

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82870; File No. SR-CHX-2018-001]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change To Adopt the Route QCT Cross Routing Option

March 14, 2018.

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 March 6, 2018, the Chicago Stock Exchange, Inc. (“CHX” or “Exchange”) 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

CHX proposes to amend the Rules of the Exchange (“CHX Rules”) to adopt the Route QCT Cross routing option. The text of this proposed rule change is available on the Exchange’s website at <http://www.chx.com/regulatory-operations/rule-filings/>, 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 effect the following amendments to the CHX

Rules to adopt the Route QCT³ Cross routing option:

- Adopt Article 19, Rule 4(a)(1) describing the proposed “Route QCT Cross” routing option.
- Amend the definition of “Routable Order” under Article 1, Rule 1(oo), the definition of “cross order” under Article 1, Rule 2(a)(2) and make various amendments to Article 19 (CHX Routing Services) to permit the routing of cross orders marked Route QCT Cross.
- Other non-substantive clarifying amendments.

(1) Background

Currently, Routable Orders submitted to the CHX matching system (“Matching System”)⁴ for execution are routed away from the Matching System automatically if a Routing Event⁵ is triggered. All Routable Orders⁶ are limit orders only, and thus market⁷ and cross orders⁸ are never routable. Moreover, the Exchange does not permit orders to be directly routed to an away Trading Center⁹ without initially being submitted to the Matching System.

A large percentage of the Exchange’s average daily volume (“ADV”) is attributed to cross orders that are component orders to Qualified Contingent Trades (“QCT Crosses”). Mechanically, the Matching System handles QCT Crosses like simple crosses (*i.e.*, cross orders without any modifiers attached), except that the Matching System permits QCT Crosses to trade-through protected quotes of away markets as QCT Crosses are exempt from the trade-through prohibition of Rule 611 of Regulation NMS.¹⁰ Therefore, like simple crosses, all QCT Crosses are handled IOC¹¹ and can never rest on the CHX book. Moreover, like simple crosses, a QCT Cross submitted to the Matching System will be cancelled back to the order sender as “blocked” if a precedent limit order priced at or better than the QCT Cross

is resting on the CHX book,¹² except that a QCT Cross priced at the top of the CHX book (*i.e.*, the best-ranked order on the CHX book pursuant to Article 20, Rule 8(b)) that qualifies for Cross With Size¹³ handling will be permitted to execute. However, unlike simple crosses, which may be submitted by any Participant,¹⁴ QCT Crosses may only be submitted by Institutional Brokers (“IBs”).¹⁵

In the event a QCT Cross is blocked and cancelled, the IB will usually cause the order to be executed over-the-counter (“OTC”). The OTC trade would then be reported to a Trade Reporting Facility (“TRF”) and cleared either through the Exchange’s optional away trade clearing service,¹⁶ which may only be used by IBs, or another clearing service. The Exchange assesses a fee for use of the optional away trade clearing service,¹⁷ which is identical to the fee for a QCT Cross executed within the Matching System.¹⁸

In recent years, the percentage of the Exchange’s average daily volume (“ADV”) attributed to cross orders has decreased, which has been offset by an increase in single-sided matching activity.¹⁹ This has primarily been driven by enhanced resting liquidity on the CHX book. Consequently, as the number of orders resting on the CHX book have increased, and the price of such orders have become more aggressive, blocked crosses have become more frequent.²⁰

Considering this trend, the Exchange is now proposing to adopt the Route QCT Cross routing option, which will permit IBs²¹ to directly route a QCT Cross to a non-affiliated third-party

¹² See CHX Article 1, Rule 2(a)(2); *see also* CHX Article 20, Rule 8(e)(1).

¹³ See CHX Article 1, Rule 2(g)(1).

¹⁴ See CHX Article 1, Rule 1(s) defining “Participant.”

¹⁵ See CHX Article 1, Rule 2(b)(2)(E); *see also* CHX Article 1, Rule 1(n) defining “Institutional Broker.”

¹⁶ See CHX Article 21, Rule 6.

¹⁷ See Section E.7 of the CHX Fee Schedule.

¹⁸ See Section E.3 of the CHX Fee Schedule.

¹⁹ In 2014, the percentage of total CHX executed volume attributed to single-sided orders (“CHX Single-sided Volume”) was 11.03%. In 2015 and 2016, this percentage increased to 17.39% and 19.69%, respectively. In 2017, as of December 1, 2017, CHX Single-sided Volume decreased to 12.05%, due primarily to the withdrawal of certain top CHX liquidity providers in late 2016.

²⁰ In 2014, 6.03% of all cross orders submitted to the Matching System were cancelled back to the order sender. In 2015, 2016 and 2017 (as of December 1, 2017), this percentage increased to 9.72%, 11.47% and 12.81%, respectively.

