

consistent with the Exchange's proposal to expand the Program to securities priced below \$1.00. The proposed changes to Rule 11.24(a)(2) are intended to: (i) clarify that a Retail Order must be submitted with a time-in-force of IOC; and (ii) introduce the ability for Users to submit Retail Orders as Mid-Point Peg Orders, both of which changes serve to provide additional guidance to Users of Retail Orders about the order modifiers permitted by the Exchange. The Exchange believes these changes are ministerial in nature and serve to ensure that Rule 11.24 is properly describing order behavior after the proposed introduction of the Enhanced RPI Order and proposed expansion of the Program to securities priced below \$1.00.

#### *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 believes that the proposal does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to increase intramarket competition for retail order flow by introducing a new order type that is designed to provide price improvement to Retail Orders in exchange for price priority over resting orders on the same side of the BYX Book. The proposal, which seeks to provide an innovative form of price improvement to Retail Orders through the creation of the Enhanced RPI Order, represents an effort by the Exchange to encourage on-exchange liquidity and incentivize the trading of Retail Orders on a national securities exchange.

The Exchange also believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act. As discussed above, IEX, NYSE, NYSE Arca, and Nasdaq BX each operate RLPs and the Exchange believes that its proposed rule change will allow it to compete for additional retail order flow with the aforementioned exchanges.<sup>71</sup> Furthermore, the Exchange's proposal will promote competition between the Exchange and off-exchange trading venues where the majority of retail order flow trades today. The proposed Enhanced RPI Order is designed to foster innovation within the market and increase the quality of the national

market system by allowing national securities exchanges to compete both with each other and with off-exchange venues for order flow. Expanding the program to include securities priced below \$1.00 similarly would not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act. The Exchange's proposal is designed to increase competition for trading in all securities, including but not limited to securities priced below \$1.00. Given the growth of trading in sub-dollar securities since 2020, the Exchange believes that expanding the Program to include sub-dollar securities will make the Program an attractive option for retail investors seeking to trade in lower-priced securities, and as such is a competitive measure designed to compete directly with other exchanges for order flow.

#### *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**

Within 45 days of the date of publication of this notice in the **Federal Register** 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 Exchange consents, the Commission will:

- A. by order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

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

##### *Electronic Comments*

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-CboeBYX-2023-020 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-CboeBYX-2023-020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR-CboeBYX-2023-020 and should be submitted on or before February 7, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>72</sup>

**Sherry R. Haywood**,  
*Assistant Secretary*.

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## **SECURITIES AND EXCHANGE COMMISSION**

[SEC File No. 270-667, OMB Control No. 3235-0745]

### **Proposed Collection; Comment Request; Extension: Rule 18a-5**

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

<sup>72</sup> 17 CFR 200.30-3(a)(12).

<sup>71</sup> *Supra* note 59.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (“PRA”) (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the existing collection of information provided for in Rule 18a–5, under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.

Rule 18a–5 enumerates the recordkeeping and reporting requirements for security-based swap dealers (“SBSDs”) and major security-based swap participants (“MSBSPs”). More specifically, Rule 18a–5 establishes recordkeeping requirements applicable to stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs. Rule 18a–5 was modeled on Rule 17a–3 under the Exchange Act, which applies to broker-dealers, but Rule 18a–5 does not include a parallel requirement for every requirement in Rule 17a–3 because some of the requirements in Rule 17a–3 relate to activities that are not expected or permitted of SBSDs and MSBSPs. The collections of information under Rule 18a–5 include the following types of records that are required to be created: trade blotters, general ledger, ledgers for customers and non-customer accounts, stock record, memoranda of brokerage orders, memoranda of proprietary orders, confirmations, accountholder information, options positions, trial balances and computation of net capital, associated person’s employment application, account equity and margin calculations under Rule 18a–3, possession or control requirements for security-based swap customers, customer reserve requirements for security-based swap customers, unverified transactions, political contributions, and compliance with business conduct requirements. The purpose of requiring stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs to create the records specified in Rule 18a–5 is to enhance regulators’ ability to protect investors. These records and the information contained therein are used by examiners and other representatives of the Commission to determine whether stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs are in compliance with the Commission’s anti-fraud and anti-manipulation rules, financial responsibility program, and other laws, rules, and regulations.

