

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 21

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. \* SR 2022 - \* 039

Amendment No. (req. for Amendments \*)

Filing by Cboe BZX Exchange, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) \*

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Section 806(e)(2) \*

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Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) \*

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Exhibit 2 Sent As Paper Document

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Exhibit 3 Sent As Paper Document

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## Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

The Exchange proposes to extend the current pilot program related to the Exchange rule regarding Clearly Erroneous Executions, to the close of business on October 20, 2022.

## Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name *	Matthew	Last Name *	Iwamaye
Title *	Assistant General Counsel		
E-mail *	miwamaye@cboe.com		
Telephone *	(908) 489-1150	Fax	

## Signature

Pursuant to the requirements of the Securities Exchange of 1934, Cboe BZX Exchange, Inc. has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 07/13/2022

(Title \*)

By Laura G. Dickman

(Name \*)

VP, Associate General Counsel

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Laura Dickman

Date: 2022.07.13  
11:26:14 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

**Form 19b-4 Information \***

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BZX-22-039 19b-4 (Clearly Erroneous)

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

Add Remove View

BZX-22-039 Exhibit 1 (CEE Extension)

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2- Notices, Written Comments, Transcripts, Other Communications**

Add Remove View

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

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Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

Add Remove View

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

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Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

Add Remove View

BZX-22-039 Exhibit 5 (Clearly Erroneous)

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> Cboe BZX Exchange, Inc. (“BZX” or the “Exchange”) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to extend the current pilot program related to BZX Rule 11.17, Clearly Erroneous Executions, to the close of business on October 20, 2022. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>3</sup>

The text of the proposed rule change is attached as Exhibit 5. The text of the proposed rule change is available on the Exchange’s website at <http://markets.cboe.com/>, at the Exchange’s principal office and at the Public Reference Room of the Commission.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

(a) The Exchange’s President (or designee) pursuant to delegated authority approved the proposed rule change on June 30, 2022.

(b) Please refer questions and comments on the proposed rule change to Patrick Sexton, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7462, or Matthew Iwamaye, Senior Director, Assistant General Counsel, (908) 489-1150, Cboe BZX Exchange, Inc. 433 West Van Buren Street, Chicago, Illinois 60607.

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6)(iii).

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

(a) Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions to the close of business on October 20, 2022. Portions of Rule 11.17, explained in further detail below, are currently operating as a pilot program set to expire on July 20, 2022.<sup>4</sup>

On September 10, 2010, the Commission approved, on a pilot basis, changes to BZX Rule 11.17 that, among other things: (i) provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.<sup>5</sup> In 2013, the Exchange adopted a provision designed to address the operation of the Plan.<sup>6</sup> Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an

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<sup>4</sup> See Securities Exchange Act Release No. 94749 (April 19, 2022), 86 FR 24352 (April 25, 2022) (SR-CboeBZX-2022-028).

<sup>5</sup> See Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR-BATS-2010-016).

<sup>6</sup> See Securities Exchange Act Release No. 68797 (January 31, 2013), 78 FR 8635 (February 6, 2013) (SR-BATS-2013-008).

Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing market.<sup>7</sup>

On December 26, 2018, the Commission published the proposed Eighteenth Amendment<sup>8</sup> to the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the “Limit Up-Limit Down Plan” or the “Plan”)<sup>9</sup> to allow the Plan to operate on a permanent, rather than pilot, basis. On April 8, 2019, the Exchange amended BZX Rule 11.17 to untie the pilot program’s effectiveness from that of the Plan and to extend the pilot’s effectiveness to the close of business on October 18, 2019 in order allow the Exchange and other national securities exchanges additional time to consider further amendments, if any, to the clearly erroneous execution rules in light of the proposed Eighteenth Amendment to the Plan.<sup>10</sup> On April 17, 2019, the Commission published an approval of the Eighteenth Amendment to allow the Plan to operate on a permanent, rather than pilot, basis.<sup>11</sup> On October 21, 2019, the Exchange amended BZX

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<sup>7</sup> See Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR-BATS-2014-014).

<sup>8</sup> See Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (File No. 4-631) (“Eighteenth Amendment”).

<sup>9</sup> See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the “Limit Up-Limit Down Release”).

<sup>10</sup> See Securities Exchange Act Release No. 85543 (April 8, 2019), 84 FR 15018 (April 12, 2019) (SR-CboeBZX-2019-022).

<sup>11</sup> See Securities Exchange Act Release No. 85623 (Apr. 11, 2019), 84 FR 16086 (Apr. 17, 2019) (File No. 4-631).

