

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101244; File No. SR-CboeBYX-2024-035)

October 3, 2024

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Implementation Date of Functionality that will Provide Members and Clearing Members with the Option to Utilize Additional Credit Risk Settings Under Interpretation and Policy .03 of Rule 11.13 (“Aggregate Credit Risk Checks”)

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 26, 2024, Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 extend the implementation date of functionality that will provide Members and Clearing Members with the option to utilize additional credit risk settings under Interpretation and Policy .03 or Rule 11.13 (“Aggregate Credit Risk Checks”).

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.

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 is filing this proposal to extend the implementation date of functionality providing Members and Clearing Members with the option to utilize additional Aggregate Credit Risk Checks. The functionality relating to these additional risk settings was submitted by the Exchange on an immediately effective basis on May 29, 2024.³

The Aggregate Credit Risk Checks offered under Interpretation and Policy .03 or Rule 11.13, provide Members and Clearing Members with additional, optional credit risk settings, at the Market Participant Identifier ("MPID") level and/or to a subset of orders identified within the MPID level (the "risk group identifier" level) that authorizes the Exchange to take automated action if a designated limit for a Member is breached. These risk settings will provide Members and Clearing Members with enhanced abilities to manage their risk with respect to orders on the Exchange. Specifically, the Exchange intends to offer two aggregate credit risk settings as follows:

³ See Securities Exchange Act Release No. 100317 (June 11, 2024), 89 FR 51380 (June 17, 2024) (SR-CboeBYX-2024-017).

- The “Aggregate Gross Credit Exposure Limit”, which refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both purchases and sales are counted as positive values. For purposes of calculating the Aggregate Gross Credit Exposure Limit, both executed and open orders are included; and
- The “Aggregate Net Credit Exposure Limit”, which refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where purchases are counted as positive values and sales are counted as negative values. For purposes of calculating the Aggregate Net Credit Exposure Limit, both executed and open orders are included.

The Exchange initially proposed to implement the Aggregate Credit Risk Checks by October 31, 2024. While this date is not included in the relevant rule text codifying the Aggregate Credit Risk Checks, the Exchange separately notates in its rulebook when it plans to implement new functionality that was either immediately effective upon rule filing, or approved by the SEC. Estimated implementation dates are sometimes necessary so because implementing new functionality sometimes requires additional time to develop, test, and deploy, and such timeline may not always coincide with the statutory rule filing process. As such, the Exchange provides estimated implementation dates to make Members aware that certain rule text is subject to amendment post implementation of the new functionality, as well as to provide Members with sufficient notice so that they can make any necessary technological or operational adjustments to their systems (if applicable). However, more time is needed to design, test, and implement the Aggregate Credit Risk Checks. Accordingly, the Exchange proposes to implement the Aggregate

Credit Risk Checks on or after November 22, 2024. The Exchange would issue a Trade Desk Notice announcing the exact implementation date to Users.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”), in general, and furthers the objectives of Section 6(b) of the Act⁴ in particular, in that it is designed to promote just and equitable principles of trade, 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’s proposal to delay the implementation of Aggregate Credit Risk Checks to on or after November 22, 2024, is consistent with the Act and protection of investors and general public because it will permit the Exchange additional time to ensure the Exchange can properly develop, test, and deploy the Aggregate Credit Risk Checks. Moreover, the Aggregate Credit Risk Checks themselves were previously approved [sic] by the Commission,⁵ and this proposal does not change the substance of those functionalities. As noted, the Exchange would issue a Trade Desk Notice announcing the exact implementation date to members and member organizations.

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. As noted above, the purpose of this proposal is simply to extend the implementation date for the additional aggregate credit risk settings so that the Exchange has additional time for development, testing, and deployment.

⁴ 15 U.S.C. 78f(b).

⁵ Supra note 3.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act⁶ and Rule 19b-4(f)(6) thereunder.⁷ Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6)(iii) thereunder.⁹

A proposed rule change filed under Rule 19b-4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹¹ the Commission may 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 proposal may become operative immediately upon filing. The Exchange states that more time is required to ensure optimal design, testing, and implementation for the Aggregate Credit Risk Checks, and thus, waiver of the operative delay

⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁷ 17 CFR 240.19b-4(f)(6).

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 the Exchange to give the Commission written notice of the Exchange's 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).

will provide Exchange with such additional time. As such, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would ensure that the Exchange has extra time to properly deploy these new aggregate credit risk functionalities, which is to the benefit of market participants that will eventually utilize the Aggregate Credit Risk Checks. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹²

At any time within 60 days of the filing of this 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 under Section 19(b)(2)(B)¹³ of the Act 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBYX-2024-035 on the subject line.

Paper Comments:

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

¹³ 15 U.S.C. 78s(b)(2)(B).

- 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-2024-035. This file number should be included on the subject line if email 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright

protection. All submissions should refer to file number SR-CboeBYX-2024-035, and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Vanessa A. Countryman,
Secretary.

¹⁴ 17 CFR 200.30-3(a)(12), (59).