

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-87499; File No. SR-CboeBYX-2019-009)

November 12, 2019

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Designation of Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Amend the Fee Schedule Assessed on Members to Establish a Monthly Trading Rights Fee

On May 2, 2019, Cboe BYX Exchange, Inc. (“BYX” or the “Exchange”) 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 the BYX fee schedule to establish a monthly Trading Rights Fee to be assessed on Members. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.³ The proposed rule change was published for comment in the Federal Register on May 16, 2019.⁴ On June 28, 2019, the Commission temporarily suspended the proposed rule change and instituted proceedings to determine whether to approve or disapprove the proposed rule change.⁵ In response to the OIP, the Commission received three comment letters, including a response letter from the Exchange.⁶

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ See Securities Exchange Act Release No. 85841 (May 10, 2019), 84 FR 22199 (“Notice”).

⁵ See Securities Exchange Act Release No. 86232, 84 FR 32227 (July 05, 2019) (“OIP”).

⁶ See Letters from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, dated July 26, 2019 (“SIFMA Letter”); Tyler Gellasch, Executive Director, Healthy Markets, dated July 26, 2019 (“Healthy Markets Letter”); and Rebecca Tenuta, Counsel, Cboe Global Markets, dated August 9, 2019 (“Exchange Response”).

Section 19(b)(2) of the Act⁷ provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on May 16, 2019.⁸ November 12, 2019 is 180 days from that date, and January 11, 2020 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, the issues raised in the comment letters that have been submitted in connection therewith, and the Exchange's response to comments.⁹ Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁰ designates January 11, 2020 as the date

⁷ 15 U.S.C. 78s(b)(2).

⁸ See Notice, supra note 4.

⁹ The Commission notes that the Exchange subsequently filed a proposed rule change to institute an identical trading rights fee which contained additional information and analysis with regard to the proposed fee. See Securities Exchange Act Release No. 86685 (August 15, 2019), 84 FR 43627 (August 21, 2019) (SR-CboeBYX-2019-013). The Commission suspended and instituted proceedings for that filing to allow for additional analysis of the proposed rule change. See Securities Exchange Act Release No. 87140 (September 27, 2019), 84 FR 52917 (October 03, 2019) (SR-CboeBYX-2019-013).

¹⁰ 15 U.S.C. 78s(b)(2).

by which the Commission should either approve or disapprove the proposed rule change (File No. SR-CboeBYX-2019-009).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Jill M. Peterson
Assistant Secretary

¹¹ 17 CFR 200.30-3(a)(57).