Rule 25.3, which states that a subsequent violation is calculated on the basis of a rolling 24-month period (“Period”).

²⁴ See *supra* note 22.

²⁵ See *supra* note 9.

²⁶ See *supra* note 24.

²⁷ As stated herein, the proposed rule change also updates the fine schedule heading to reflect that fines may be imposed per the number of offenses, rather than violations, which more accurately reflects the manner in which the Exchange aggregates violations as a single offense under Rule 25.3(d), currently and as proposed.

²⁸ Any fine imposed pursuant to the Exchange’s MRVP that does not exceed \$2,500 and is not contested shall not be publicly reported, except as may be required by Rule 19d–1 under the Act or as may be required by any other regulatory authority. See Rule 8.15(a).

²⁹ See Rule 8.15(a).

³⁰ The proposed fine amounts are also an increase from the fines in Rule 25.3(c) currently imposed for violations of Market Maker initial quote volume and two-sided requirements. The Exchange notes, however, that Rule 25.3(c) currently imposes fines per violation whereas Rule 25.3(d) imposes fines per offense, which may be cumulative violations of Market Maker quoting obligations, as proposed.

³¹ 15 U.S.C. 78f(b).

³² 15 U.S.C. 78f(b)(5).

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 the proposed rule change is consistent with the Section 6(b)(5)³³ 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 rule change to remove the firm quote requirement, which it no longer considers violations of which to be minor in nature, as eligible for a minor rule fine disposition under its MRVP, will assist the Exchange in preventing fraudulent and manipulative acts and practices and promoting just and equitable principles of trade, and will serve to 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. Particularly, the Exchange believes that violations of the firm quote requirement may directly impact trading on the Exchange, maintenance of a fair and orderly market, and customer protection. As such, the Exchange does not believe violations of this rule to be minor in nature and, instead, should be handled under its formal disciplinary rules, rather than imposing fines pursuant to its MRVP. Also, and as stated above, the proposed rule change is consistent with the MRVP of its affiliated options exchange, Cboe Options, which, for the same reasons provided herein, no longer includes violations of the firm quote requirement as eligible for a minor rule disposition on Cboe Options.³⁴

The Exchange believes that the proposed rule change to apply the same MRVP fine schedule for violations of a Market Makers quoting obligations pursuant to Rule 22.6 (*i.e.*, Rules 22.6(b)–(d)) and the same process for imposing such fines—that is, permitting the Exchange to aggregate violations of such Market Maker obligations into a single offense—will assist the Exchange in preventing fraudulent and manipulative acts and practices and promoting just and equitable principles of trade by uniformly imposing penalties and procedures for failure to satisfy obligations governed by the same Rule. By allowing for the consistent application of the MRVP for the various Market Maker quoting obligations and the administration of discipline in a manner the Exchange deems most appropriate (*i.e.*, whether the violations

are sanctioned separately or aggregation is warranted pursuant to Rule 8.15(a)), the Exchange believes the proposed rule change provides the Exchange with the flexibility to administer its enforcement program in a more uniform, effective and efficient manner, and, as described above, in a manner that aligns with how the Exchange generally surveils for and sanctions violations across market maker quoting obligations, thereby removing impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

Additionally, the Exchange believes the proposed rule change will serve to 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 is intended to harmonize the Exchange's MRVP in connection with Market Maker quoting obligations with that of Cboe Options, as well as EDGX Options and C2 Options (to the extent possible),³⁵ thereby providing consistent structures and procedures across MRVP provisions applicable to market maker obligations on the affiliated options exchanges. The proposed rule change contributes to the protection of investors and the public interest by promoting regulatory consistency by increasing understanding of the Exchange's MRVP provisions for Trading Permit Holders ("TPHs") that are also market participants on the Exchange's affiliated options exchanges, making it easier for participants across the affiliated options exchanges to adhere to the disciplinary rules.