²¹ The Exchange is proposing to limit use of Route QCT Cross to IBs to be consistent with the fact that only IBs are currently permitted to submit QCT Crosses to the Matching System. *See* CHX Article 1, Rule 2(b)(2)(E).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 57620 (April 4, 2008), 73 FR 19271 (April 4, 2008) (“Modified QCT Exemptive Order”); *see also* CHX Article 1, Rule 2(a)(2) defining “cross order”; *see also* CHX Article 1, Rule 2(b)(2)(E) defining “Qualified Contingent Trade.”

⁴ The Matching System is part of the Exchange’s “Trading Facilities,” as defined under CHX Article 1, Rule 1(z).

⁵ See CHX Article 19, Rule 3(a)(1)–(5).

⁶ See CHX Article 1, Rule 1(oo) defining “Routable Order.”

⁷ See CHX Article 1, Rule 2(a)(3) defining “market order.”

⁸ See CHX Article 1, Rule 2(a)(2) defining “cross order.”

⁹ See CHX Article 1, Rule 1(nn) defining “Trading Center.”

¹⁰ See *supra* note 3.

¹¹ See CHX Article 1, Rule 2(a)(2).

broker-dealer designated by the IB (“designated executing broker”) for execution. The purpose of Route QCT Cross is to provide IBs with a routing option that will simplify and streamline the OTC execution process for QCTs,²² which will enhance the value of IB registration with the Exchange. As such, the Exchange believes that the proposal will facilitate the ability of IBs to execute QCT Crosses in compliance with the requirements of the Modified QCT Exemptive Order²³ and CHX Rules,²⁴ which fosters cooperation and coordination with persons engaged in facilitating transactions in securities in furtherance of Section 6(b)(5) of the Act.²⁵

(2) Operation of Route QCT Cross

In sum, a Route QCT Cross order submitted by an IB will be handled like a current Routable Order,²⁶ except that the Route QCT Cross order will never be submitted to the Matching System for execution. Specifically, upon receipt of a Route QCT Cross order, the Exchange will cause the order to be routed IOC from the Exchange, through CHXBD, LLC (“CHXBD”), the Exchange’s affiliated routing broker, to the designated executing broker identified by the IB.²⁷ The relationship between a designated executing broker and CHXBD will be governed by applicable CHX Rules²⁸ and customary interbroker agreements, such as fully-disclosed clearing and customer agreements. At all times, the use of Route QCT Cross will be optional.

While the Matching System, CHX Routing Services and CHXBD are each regulated as a “facility” of the Exchange,²⁹ as defined under Section 3(a)(2) of the Act,³⁰ the Exchange submits that a designated executing broker would not be facility of the

Exchange for the reasons described below. Therefore, the execution of Route QCT Cross orders by the designated executing broker would not be subject to the Exchange’s book and execution priority rules.³¹

Specifically, a designated executing broker would not be owned by, or affiliated or associated with, the Exchange or CHXBD, and thus a designated executing broker would not be a premise or property of the Exchange. In addition, while the Exchange would provide the routing infrastructure to permit IBs to execute QCTs OTC, the Exchange does not have a “right” to “use”³² the property or services of the designated executing broker (nor does the designated executing broker have a right to use the property or services of the Exchange) for the following reasons:

- An IB has sole discretion as to the designated executing broker to which its Route QCT Cross order will be routed.
- Use of the Route QCT Cross routing option is optional. The Exchange will have no discretion on when and if the Route QCT Cross will be used.
- Route QCT Cross orders are not eligible for execution within the Matching System and could be used without regard to the state of the CHX book. Therefore, the designated executing broker cannot be considered a mere extension of the Matching System.

The Exchange notes that Route QCT Cross is similar to the following routing options of other national securities exchanges:

- *Directed Order.* Like Route QCT Cross, the “Directed Order” routing option offered by the Nasdaq Stock Market (“Nasdaq”) permits an order sender to route an order to another market center while bypassing the Nasdaq’s order book,³³ which may result in the routed order executing at a price through Nasdaq’s top of book.
- *DRT.* Like Route QCT Cross, the “DRT” routing option offered by the Cboe BYX and Cboe BZX exchanges permit an order to be routed to one or more away alternative trading systems.³⁴

³¹ See CHX Article 20, Rules 8(b) and (d).

³² 15 U.S.C. 78c(a)(2).

³³ “‘Directed Order’ is an Order designed to use a routing strategy under which the Order is directed to an automated trading center (as defined in Regulation NMS) other than Nasdaq, as directed by the entering party, without checking the Nasdaq Book.” See Nasdaq Equities Rule 4758(a)(1)(A)(ix).

