

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-84404; File No. SR-CboeBYX-2018-022)

October 11, 2018

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Introduce Equities Purge Ports to (1) Establish Purge Ports for Equities Trading and Amend the Interpretations and Policies to Rule 11.10, Order Execution, to Reflect the Proposed Purge Ports, and (2) Modify the Fee Schedule Applicable to the Exchange’s Equities Platform (“BYX Equities”) to Identify and to Set Fees for Purge Ports

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 28, 2018, Cboe BYX Exchange, Inc. (“Exchange” or “BYX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6)(iii) thereunder,⁴ which renders it effective upon filing with the Commission. 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

The Exchange is proposing to: (1) establish Purge Ports for equities trading and amend the Interpretations and Policies to Rule 11.13, Order Execution and Routing, to reflect the proposed Purge Ports, and (2) modify the BYX fee schedule to identify and to set fees for Purge Ports.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

The text of the proposed rule change is available at the Exchange’s website at www.markets.cboe.com, at the principal office of the Exchange, 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 parts 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 the proposed rule change is to offer Users⁵ an additional tool to manage risk and exercise additional control over their quotations in equity securities (i.e., “Purge Ports”). Specifically, the Exchange proposes to: (1) establish Purge Ports for equities trading and amend the Interpretations and Policies to Rule 11.13, Order Execution and Routing, to reflect the proposed Purge Ports, and (2) modify the BYX fee schedule to identify and to set fees for Purge Ports.

Purge Ports are already available on the Exchange’s affiliated options markets – i.e., the options trading platform of Cboe BZX Exchange, Inc. (“BZX Options”), the options trading platform of Cboe EDGX Exchange, Inc. (“EDGX Options”), and Cboe C2 Exchange, Inc.

⁵ A “User” is any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3. See Rule 1.5(cc).

(“C2”).⁶ Based on the successful experience with Purge Ports for options, and in response to demand for similar functionality for equities trading, the Exchange has determined to offer Purge Ports on BYX. The Exchange believes that the proposed Purge Port functionality will provide an effective tool for Users to manage their risk associated with equities trading.

Background

A logical port represents a port established by the Exchange within the Exchange’s system for trading and billing purposes. Each logical port established is specific to a Member or non-Member and grants that Member or non-Member the ability to accomplish a specific function, such as order entry, order cancellation, or data receipt. In addition, logical ports enable Users to access information such as execution reports, execution report messages, auction notifications, and administrative data through a single feed.

Purge Ports

The Exchange now proposes to amend the Interpretations and Policies to Rule 11.13, Order Execution and Routing, to identify Purge Ports, a new type of logical port that would enable Users to cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. The Exchange also proposes to amend the BYX fee schedule to adopt fees for Purge Ports.

The proposed ports are designed to assist Users, including Market Makers,⁷ in the management of, and risk control over, their quotes, particularly if the firm is quoting a large

⁶ See Securities Exchange Act Release Nos. 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR-BatsBZX-2017-05); 79957 (February 3, 2017), 82 FR 10070 (February 9, 2017) (SR-BatsEDGX-2017-07); 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR-C2-2018-006).

⁷ A “Market Maker” is a Member that acts as a Market Maker pursuant to Chapter XI. See Rule 1.5(l).

number of securities. For example, if a Market Maker detects market indications that may influence the direction or bias of his or her quotes, the Market Maker may use the proposed Purge Port(s) to reduce uncertainty and to manage risk by purging all quotes in a number of securities. This would allow the firm to seamlessly avoid unintended executions, while continuing to evaluate the direction of the market. While Purge Ports will be available to all Users, the Exchange anticipates they will be used primarily by Market Makers or firms that conduct similar business activity and are therefore exposed to a large amount of risk across a number securities.

Users may currently cancel orders through their existing logical ports. In addition, the Exchange offers risk functionality pursuant to Interpretation and Policies .01 to Rule 11.13 that permits Users to block new orders from being submitted, to cancel all open orders, or to both block new orders and cancel all open orders. In addition to the current risk functionality, which is being retained, the Exchange now proposes to expand the ability of Users to cancel orders through the proposed Purge Ports, which would enable them to cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. The mass cancel request may be limited to a subset of orders by identifying the range of orders to be purged. Users may also request via a Purge Port that the Exchange block all or a subset of new orders submitted, and the block will remain in effect until the User requests that the Exchange remove the block.

