

Register on December 28, 2017.<sup>3</sup> On January 31, 2018, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>4</sup> The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>5</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> designates March 28, 2018, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-CboeBZX-2017-012), as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82638; File No. SR-NYSEArca-2018-09]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Certain of the Governing Documents of Its Intermediate Parent Companies

February 6, 2018.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on January 29, 2018, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 proposes to amend certain of the governing documents of its intermediate parent companies Intercontinental Exchange Holdings, Inc. (“ICE Holdings”), NYSE Holdings LLC (“NYSE Holdings”) and NYSE Group, Inc. (“NYSE Group”) to make a technical change updating the registered office and registered agent in the state of Delaware. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.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 self-regulatory organization 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 those 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend certain of the governing documents of its intermediate parent companies ICE Holdings, NYSE Holdings, and NYSE Group to make a technical change updating the registered office and registered agent in the state of Delaware.<sup>4</sup>

ICE Holdings and NYSE Group are corporations and NYSE Holdings is a limited liability corporation, all organized under the laws of the State of Delaware. As such, they are required to have and maintain a registered office and registered agent in Delaware.<sup>5</sup> The Exchange proposes to amend certain of their governing documents to change the registered office and registered agent.

More specifically, the Exchange proposes to amend the following provisions in the listed documents (collectively, the “Governing Documents”):<sup>6</sup>

- Article II (Registered Office) of the Ninth Amended and Restated Certificate of Incorporation of ICE Holdings;
- Article II, Sections 2.4 (Registered Office) and 2.5 (Registered Agent) of the Ninth Amended and Restated Limited Liability Company Agreement of NYSE Holdings;
- the Certificate of Formation of NYSE Holdings;<sup>7</sup>
- Article II (Registered Office) of the Sixth Amended and Restated Certificate of Incorporation of NYSE Group; and
- Article I, Section 1.1 (Registered Office) of the Fourth Amended and Restated Bylaws of NYSE Group.

The listed provisions identify The Corporation Trust Company as the

<sup>4</sup> Intercontinental Exchange Inc., the ultimate parent of the Exchange, owns 100% of the equity interest in ICE Holdings, which in turn owns 100% of the equity interest in NYSE Holdings. NYSE Holdings owns 100% of the equity interest of NYSE Group, which in turn directly owns 100% of the equity interest of the Exchange and its national securities exchange affiliates, New York Stock Exchange LLC (“NYSE”), NYSE American LLC and NYSE National, Inc. ICE is a publicly traded company listed on the NYSE.

<sup>5</sup> See Del. Code tit 6, § 18-104, and Del. Code tit 8, §§ 131 and 132.

<sup>6</sup> Some of the Governing Documents were recently amended. See Securities Exchange Act Release No. 82083 (November 15, 2017), 82 FR 55453 (November 21, 2017) (SR-NYSEArca-2017-125).

<sup>7</sup> The Certificate of Formation of NYSE Holdings is amended by filing a “State of Delaware Certificate of Amendment Changing Only the Registered Office or Registered Agent of a Limited Liability Company,” as set forth in Exhibit 5C of the proposed rule change.

<sup>3</sup> See Securities Exchange Act Release No. 82379 (Dec. 21, 2017), 82 FR 61608.

<sup>4</sup> In Amendment No. 1, which amended and replaced the proposed rule change in its entirety, the Exchange: (a) Supplemented the description of the Fund’s relative exposures to the U.S. equity and S&P 500 futures markets; (b) made conforming informational and rule reference corrections to maintain internal consistency; (c) updated the status of the registration statement for the Fund; (d) clarified the use of certain defined terms; and (e) made other technical and non-substantive changes. Amendment No. 1 to the proposed rule change is available on the Commission’s website at: <https://www.sec.gov/comments/sr-cboebzx-2017-012/cboebzx2017012.htm>.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> *Id.*

<sup>7</sup> 17 CFR 200.30-3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

registered agent, and provide that the address of the registered office in Wilmington, Delaware is Corporation Trust Center, 1209 Orange Street. The Exchange proposes to amend such provisions to identify United Agent Group Inc. as the registered agent, and to provide that the address of the registered office is 3411 Silverside Road, Tatnall Building No. 104, Wilmington, County of New Castle, Delaware 19810.

In addition, conforming changes would be made to the title [sic], recitals, dates and signature lines, as applicable, of the Governing Documents.