³⁴ DRT is a “a routing option in which the entering firm instructs the System to route to alternative trading systems included in the System routing.” See Cboe BYX Rule 11.13(b)(3)(D); see also Cboe BZX Rule 11.13(b)(3)(D). Both Cboe BYX and BZX have “the right to maintain a different System routing table for different routing options

(3) Proposed Article 19, Rule 4 (Routing Options) and Related Amendments

Adoption of the Route QCT Cross routing option requires amendments to the CHX Rules to describe its functionality and to permit cross orders to be routed through the CHX Routing Services. As such, the Exchange proposes the following amendments to the CHX Rules.

The Exchange proposes to adopt Article 19, Rule 4 (Routing Options). Proposed paragraph (a) provides that routing options may be combined with all available order types, modifiers and related terms, except for order types, modifiers, and related terms that are inconsistent with the terms of a routing option. Paragraph (a) also provides that the Exchange may activate or deactivate any routing option at its discretion and, if practicable, after notice to Participants.

Thereunder, proposed paragraph (a)(1) provides that Route QCT Cross is a routing option, which may only be utilized by Institutional Brokers, that instructs the Exchange to route a cross order marked QCT directly to a non-affiliated third-party broker-dealer designated by the Institutional Broker without submitting the order into the Matching System for execution. Also, each Institutional Broker is permitted to identify only one designated executing broker to which all Route QCT Cross orders submitted by the Institutional Broker shall be routed. Furthermore, prior to the Exchange accepting any Route QCT Cross orders directed to a specific designated executing broker, the Exchange shall confirm that the designated executing broker has established connectivity to the Exchange’s routing systems. In addition, the Institutional Broker shall be responsible for all away execution fees resulting from the execution of Route QCT Cross orders, including any guaranteed payments to its designated executing broker.³⁵ Moreover, Route

and to modify the System routing table at any time without notice.” See Cboe BYX Rule 11.13(b)(3); see also Cboe BZX Rule 11.13(b).

³⁵ For example, the Exchange anticipates that a typical designated executing broker would require a per execution fee and a guaranteed monthly minimum that would be offset by any executions fees collected during the month. These fees would be assessed to CHXBD, which would in turn pass on the fees to the relevant IBs. In the event a guaranteed payment is due for a given month (*i.e.*, the guaranteed monthly minimum was not met), the Exchange would divide the balance equally among the IBs that had identified the broker as the designated executing broker at any point during that month. For example, if there were two IBs that each designated Broker A as its designated executing broker at any point during the month of November 2018 and a guaranteed payment of

Continued

²² CHX Article 19, Rule 1.

²³ See *supra* note 3.

²⁴ *Id.*

²⁵ 15 U.S.C. 78f(b)(5).

²⁶ See CHX Article 1, Rule 1(oo).

²⁷ In the event the proposed rule change is approved and becomes operative, IBs will be permitted to identify only one designated executing broker to which all Route QCT Cross orders submitted by the IB will be routed, subject to additional requirements, as described below.

²⁸ See *e.g.*, CHX Article 19, Rule 2(a).

²⁹ See CHX Article 1, Rule 1(z); see also CHX Article 19, Rule 2(a)(1).

³⁰ 15 U.S.C. 78c(a)(2). “The term ‘facility’ when used with respect to an exchange includes its premises, tangible or intangible property whether on the premises or not, any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including, among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and any right of the exchange to the use of any property or service.” *Id.*

QCT Cross orders shall be routed IOC and that a Route QCT Cross order that could not be executed by a designated executing broker, for any reason,³⁶ shall be cancelled back to the original order sender.

As Route QCT Cross orders will be routed away from the Exchange without being submitted to the Matching System for execution, the Exchange proposes to amend Article 19, Rules 1(a) and (c) to replace the term “Matching System” with “Exchange.” Thus, amended Rule 1(a) would provide, in pertinent part, that Routable Orders that have been submitted to, and accepted by, the Exchange may be routed from the Exchange to other Trading Centers pursuant to this Article 19. Amended Rule 1(c) would provide, in pertinent part, that Routable Orders submitted to the Exchange are firm orders, pursuant to Article 20, Rule 3.

Similarly, the Exchange proposes to amend Article 1, Rule 2(a) to replace the term “Matching System” with “Exchange,” as a Route QCT Cross order is a routable cross order marked QCT that is not eligible to be submitted to the Matching System for execution. Thus, amended Rule 2(a) would provide in pertinent part that the order types described under Article 20, Rule 2(a) “shall be accepted by the Exchange, subject to the requirements of Article 20, Rule 4.”

Moreover, since Route QCT Cross orders are a subset of cross orders that will not be handled IOC upon receipt by the Exchange, and all cross orders currently received by the Exchange are deemed to have been received IOC, the Exchange proposes to amend the definition of “cross orders” under Article 1, Rule 2(a)(2) to provide that all cross orders *submitted to the Matching System for execution* shall be deemed to have been received IOC.

