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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84738; File No. SR-CboeBZX-2018-079]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Granting Approval to a Proposed Rule Change, as Modified by Amendment No. 1, to Establish How the BZX Official Closing Price Would be Determined for BZX-Listed Securities

December 6, 2018

I. Introduction

On October 18, 2018, Cboe BZX Exchange, Inc. (the “Exchange” or “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 amend how the BZX Official Closing price would be determined for BZX-listed securities that are not corporate securities if the Exchange does not conduct a Closing Auction or if a Closing Auction trade is less than a round lot.³ The proposed rule change was published for comment in the Federal Register on November 5, 2018.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal, as Modified by Amendment No. 1

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On October 29, 2018, the Exchange filed Amendment No. 1 to the proposed rule change to specify the date upon which the Exchange’s President (or designee) approved the proposed rule change, pursuant to delegated authority.

⁴ See Securities Exchange Act Release No. 84507 (October 30, 2018), 83 FR 55435 (“Notice”).

The Exchange proposes to amend BZX Rule 11.23(c)(2)(B) to change how it would determine the BZX Official Closing Price⁵ for an Exchange-listed security that is not a corporate security (“Derivative Securities Product”) if the Exchange does not conduct a Closing Auction or if a Closing Auction trade is less than a round lot. Current Rule 11.23(c)(2)(B) provides that in the event that there is no Closing Auction for a BZX-listed security, the BZX Official Closing Price will be the price of the Final Last Sale Eligible Trade.⁶ The Exchange proposes to amend this provision to provide that for Derivative Securities Products only, in the event there is no Closing Auction, or if less than a round lot was executed in the Closing Auction, the BZX Official Closing Price will depend upon when the Final Last Sale Eligible Trade in that security occurred.

Specifically, if the Final Last Sale Eligible Trade occurred within the final five minutes before the end of Regular Trading Hours, the Final Last Sale Eligible Trade will be the BZX Official Closing Price.⁷ However, if such trade occurred prior to the last five minutes before the end of Regular Trading Hours, the time-weighted average price of the NBBO midpoint measured

⁵ See BZX Rule 11.23(a)(3) (defining the term “BZX Official Closing Price” as the price disseminated to the consolidated tape as the market center closing trade).

⁶ As defined in BZX Rule 11.23(a)(9), the term “Final Last Sale Eligible Trade” means the last trade occurring during Regular Trading Hours on the Exchange if the trade was executed within the last one second prior to either the Closing Auction or, for Halt Auctions, trading in the security being halted. Where the trade was not executed within the last one second, the last trade reported to the consolidated tape received by BZX Exchange during Regular Trading Hours and, where applicable, prior to trading in the security being halted will be used. If there is no qualifying trade for the current day, the BZX Official Closing Price from the previous trading day will be used.

⁷ See proposed BZX Rule 11.23(c)(2)(B)(ii)(a).

over the last five minutes before the end of Regular Trading Hours will be the BZX Official Closing Price.⁸

If the BZX Official Closing Price cannot be determined under proposed BZX Rule 11.23(c)(2)(B)(i) or (ii), the Final Last Sale Eligible Trade will be the BZX Official Closing Price.⁹ If there is no qualifying trade for the current day, the BZX Official Closing Price from the previous trading day will be used.¹⁰

The Exchange states that it will implement the proposed rule change as soon as is practicable after the Commission's approval and will announce the implementation date via Trade Desk Notice.¹¹

III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of Section 6 of the Act¹² and the rules and regulations thereunder applicable to a national securities exchange.¹³ In particular, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5) the Act,¹⁴ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, to remove impediments to and perfect the mechanism of a

⁸ See proposed BZX Rule 11.23(c)(2)(B)(ii)(b).

⁹ See proposed BZX Rule 11.23(c)(2)(B)(iii).

¹⁰ See BZX Rule 11.23(a)(9).

¹¹ See Notice, *supra* note 4, at 55436.

¹² 15 U.S.C. 78f(b).

¹³ In approving this proposed rule change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78f(b)(5).

free and open market and a national market system and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,¹⁵ which requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Commission notes that the primary listing market's official closing price for a security is relied upon by market participants for a variety of reasons, including, but not limited to, calculation of index values, calculation of the net asset value of mutual funds and exchange-traded products, the price of derivatives that are based on the security, and certain types of trading benchmarks such as volume weighted average price strategies. For Derivatives Securities Products, in circumstances where there is no Closing Auction, or the Closing Auction trade consists of less than one round lot, the Exchange proposes to utilize more recent firm quotations instead of less recent trades, as such trades may provide less information about the current value of a security. The Exchange asserts that by doing so, the BZX Official Closing Price for such a Derivative Securities Product would be more reflective of the true and current value of such security on that trading day than otherwise would under the Exchange's current rule, particularly for a Derivative Securities Product that is thinly traded.¹⁶ The Commission therefore believes that the Exchange's proposal is reasonably designed to achieve the Act's objectives to protect investors and the public interest. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act.

¹⁵ 15 U.S.C. 78f(b)(8).

¹⁶ See Notice, supra note 4, at 55437.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act¹⁷ that the proposed rule change (SR-CboeBZX-2018-079), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Eduardo A. Aleman,
Assistant Secretary.

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).