Rule 11.17 to extend the pilot's effectiveness to the close of business on April 20, 2020.<sup>12</sup> On March 18, 2020, the Exchange amended BZX Rule 11.17 to extend the pilot's effectiveness to the close of business on October 20, 2020.<sup>13</sup> On October 20, 2020, the Exchange amended BZX Rule 11.17 to extend the pilot's effectiveness to the close of business on April 20, 2021.<sup>14</sup> On April 14, 2021 the Exchange amended BZX Rule 11.17 to extend the pilot's effectiveness to the close of business on October 20, 2021.<sup>15</sup> On October 15, 2021 the Exchange amended BZX Rule 11.17 to extend the pilot's effectiveness to the close of business on April 20, 2022.<sup>16</sup> Finally, on April 19, 2022, the Exchange amended BZX Rule 11.17 to extend the pilot's effectiveness to the close of business on July 20, 2022.<sup>17</sup>

Other self-regulatory organizations ("SROs"), including the Exchange, have worked on a proposed rule change to make the pilot rules permanent. The Exchange filed such a proposed rule change on March 7, 2022.<sup>18</sup> On June 8, 2022, the Exchange

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<sup>12</sup> See Securities Exchange Act Release No. 87365 (October 21, 2019), 84 FR 57540 (October 25, 2019) (SR-CboeBZX-2019-089).

<sup>13</sup> See Securities Exchange Act Release No. 88497 (March 27, 2020), 85 FR 18602 (April 2, 2020) (SR-CboeBZX-2020-026).

<sup>14</sup> See Securities Exchange Act Release No. 90230 (October 20, 2020), 85 FR 67802 (Oct. 26, 2020) (SR-CboeBZX-2020-077).

<sup>15</sup> See Securities Exchange Act Release No. 20583 (April 14, 2021), 86 FR 20580 (April 20, 2021) (SR-CboeBZX-2021-027).

<sup>16</sup> See Securities Exchange Act Release No. 93342 (October 15, 2021), 86 FR 58332 (October 21, 2021) (SR-Cboe-BZX-2021-2291).

<sup>17</sup> Supra note 4

<sup>18</sup> See Securities Exchange Act Release No. 94374 (March 7, 2022), 87 FR 14062 (March 11, 2022) (SR-CboeBZX-2022-017).



withdrew the proposed rule change.<sup>19</sup> The Exchange now proposes to amend BZX Rule 11.17 to extend the pilot's effectiveness an additional three months to the close of business on October 20, 2022, while the Commission considers the Exchange's proposal to make the pilot rules permanent. The Exchange understands that the other national securities exchanges and Financial Industry Regulatory Authority ("FINRA") have filed or plan to file similar proposals to extend their respective clearly erroneous execution pilot programs, the substance of which are identical to BZX Rule 11.17. The Exchange does not propose any additional changes to BZX Rule 11.17. The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a limited three month pilot basis.

(b) 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>20</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>21</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles

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<sup>19</sup> On June 8, 2022, the Exchange withdrew SR-CboeBZX-2022-017. See Securities Exchange Act Release No. 95074 (June 9, 2022), 87 FR 36197 (June 15, 2022) (SR-CboeBZX-2022-017). Subsequently, on July 8, 2022, the Exchange submitted a new rule proposal. See SR-CboeBZX-2022-037, available at: [https://cdn.cboe.com/resources/regulation/rule\\_filings/pending/2022/SR-CboeBZX-2022-037.pdf](https://cdn.cboe.com/resources/regulation/rule_filings/pending/2022/SR-CboeBZX-2022-037.pdf).

<sup>20</sup> 15 U.S.C. 78f(b).

<sup>21</sup> 15 U.S.C. 78f(b)(5).

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>22</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that extending the clearly erroneous execution pilot under BZX Rule 11.17 for an additional three months would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the amended clearly erroneous executions rule should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for clearly erroneous execution reviews.

4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange understands that FINRA and other national

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<sup>22</sup> Id.



securities exchanges have or will also file similar proposals to extend their respective clearly erroneous execution pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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

No comments were solicited or received on the proposed rule change.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)<sup>23</sup> of the Act and Rule 19b-4(f)(6)<sup>24</sup> thereunder. The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for thirty (30) days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.<sup>25</sup>

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<sup>23</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>24</sup> 17 CFR 240.19b-4(f)(6).

<sup>25</sup> 17 CFR 240.19b-4(f)(6)(iii).