The change is a non-substantive technical administrative change.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act<sup>8</sup> in general, and with Section 6(b)(1)<sup>9</sup> in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The proposed rule change is a non-substantive administrative change that does not impact the governance or ownership of the Exchange. The Exchange believes that the proposed rule change would enable the Exchange to continue to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply and enforce compliance with the provisions of the Exchange Act by its members and persons associated with its members, because ensuring that the Governing Documents rules identify the registered agent and registered office in Delaware would contribute to the orderly operation of the Exchange by adding clarity and transparency to its rules. Similarly, the proposed conforming changes to the title [sic], recitals, date and signature line, as applicable, of the Governing Documents would contribute to the orderly operation of the Exchange by adding clarity and transparency to its rules.

For similar reasons, the Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>10</sup> in that it is designed to prevent fraudulent and manipulative acts and practices, 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 remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that market participants can more easily navigate, understand and comply with its rules. The Exchange believes that, by ensuring that such rules accurately identify the registered agent and registered office in Delaware, and by making conforming changes to the title [sic], recitals, date and signature line, as applicable, of the Governing Documents, the proposed rule change would reduce potential investor or market participant confusion.

### 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 Exchange Act. The proposed rule change is not designed to address any competitive issue but rather is concerned solely with making a technical change updating the registered office and registered agent of each Intermediate Holding Company.

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

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(3)<sup>12</sup> thereunder in that the proposed rule change is concerned solely with the administration of the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may 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)<sup>13</sup> 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2018-09 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-NYSEArca-2018-09. 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 (<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-NYSEArca-2018-09, and

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(1).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(3).

<sup>13</sup> 15 U.S.C. 78s(b)(2)(B).

should be submitted on or before March 5, 2018.

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

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82642; File No. SR-CboeBZX-2018-007]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Cboe BZX Exchange, Inc.

February 6, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 31, 2018, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change 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 filed a proposal to amend the fee schedule applicable to Members<sup>5</sup> and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's website at [www.markets.cboe.com](http://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 Exchange proposes to amend its fee schedule applicable to its equities trading platform ("BZX Equities") to amend the criteria necessary to qualify for the enhanced rebate provided by the Single MPID Investor Tier 1 under footnote 4. The Exchange currently offers two Single MPID Investor Tiers under footnote 4, which provide an enhanced rebate of \$0.0031 or \$0.0027 per share for qualifying orders which yield fee codes B,<sup>6</sup> V,<sup>7</sup> or Y.<sup>8</sup> The distinction between the tiers under footnote 4 and other tiers offered by the Exchange, is that the volume measured to determine whether a Member qualifies is performed on a Member Participant Identifier ("MPID") by MPID basis. The Exchange proposes to modify the criteria necessary to achieve the Tier 1 under footnote 4 as described below. Currently, under Tier 1 a Member may receive an enhanced rebate of \$0.0031 per share where their MPID has: (i) An ADAV<sup>9</sup> as a percentage of TCV<sup>10</sup>  $\geq 0.35\%$ ; and (ii) an ADAV as a

percentage of ADV<sup>11</sup>  $\geq 90\%$ . The Exchange proposes to ease the first prong of the tier's criteria to now require that the Member's MPID an ADAV as a percentage of TCV  $\geq 0.30\%$ , rather than 0.35%. The Exchange does not propose to amend their tier's enhanced rebate or the second prong of the tier's required criteria.

The Exchange proposes to implement the above change to its fee schedule on February 1, 2018.

###### 2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,<sup>12</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>13</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. Furthermore, the Exchange notes that routing through the Exchange's affiliate, Bats Trading, is voluntary.

The Exchange believes that the proposed modification to the tiered pricing structure is reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive or incentives provided to be insufficient. The proposed structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

Volume-based pricing such as that proposed herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." See Exchange Rule 1.5(n).

<sup>6</sup> Fee code B is appended to displayed orders which add liquidity to Tape B and is provided a rebate of \$0.0025 per share.

<sup>7</sup> Fee code V is appended to displayed orders which add liquidity to Tape A and is provided a rebate of \$0.0020 per share.

<sup>8</sup> Fee code Y is appended to displayed orders which add liquidity to Tape C and is provided a rebate of \$0.0020 per share.

<sup>9</sup> "ADAV" means average daily added volume calculated as the number of shares added per day and "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. See the BZX Equities fee schedule available at [http://markets.cboe.com/us/equities/membership/fee\\_schedule/bzx/](http://markets.cboe.com/us/equities/membership/fee_schedule/bzx/).

<sup>10</sup> "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. *Id.*

<sup>11</sup> See *supra* note 9.

<sup>12</sup> 15 U.S.C. 78f.

<sup>13</sup> 15 U.S.C. 78f(b)(4).