The Exchange proposes to amend the Interpretations and Policies to Rule 11.13, Order Execution and Routing, to reflect the proposed Purge Port functionality. As described above, Interpretation and Policies .01 to Rule 11.13 currently states that the Exchange offers risk functionality that permits Users to block new orders submitted, to cancel all open orders, or to both block new orders and cancel all open orders. The Exchange proposes to move this language

to Interpretations and Policies .02(a) to Rule 11.13,⁸ and add additional language to describe the flexibility provided using the proposed Purge Ports. Specifically, as proposed, Interpretations and Policies .02(b) to Rule 11.13 will state that a “Purge Port” is a dedicated port that permits a User to simultaneously cancel all or a subset of its orders in one or more symbols across multiple logical ports by requesting the Exchange to effect such cancellation. The proposed rule will also provide that a User initiating such a request may also request that the Exchange block all or a subset of its new inbound orders in one or more symbols across multiple logical ports. The block will remain in effect until the User requests the Exchange remove the block.

In addition, the Exchange proposes to modify the Logical Port Fees section of the BYX fee schedule to adopt a fee for Purge Ports of \$650 per port/per month, which would compensate the Exchange for the investment that it has made in making Purge Ports available to firms that believe they would benefit from a dedicated purge mechanism. Only firms that request Purge Ports would be subject to the proposed fees, and other firms can continue to operate in exactly the same manner as they do today without dedicated Purge Ports.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.⁹ Specifically, the proposed rule change is consistent with Sections 6(b)(4) and 6(b)(5) of the Act,¹⁰ because it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among

⁸ The Exchange also proposes to make a non-substantive change that deletes the introductory clause of this sentence.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4) and (5).

its members and other persons using its facilities, and is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

The Exchange believes that the proposed rule change would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Users, including Market Makers, designated Purge Ports would enhance their ability to manage quotes, quote traffic, and their quoting obligations,¹¹ which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that the Purge Ports would foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purge messages (including blocking subsequent order entry) may encourage better use of such dedicated ports. This may, concurrent with the logical ports that carry quote and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Market Makers' resources. Although dedicated Purge Ports are a new innovation for equities exchanges, similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges.¹² The Exchange believes that proper risk management, including the ability to efficiently cancel multiple orders at once, is similarly important to firms that trade in the equities market, including Market Makers that have heightened quoting obligations that are not applicable to other market participants.

¹¹ See Rule 11.8(d).

¹² See supra note 7. See also e.g. Nasdaq ISE, LLC, Schedule of Fees, V. Connectivity Fees, C. Ports and Other Services, SQF Purge Port Fee.

The proposed rule change will not relieve Market Makers of their continuous quoting obligations under Rule 11.8(d) or firm quote obligations under Regulation NMS Rule 602.¹³ Specifically, any interest that is executable against a User's or Market Maker's quotes and orders that is received by the Exchange prior to the time of the removal of quotes request will automatically execute at that price, up to the quote's size. Market Makers that purge their quotes will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.

Dedicated Purge Ports, which were originally introduced for options trading, are a new feature in the equities market, and the Exchange is the first equities exchange to offer this functionality to Users. The Exchange has incurred additional infrastructure and technology costs in offering the proposed Purge Ports, including costs associated with the purchase of new hardware to support these dedicated ports, and software development, testing, and certification work associated with the risk management functionality made available through such ports. The Exchange also has continuing costs associated with maintenance and monitoring of the proposed ports. The Exchange believes that its proposed fees should facilitate the ability of the Exchange to recoup some costs associated with Purge Ports as well as provide, maintain, and improve Purge Ports.¹⁴ The proposed fees therefore directly support the introduction of new and innovative risk management features to the market.

¹³ 17 CFR 242.602

¹⁴ Purge Ports will be fee liable on a monthly basis (and not only when such ports are active), which will help the Exchange to recoup the cost of these ports.

