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SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-84845; File No. SR-BYX-2012-019]

Self-Regulatory Organization; Cboe BYX Exchange, Inc.; Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection with the Exchange's Retail Price Improvement Program
December 18, 2018.

On November 27, 2012, the Securities and Exchange Commission ("Commission") issued an order pursuant to its authority under Rule 612(c) of Regulation NMS ("Sub-Penny Rule)[1] that granted the BATS BYX-Exchange, Inc. (k/n/a "Cboe BYX" or the "Exchange") a limited exemption from the Sub-Penny Rule in connection with the operation of the Exchange's Retail Price Improvement ("RPI") Program (the "Program"). The limited exemption was granted concurrently with the Commission's approval of the Exchange's proposal to adopt the Program for a one-year pilot term.[2] The exemption was granted coterminous with the effectiveness of the pilot Program and has been extended six times;[3] both the pilot Program and exemption are scheduled to expire on December 31, 2018.

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1 17 CFR 242.612(c).

2 See Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) ("RPI Approval Order") (SR-BXY-2012-019).

3 See Securities Exchange Act Release Nos. 71249 (January 7, 2014), 79 FR 2229 (January 13, 2012) (SR-BYX-2014-001) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 71250 (January 7, 2014), 79 FR 2234 (January 13, 2012) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 74111 (January 22, 2015), 80 FR 4598 (January 28, 2015) (SR-BYX-2015-05) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); and 74115 (January 22, 2015), 80 FR 4324 (January 27, 2015) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 76965 (January 22, 2016), 81 FR 4682 (January 27, 2016) (SR-BYX-2016-01) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 76953 (January 21, 2016), 81 FR 4728 (January 27, 2016) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation

The Exchange now seeks to extend the exemption until June 30, 2019.[4] The Exchange's request was made in conjunction with an immediately effective filing that extends the operation of the Program until June 30, 2019.[5] In its request to extend the exemption, the Exchange notes that the Program was implemented gradually over time. Accordingly, the Exchange has asked for additional time to allow itself and the Commission to analyze data concerning the Program, which the Exchange committed to provide to the Commission, as well as to allow additional opportunities for greater participation in the Program.[6] For this reason and the reasons stated in the Order originally granting the limited exemption, the Commission finds that extending the exemption, pursuant to its authority under Rule 612(c) of Regulation NMS, is appropriate in the public interest and consistent with the protection of investors.

NMS in Connection With the Exchange's Retail Price Improvement Program); 78180 (June 28, 2016), 81 FR 43306 (July 1, 2016) (SR-BYX-2016-15) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 78178 (July 5, 2016), 81 FR 43689 (July 5, 2016) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 81368 (August 10, 2017), 82 FR 38960 (August 16, 2017) (SR-BatsBYX-2017-18) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 81364 (August 8, 2018), 82 FR 38733 (August 15, 2017) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 83758 (August 1, 2018), 83 FR 38757 (August 7, 2018) (SR-CboeBYX-2018-015) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 83756 (August 1, 2018), 83 FR 38748 (August 7, 2018) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program). The Exchange has filed to make the pilot program permanent. See Securities Exchange Act Release No. 83831 (August 13, 2018), 83 FR 41128 (August 17, 2018) (SR-CboeBYX-2018-014).

4 See letter from Anders Franzon, Senior Vice President and Deputy General Counsel, Cboe BYX, to Brent J. Fields, Secretary, Commission, dated December 11, 2018.

5 See SR-CboeBYX-2018-025.

6 See RPI Approval Order, supra note 2, at 77 FR at 71657.

THEREFORE, IT IS HEREBY ORDERED, that, pursuant to Rule 612(c) of Regulation NMS, the Exchange is granted a limited exemption from Rule 612(c) of Regulation NMS that allows it to accept and rank orders priced equal to or greater than $1.00 per share in increments of $0.001, in connection with the operation of its RPI Program.

The limited and temporary exemption extended by this Order is subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934. Responsibility for compliance with any applicable provisions of the federal securities laws must rest with the persons relying on the exemptions that are the subject of this Order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,
Deputy Secretary.

[7] 17 CFR 200.30-3(a)(83).

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