The Exchange also believes that the proposed rule change, in connection with the fine schedule for violations of a Market Maker's quoting obligations in Rule 25.3(d), as proposed, to increase the fine amounts for a second and third offense³⁶ and to remove the fine imposed for a fourth offense and proceed with formal disciplinary proceedings for subsequent offenses following a third offense will assist the Exchange in preventing fraudulent and manipulative acts and practices and promoting just and equitable principles of trade, and will serve to 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. Particularly, the Exchange believes that applying a higher fine per second and third offenses and,

ultimately, formal disciplinary proceedings for any subsequent offenses during a rolling 24-month period, will allow the Exchange to levy progressively larger fines and greater penalties (*i.e.*, formal disciplinary proceedings following a third offense) against repeat-offenders which may serve to more effectively deter repeat-offenders while providing reasonable warning for a first offense during a rolling 24-month period. The Exchange believes that more effectively deterring repeat-offenders, while continuing to make first instance offenders aware of their quoting obligation violations and the subsequent consequences for continued failure, will, in turn, further motivate Market Makers to continue to uphold their quoting obligations, providing liquid markets to the benefit of all investors. The Exchange again notes that the proposed fine schedule is consistent with the fine schedule under Cboe Options' MRVP applicable to violations of Market Maker quoting requirements on Cboe Options, including a continuous quoting requirement and initial quote volume requirement. As described above, EDGX Options and C2 Options intend to file proposals to update their minor rule violation fines applicable to violations of market maker quoting obligations in the same manner as Cboe Options and as proposed herein. As such, the proposed rule change is also designed to benefit investors by providing from consistent penalties across the MRVPs of the Exchange and its affiliated options exchanges.

The Exchange further believes that the proposed rule changes to Rule 25.3 are consistent with Section 6(b)(6) of the Act,³⁷ which provides that members and persons associated with members shall be appropriately disciplined for violation of the provisions of the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. As noted, the proposed rule change removes a Rule listed as eligible for a minor rule fine disposition under the Exchange's MRVP that the Exchange no longer believes violations of which are minor in nature and is more appropriately disciplined through the Exchange's formal disciplinary procedures, amends the MRVP provisions so that the same fine schedule, and process to impose such fines, uniformly applies to violations of a Market Maker's quoting obligations in Rule 22.6, and amends the fine schedule

³³ *Id.*

³⁴ See *supra* note 11.

³⁵ See *supra* notes 13 and 14.

³⁶ See *supra* note 31.

³⁷ 15 U.S.C. 78f(b)(6).

applicable to Market Maker failures to meet their quoting obligations in a manner that appropriately sanctions such failures.

The Exchange also believes that the proposed change is designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.³⁸ Rule 25.3, currently and as amended, does not preclude an Options Member, associated person of an Options Member, or registered or non-registered employee of an Options Member from contesting an alleged violation and receiving a hearing on the matter with the same procedural rights through a litigated disciplinary proceeding.

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 proposed rule change is not intended to address competitive issues but rather is concerned solely with amending its MRVP in connection with rules eligible for a minor rule fine disposition and with the fine schedule for Market Maker failures to meet their quoting obligations. The Exchange believes the proposed rule changes, overall, will strengthen the Exchange's ability to carry out its oversight and enforcement functions and deter potential violative conduct.

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. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.³⁹ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act,⁴⁰ which requires that the rules of an exchange be designed to

promote just and equitable principles of trade, to remove impediments and 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. The Commission also believes that the proposal, as modified by Amendment No. 2, is consistent with Sections 6(b)(1) and 6(b)(6) of the Act⁴¹ which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. Finally, the Commission finds that the proposal, as modified by Amendment No. 2, is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,⁴² which governs minor rule violation plans.

As stated above, the Exchange proposes to amend Rule 25.3 by eliminating violations of Rule 22.6(a) from Rule 25.3(c) and the Exchange's MRVP; relocating violations of Rule 22.6(b) and Rule 22.6(c) to proposed Rule 25.3(c) so that a single MRVP provision governs violations of a Market Maker's quoting obligations; amending the current manner of calculating violations of Market Maker rules, including deleting a provision that requires violations of Market Maker obligations occurring during a calendar month be aggregated and sanctioned as a single offense; and updating the fine schedule applicable to minor rule violations related to Market Maker quoting obligations.