The Exchange believes the proposed fee for Purge Ports is equitable and reasonable. The Exchange currently charges \$550 per port/per month for logical ports.¹⁵ The Exchange believes it is equitable and reasonable to charge \$650 per month for the proposed Purge Ports as such ports were specially developed to allow for the sending of a single message to cancel multiple orders, thereby assisting firms in effectively managing risk. In addition, Purge Port requests may cancel orders submitted over numerous ports and contain added functionality to purge only a subset of these orders. Effective risk management is important both for individual market participants that choose to utilize risk features provided by the Exchange, as well as for the market in general. As a result, the Exchange believes that it is appropriate to charge fees that compensate for the development of such functionality as doing so aids in the maintenance of a fair and orderly market.

The Exchange also believes that offering such functionality at the Exchange level promotes robust risk management across the industry, and thereby facilitates investor protection. Some market participants, and, in particular, the larger firms could build similar risk functionality on their trading systems that permit the flexible cancellation of orders entered on the Exchange. Offering Exchange level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality.

Although the Exchange is the first exchange to develop and offer dedicated Purge Ports for equities trading, the proposed rate is lower than that charged by options exchanges for similar functionality, including the fees charged by the Exchange's affiliated options exchanges for

¹⁵ The fee for Multicast PITCH Spin Server ports provides access to a set of primary ports (A or C feed) and the fee for Multicast PITCH GRP Ports provides access to a primary port (A or C feed).

Options Purge Ports, which are billed at a rate of \$750 per month, and fees charged by unaffiliated options exchanges, such as ISE, which charges a fee of \$1,100 per month for SQF Purge Ports. The Exchange operates in a highly competitive market in which exchanges offer connectivity and related services as a means to facilitate the trading activities of Members and other participants. As the proposed Purge Ports provide voluntary risk management functionality, excessive fees would simply serve to reduce demand for this optional product.

The Exchange also believes that the proposed amendments to its fee schedule are not unfairly discriminatory because they will apply uniformly to all Members that choose to use dedicated Purge Ports. The proposed Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Member is required or under any regulatory obligation to utilize them. The Exchange believes that adopting separate fees for these ports ensures that the associated costs are borne exclusively by Members that determine to use them based on their business needs, including Market Makers or similarly situated market participants that enter orders simultaneously in a number of securities. All Members that voluntarily select this service option will be charged the same amount for the same services. All Members have the option to select any connectivity option, and there is no differentiation among Members with regard to the fees charged for the services offered by the Exchange.

(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 believes the proposed rule change will enhance competition because it will enable the Exchange to innovate and offer similar equities Purge Port functionality to that

offered on options markets today, at a competitive price.¹⁶ The proposed Purge Ports are completely voluntary and will be made available to all Members on an equal basis. While the Exchange believes that the proposed Purge Ports provide a valuable service, Members can choose to purchase, or not purchase, these ports based on their business needs. No Member is required or under any regulatory obligation to utilize Purge Ports. Furthermore, fees for Purge Ports, and connectivity in general, are constrained by the robust competition for order flow among exchanges and non-exchange markets. Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. As a result, excessive fees for connectivity, including Purge Port fees, would serve to impair the Exchange's ability to compete for order flow rather than burdening competition. Accordingly, the Exchange believes that the proposed rule change is designed to offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

(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: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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)(iii) of

¹⁶ See supra note 13.

the Act¹⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁸

A proposed rule change filed under Rule 19b-4(f)(6)¹⁹ normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii)²⁰ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become effective and operative immediately upon filing. The Exchange noted that its affiliated options exchanges provide Purge Ports and that they have been successful for options. The Exchange noted that there is a demand for Purge Ports for equities and that it believes that the Purge Ports will provide an effective risk management tool for Users trading equities. The Commission believes that Purge Ports may be a helpful tool for managing the risk associated with trading equities, and notes that this can be important both for individual market participants and the market in general. Accordingly, the Commission believes that permitting this feature to be operative upon filing is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.²¹

¹⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give 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. The Exchange has satisfied this requirement.

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ 17 CFR 240.19b-4(f)(6)(iii).

²¹ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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. Please include File Number SR-CboeBYX-2018-022 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-2018-022. This file number should be included on the subject line if e-mail 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 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-CboeBYX-2018-022 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.²²

Eduardo A. Aleman
Assistant Secretary

²² 17 CFR 200.30-3(a)(12).