The proposed rule change would not significantly affect the protection of investors or the public interest because it seeks to extend the protections provided by the clearly erroneous executions pilot program, without any changes, while the Exchange and the other national securities exchanges consider and develop a permanent proposal for clearly erroneous execution reviews. This proposed rule change would also not impose any significant burden on competition because the Exchange understands that the other national securities exchanges and FINRA have or will also file similar proposals with the Commission to extend their respective clearly erroneous execution pilot programs so that those rules may continue uninterrupted. Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>26</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>27</sup>

The Exchange respectfully requests that the Commission waive the 30-day operative delay so that the proposed rule change may become effective and operative upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act<sup>28</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>29</sup> Waiver of the 30-day operative delay would allow the Exchange to immediately extend the current clearly erroneous execution pilot program to the close of business on October 20, 2022. Waiver of the operative delay is consistent with the protection of investors and the public interest because it seeks to extend the protections provided by this pilot program, without any changes.

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<sup>26</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>27</sup> 17 CFR 240.19b-4.

<sup>28</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>29</sup> 17 CFR 240.19b-4(f)(6).

At any time within sixty (60) days of the filing of such proposed rule change, the Commission may summarily 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.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is not based on the rules of another self-regulatory organization, or of the Commission.

9. Security Based-Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1: Form of Notice of Proposed Rule Change for Federal Register.

Exhibit 2-4: Not applicable.

Exhibit 5: Text of the Proposed Rule Change.

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CboeBZX-2022-039]

[Insert date]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Current Pilot Program Related to BZX Rule 11.17, Clearly Erroneous Executions, to the Close of Business on October 20, 2022

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on [insert date], Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “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. (“BZX” or the “Exchange”) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to extend the current pilot program related to BZX Rule 11.17, Clearly Erroneous Executions, to the

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<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).

close of business on October 20, 2022. 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 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 this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions to the close of business on October 20, 2022. Portions of Rule 11.17, explained in further detail below, are currently operating as a pilot program set to expire on July 20, 2022.<sup>5</sup>

On September 10, 2010, the Commission approved, on a pilot basis, changes to BZX Rule 11.17 that, among other things: (i) provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and

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<sup>5</sup> See Securities Exchange Act Release No. 94749 (April 19, 2022), 86 FR 24352 (April 25, 2022) (SR-CboeBZX-2022-028).

(ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.<sup>6</sup> In 2013, the Exchange adopted a provision designed to address the operation of the Plan.<sup>7</sup> Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing market.<sup>8</sup>

On December 26, 2018, the Commission published the proposed Eighteenth Amendment<sup>9</sup> to the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the “Limit Up-Limit Down Plan” or the “Plan”)<sup>10</sup> to allow the Plan to operate on a permanent, rather than pilot, basis. On April 8, 2019, the

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<sup>6</sup> See Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR-BATS-2010-016).

<sup>7</sup> See Securities Exchange Act Release No. 68797 (January 31, 2013), 78 FR 8635 (February 6, 2013) (SR-BATS-2013-008).

<sup>8</sup> See Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR-BATS-2014-014).

<sup>9</sup> See Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (File No. 4-631) (“Eighteenth Amendment”).

<sup>10</sup> See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the “Limit Up-Limit Down Release”).

Exchange amended BZX Rule 11.17 to untie the pilot program's effectiveness from that of the Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019 in order allow the Exchange and other national securities exchanges additional time to consider further amendments, if any, to the clearly erroneous execution rules in light of the proposed Eighteenth Amendment to the Plan.<sup>11</sup> On April 17, 2019, the Commission published an approval of the Eighteenth Amendment to allow the Plan to operate on a permanent, rather than pilot, basis.<sup>12</sup> On October 21, 2019, the Exchange amended BZX Rule 11.17 to extend the pilot's effectiveness to the close of business on April 20, 2020.<sup>13</sup> On March 18, 2020, the Exchange amended BZX Rule 11.17 to extend the pilot's effectiveness to the close of business on October 20, 2020.<sup>14</sup> On October 20, 2020, the Exchange amended BZX Rule 11.17 to extend the pilot's effectiveness to the close of business on April 20, 2021.<sup>15</sup> On April 14, 2021 the Exchange amended BZX Rule 11.17 to extend the pilot's effectiveness to the close of business on October 20, 2021.<sup>16</sup> On October 15, 2021 the Exchange amended BZX Rule 11.17 to extend the pilot's

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<sup>11</sup> See Securities Exchange Act Release No. 85543 (April 8, 2019), 84 FR 15018 (April 12, 2019) (SR-CboeBZX-2019-022).

<sup>12</sup> See Securities Exchange Act Release No. 85623 (Apr. 11, 2019), 84 FR 16086 (Apr. 17, 2019) (File No. 4-631).