The Commission believes that Rule 25.3 is an effective way to discipline a member for a minor violation of a rule. More specifically, the Commission finds that the Exchange's proposal, as modified by Amendment No. 2, to eliminate Rule 22.6(a), a Market Maker quoting obligation rule, from the MRVP is consistent with the Act because it should help the Exchange enforce compliance with, and provide appropriate discipline for, violation of a rule that the Exchange no longer believes is minor in nature. Combining all the Market Maker quoting obligation rules together in one provision of Rule 25.3 will also bring clarity to the Rule. The Commission also finds that amending the current manner of calculating violations of Market Maker rules is appropriate because the Exchange can already aggregate violations under Rule 8.15 under certain circumstances. Finally, the Commission finds that amending the associated fee

schedule is consistent with the Act because it may help the Exchange's ability to better carry out its oversight and enforcement responsibilities by levying appropriate fines on Market Makers for violations of the Market Maker rules.

In approving the proposed rule change, as modified by Amendment No. 2, the Commission in no way minimizes the importance of compliance with the Exchange's rules and all other rules subject to fines under Rule 25.3. The Commission believes that a violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, Rule 25.3 provides a reasonable means of addressing rule violations that may not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that the Exchange will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under Rule 25.3 or whether a violation requires formal disciplinary action.

IV. Solicitation of Comments on Amendment No. 2 to the Proposed Rule Change

Interested persons are invited to submit written views, data, and arguments concerning whether Amendment No. 2 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-CboeBZX-2021-083 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-2021-083. 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

³⁸ 15 U.S.C. 78f(b)(7) and 78f(d).

³⁹ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁴⁰ 15 U.S.C. 78f(b)(5).

⁴¹ 15 U.S.C. 78f(b)(1) and 78f(b)(6).

⁴² 17 CFR 240.19d-1(c)(2).

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-2021-083 and should be submitted on or before April 14, 2022.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 2 in the **Federal Register**. According to the Exchange, Amendment No. 2 supplements the proposal by, among other things: (1) Providing additional detail and clarification regarding the Exchange's current and proposed treatment of a Market Maker's quoting obligations, (2) correcting an inadvertent error in the Exhibit 5, and (3) removing a superfluous provision in the Exhibit 5 to provide for additional clarity. The Commission believes that Amendment No. 2 provides additional accuracy and clarity to the proposal and does not raise any novel regulatory issues. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁴³ to approve the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁴⁴ that the proposed rule change (SR-CboeBZX-2021-083), as modified by Amendment

No. 2 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁵

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2022-06193 Filed 3-23-22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94476; File No. SR-CboeBZX-2022-006]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the WisdomTree Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

March 18, 2022.

On January 25, 2022, Cboe BZX Exchange, Inc. ("BZX") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares of the WisdomTree Bitcoin Trust under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on February 14, 2022.³ The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act⁴ 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 (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) 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 March 31, 2022. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period

within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and any comments received. Accordingly, pursuant to Section 19(b)(2) of the Act,⁵ the Commission designates May 15, 2022, 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-2022-006).

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

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2022-06195 Filed 3-23-22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94465; File No. SR-LTSE-2021-08]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Modify and Expand the Package of Products and Services Provided to Companies and Clarify Existing Practice Under Rule 14.602

March 18, 2022.

I. Introduction

On December 2, 2021, Long-Term Stock Exchange, Inc. ("LTSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to modify and expand the package of products and services provided to Companies and clarify existing practice under Exchange Rule 14.602 with respect to providing Company-specific web pages on the Exchange's website in connection with listing on the Exchange. The proposed rule change was published for comment in the **Federal Register** on December 21, 2021.³ On February 3, 2022, pursuant to Section 19(b)(2) of the Act,⁴ the

⁵ *Id.*

⁶ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 93787 (December 15, 2021), 86 FR 72296 (December 21, 2021) ("Notice").

⁴ 15 U.S.C. 78s(b)(2).

⁴⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 94184 (Feb. 8, 2022), 87 FR 8318.

⁴ 15 U.S.C. 78s(b)(2).

⁴³ 15 U.S.C. 78s(b)(2).

⁴⁴ *Id.*