Not all types of records enumerated in Rule 18a–5 are required to be made by

each of the entities to which Rule 18a–5 applies. For example, Rule 18a–5 requires thirteen types of records to be made and kept current by stand-alone SBSDs and stand-alone MSBSPs.<sup>1</sup> Rule 18a–5 also requires three types of records to be made and kept current by stand-alone SBSDs.<sup>2</sup> Rule 18a–5 requires 10 types of records to be made and kept current by bank SBSDs and bank MSBSPs, all of which are limited to the firm’s business as an SBSD or MSBSP.<sup>3</sup> Further, Rule 18a–5 includes paragraphs (b)(9), (b)(10), and (b)(12) which requires bank SBSDs to make and keep current various records for security-based swaps.<sup>4</sup>

As of November 30, 2023, there are 11 stand-alone SBSDs, zero stand-alone MSBSPs, 29 bank SBSDs, and zero bank MSBSPs registered with the Commission. The Commission estimates that each recordkeeping provision of Rule 18a–5 imposes on each firm that is subject to the provision an initial burden and an ongoing annual burden. The total initial industry hour burden attributable to Rule 18a–5 is estimated to be 11,060 hours in the first year and the total industry ongoing hour burden attributable to Rule 18a–5 is estimated to be 13,825 hours per year (including the first year). Over a three-year period, the total estimated industry burden is estimated to be 52,535 hours, or about 17,511 hours per year when annualized. These burdens are recordkeeping burdens.

In addition, the Commission estimates that Rule 18a–5 causes a stand-alone SBSD or stand-alone MSBSP to incur an

<sup>1</sup> See Rule 18a–5 (paragraph (a)(1) (trade blotters); paragraph (a)(2) (general ledgers); paragraph (a)(3) (ledgers of customer and non-customer accounts); paragraph (a)(4) (stock record); paragraph (a)(5) (memoranda of proprietary orders); paragraph (a)(6) (confirmations); paragraph (a)(7) (accountholder information); paragraph (a)(8) (options positions); paragraph (a)(9) (trial balances and computation of net capital); paragraph (a)(10) (associated person’s application); paragraph (a)(12) (Rule 18a–3 calculations); paragraph (a)(15) (unverified transactions); paragraph (a)(17) (compliance with business conduct standards)).

<sup>2</sup> See Rule 18a–5 (paragraph (a)(13) (compliance with Rule 18a–4 possession or control requirements); paragraph (a)(14) (Rule 18a–4 reserve account computations); and paragraph (a)(16) (political contributions)).

<sup>3</sup> See Rule 18a–5 (paragraph (b)(1) (trade blotters); paragraph (b)(2) (general ledgers); paragraph (b)(3) (stock record); paragraph (b)(4) (memoranda of brokerage orders); paragraph (b)(5) (memoranda of proprietary orders); paragraph (b)(6) (confirmations); paragraph (b)(7) (accountholder information); paragraph (b)(8) (associated person’s application); paragraph (b)(11) (unverified transactions); and paragraph (b)(13) (compliance with business conduct requirements)).

<sup>4</sup> See Rule 18a–5 (paragraph (b)(9) (possession or control requirements under Rule 18a–4); paragraph (b)(10) (customer reserve requirements under Rule 18a–4); and paragraph (b)(12) (political contributions)).

initial dollar cost of approximately \$1,000 to purchase recordkeeping system software and an ongoing dollar cost of \$4,650 per year to provide adequate physical space and computer hardware and software for storage. As of November 30, 2023, there are 11 respondents (11 stand-alone SBSDs and zero stand-alone MSBSPs), resulting in an estimated industry-wide initial burden of \$11,000 and an industry-wide ongoing burden of \$51,150 per year. Over a three-year period, the total estimated industry burden would be \$164,450, or about \$54,817 per year when annualized.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by March 18, 2024.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: January 10, 2024.

**Sherry R. Haywood,**  
*Assistant Secretary.*

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