<sup>13</sup> See Securities Exchange Act Release No. 87365 (October 21, 2019), 84 FR 57540 (October 25, 2019) (SR-CboeBZX-2019-089).

<sup>14</sup> See Securities Exchange Act Release No. 88497 (March 27, 2020), 85 FR 18602 (April 2, 2020) (SR-CboeBZX-2020-026).

<sup>15</sup> See Securities Exchange Act Release No. 90230 (October 20, 2020), 85 FR 67802 (Oct. 26, 2020) (SR-CboeBZX-2020-077).

<sup>16</sup> See Securities Exchange Act Release No. 20583 (April 14, 2021), 86 FR 20580 (April 20, 2021) (SR-CboeBZX-2021-027).



effectiveness to the close of business on April 20, 2022.<sup>17</sup> Finally, on April 19, 2022, the Exchanged amended BZX Rule 11.17 to extend the pilot's effectiveness to the close of business on July 20, 2022.<sup>18</sup>

Other self-regulatory organizations ("SROs"), including the Exchange, have worked on a proposed rule change to make the pilot rules permanent. The Exchange filed such a proposed rule change on March 7, 2022.<sup>19</sup> On June 8, 2022, the Exchange withdrew the proposed rule change.<sup>20</sup> The Exchange now proposes to amend BZX Rule 11.17 to extend the pilot's effectiveness an additional three months to the close of business on October 20, 2022, while the Commission considers the Exchange's proposal to make the pilot rules permanent. The Exchange understands that the other national securities exchanges and Financial Industry Regulatory Authority ("FINRA") have filed or plan to file similar proposals to extend their respective clearly erroneous execution pilot programs, the substance of which are identical to BZX Rule 11.17. The Exchange does not propose any additional changes to BZX Rule 11.17. The Exchange believes the benefits to market

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<sup>17</sup> See Securities Exchange Act Release No. 93342 (October 15, 2021), 86 FR 58332 (October 21, 2021) (SR-Cboe-BZX-2021-2291).

<sup>18</sup> Supra note 5

<sup>19</sup> See Securities Exchange Act Release No. 94374 (March 7, 2022), 87 FR 14062 (March 11, 2022) (SR-CboeBZX-2022-017).

<sup>20</sup> On June 8, 2022, the Exchange withdrew SR-CboeBZX-2022-017. See Securities Exchange Act Release No. 95074 (June 9, 2022), 87 FR 36197 (June 15, 2022) (SR-CboeBZX-2022-017). Subsequently, on July 8, 2022, the Exchange submitted a new rule proposal. See SR-CboeBZX-2022-037, available at: [https://cdn.cboe.com/resources/regulation/rule\\_filings/pending/2022/SR-CboeBZX-2022-037.pdf](https://cdn.cboe.com/resources/regulation/rule_filings/pending/2022/SR-CboeBZX-2022-037.pdf).

participants from the more objective clearly erroneous executions rule should continue on a limited three month pilot basis.

## 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>21</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>22</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>23</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that extending the clearly erroneous execution pilot under BZX Rule 11.17 for an additional three months would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a

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<sup>21</sup> 15 U.S.C. 78f(b).

<sup>22</sup> 15 U.S.C. 78f(b)(5).

<sup>23</sup> Id.

transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the amended clearly erroneous executions rule should continue to be in effect on a pilot basis while the Exchange and the other national securities exchanges consider and develop a permanent proposal for clearly erroneous execution reviews.

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange understands that FINRA and other national securities exchanges have or will also file similar proposals to extend their respective clearly erroneous execution pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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

No comments were solicited or received 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>24</sup> and Rule 19b-4(f)(6)<sup>25</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. 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBZX-2022-039 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-2022-039. This file number should be included on the subject line if e-mail is used. To help the Commission process

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<sup>24</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>25</sup> 17 CFR 240.19b-4(f)(6).

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, D.C. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2022-039 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

Secretary

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<sup>26</sup> 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Proposed new language is underlined; proposed deletions are in [brackets].

**Rules of Cboe BZX Exchange, Inc.**

\* \* \* \* \*

**Rule 11.17. Clearly Erroneous Executions**

*The provisions of paragraphs (c), (e)(2), (f), and (g) of this Rule, as amended on September 10, 2010, and the provisions of paragraphs (i) through (k), shall be in effect during a pilot period that expires at the close of business on [July 20,]October 20, 2022. If the pilot period is not either extended, replaced or approved as permanent, the prior versions of paragraphs (c), (e)(2), (f), and (g) shall be in effect, and the provisions of paragraphs (i) through (k) shall be null and void.*

(a)-(k) No change.

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