

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88045; File No. SR-CboeBYX-2020-002)

January 27, 2020

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Delete Partial Post Only at Limit Orders and References to Those Orders from the Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 17, 2020, Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II 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 Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 BYX Exchange, Inc. (the “Exchange” or “BYX”) proposes to delete Partial Post Only at Limit Orders and references to those orders from the Rules. 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/byx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

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 Exchange proposes to delete Partial Post Only at Limit Orders and references to those orders from the Rules. Current Rule 11.9(c)(7) defines a Partial Post Only at Limit Order as an order to be ranked and executed on the Exchange pursuant to Rules 11.12 (regarding the priority of orders) and 11.13(a)(4) (regarding the execution and routing of orders) or cancelled, as appropriate, without routing away to another trading center except that the order will only remove liquidity from the BYX Book under the following circumstances:

- A Partial Post Only at Limit Order will remove liquidity from the BYX Book up to the full size of the order if, at the time of receipt, it can be executed at prices better than its limit price (i.e., price improvement).
- Regardless of any liquidity removed from the BYX Book under the circumstances described in the previous bulleted paragraph, a User may enter a Partial Post Only at Limit Order instructing the Exchange to also remove liquidity from the BYX Book at the order’s limit price up to a designated percentage of the remaining size of the order after any execution pursuant to the previous bulleted paragraph (“Maximum Remove Percentage”) if, after removing such liquidity at the order’s limit price, the remainder of

such order can then post to the BYX Book. If no Maximum Remove Percentage is entered, such order will only remove liquidity to the extent such order will obtain price improvement as described in the previous bulleted paragraph.

A Partial Post Only at Limit Order will be subject to the price sliding process as set forth in Rule 11.9(g) unless a User has entered instructions not to use the price sliding process.

The Exchange proposes to delete Partial Post Only at Limit Order from the list of order types in Rule 11.9(c)(7) and references to that order type in Rules 11.1(a), 11.9(c)(10), 11.9(g)(1)(D), 11.9(g)(2)(D), 11.13(b)(4)(C), 11.23(a)(2), and 11.23(e)(1). The Exchange notes that use of Partial Post Only at Limit Orders is voluntary, and there is currently limited demand for this order type. Indeed, in December 2019, fewer than three Users submitted Partial Post Only at Limit Orders. Eliminating this order type would therefore allow the Exchange to reduce the complexity of its trading systems, without any significant impact on members and investors. Additionally, the Exchange will continue to offer a variety of other order types and functionality that provide Users with similar opportunities for trading, including BYX Post Only Orders offered pursuant to Rule 11.9(c)(6), which similarly allow the User to identify their orders as being willing to remove liquidity from the BYX Book in specified circumstances.

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.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

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)⁷ 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 eliminating Partial Post Only at Limit Orders will remove impediments to and perfect a national market system by reducing the complexity of its orders types, and simplifying the functionality offered to members and investors. The Exchange also believes that eliminating this order type is consistent with the public interest and the protection of investors given the minimal demand for and use of this order type. Further, the proposed rule change may remove impediments to and perfect the mechanism of a free and open market and national market system and protect investors by allowing the Exchange to reduce the overall complexity of its trading systems and reallocate System capacity and resources to more frequently used functionality. The Exchange does not believe elimination of this order type will harm investors, as use of this order type is voluntary, and the Exchange will continue to offer other similar order types, including BYX Post Only Orders. Additionally, the Exchange believes that deleting corresponding references to this order type in the Rules will further remove impediments to and perfect and the mechanism of a free and open market furthering the goal of transparency and clarity in the Exchange's Rules regarding the availability of order types.

⁷ Id.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues, but rather to remove order functionality that is infrequently used. Additionally, as noted above, the use of this order type is voluntary, and the Exchange will continue to offer other similar order types.

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

The Exchange neither solicited nor received comments 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) of the Act⁸ and Rule 19b-4(f)(6) thereunder.⁹

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁰ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹¹ 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 requested that the Commission

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 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.

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay would allow it to promptly remove an infrequently used order type, thereby reducing the overall complexity of its trading system. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.¹²

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 shall 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. Please include File Number SR-CboeBYX-2020-002 on the subject line.

¹² For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2020-002. 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-2020-002 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.¹³

J. Matthew DeLesDernier
Assistant Secretary

¹³ 17 CFR 200.30-3(a)(12).