Since the cross orders are not currently Routable Orders, the Exchange proposes to amend Article 1, Rule 1(o) by adopting paragraph (o)(2), which expands the definition of Routable Orders to include any order marked by a routing option listed under proposed

Article 19, Rule 4 (*i.e.*, Route QCT Cross). Also, the Exchange proposes to eliminate the word “incoming” from proposed Rule 1(o)(1), as it is redundant in light of the proposed clarifying amendments to Article 19, Rule 3 described below. Thus, amended Article 1, Rule 1(o) would provide that “Routable Order” means: (1) Any limit order, as defined under Article 1, Rule 2(a)(1), of any size, not marked by any order modifiers or related terms listed under Article 1, Rule 2 that prohibit the routing of the order to another Trading Center; provided, however, that during a SNAP Cycle,³⁷ participating SNAP Eligible Orders are always Routable Orders; or (2) any order marked by a routing option listed under proposed Article 19, Rule 4.

(4) Amended Article 19, Rule 3 (Mandatory Routing Events)

Current Article 19, Rule 3 (Routing Events) describes mandatory routing for Routable Orders submitted to the Matching System, whereas proposed Article 19, Rule 4 would list routing options, such as Route QCT Cross, which must be affirmatively selected by the order sender. To clarify this distinction, the Exchange proposes to amend the title to Article 19, Rule 3 from “Routing Events” to “Mandatory Routing Events” and to amend Article 19, Rule 3(a) to provide that a Routable Order that is submitted to the Matching System shall be routed away from the Matching System pursuant to the CHX Routing Services if a Routing Event is triggered.

Moreover, the Exchange proposes additional non-substantive amendments to Article 19, Rules 3(a)(1)–(5) to clarify the current operation of the current Routing Events.³⁸ Amended paragraph (a)(1) provides that an incoming limit Routable Order shall be routed away to permit its display and/or execution on the Exchange in compliance with Rules 610(d) and 611 of Regulation NMS and, for the duration of the Pilot Period to coincide with the Pilot Period for the Regulation NMS Plan to Implement a Tick Size Pilot (“Plan”),³⁹ the Trade-at Prohibition described under the Plan.

Amended paragraph (a)(2) provides that an incoming limit Routable Order for an Odd Lot shall be routed away to prevent its execution within the Matching System if it would trade-through a Protected Quotation of an external market.

Amended paragraph (a)(3) provides that (3) an incoming limit Routable Order marked Do Not Display or an incoming limit Routable Order for an Odd Lot that could not be displayed (“incoming undisplayed limit Routable Order”) shall be routed away to execute against any Protected Quotation(s) of external market(s) priced at or better than the limit price of the incoming undisplayed limit Routable Order if there are no contra-side resting orders on the CHX book against which the incoming undisplayed limit Routable Order could execute.

Amended paragraph (a)(4) provides that Routable Order(s) shall be routed away to permit orders to be executed within the Matching System at the SNAP Price, as defined under Article 1, Rule 1(rr), in compliance with Regulation NMS. Also, orders routed away pursuant to this paragraph (a)(4) shall be priced -1- at the SNAP Price or, -2- if the SNAP Price is priced at an increment smaller than the relevant minimum price increment, at the minimum price increment less aggressive than the SNAP Price.

Amended paragraph (a)(5) provides that (5) Routable Order(s) that could not be matched within the Matching System during a SNAP Cycle, as described under Article 18, Rule 1(b), shall be routed away at the SNAP Price to execute against Protected Quotations of external markets priced at the SNAP Price.

(5) Operative Date

In the event the proposed rule change is approved, the proposed rule change shall become operative pursuant to notice to Participants.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,⁴⁰ and furthers the objectives of Section 6(b)(1)⁴¹ in particular, in that it would further enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its Participants and persons associated with its Participants, with the provisions of the Act, the rules

\$2,000 became due to Broker A for November 2018, each IB would be assessed a fee of \$1,000 for November 2018.

³⁶ The Exchange notes that a Route QCT Cross order will most likely be executed upon receipt by a designated executing broker. In the unlikely event a Route QCT Cross order is cancelled by a designated executing broker, such an event would most likely be related to systems issues at a designated executing broker or a regulatory prohibition (*e.g.*, declaration of a market wide trading halt in the security during the time the Route QCT Cross order was in flight to a designated executing broker). A Route QCT Cross order would not be cancelled for reasons related to the state of a designated executing broker's order book.

³⁷ See CHX Article 18, Rule 1.

³⁸ For a comprehensive description of the Routing Events described under Article 19, Rules 3(a)(1)–(3), see Exchange Act No. 73150 (September 19, 2014), 79 FR 57603 (September 25, 2014) (SR-CHX-2014-15). For a comprehensive description of the Routing Events described under Article 19, Rules 3(a)(4) and (5), see Exchange Act Release No. 75346 (July 1, 2015), 80 FR 39172 (July 8, 2015) (SR-CHX-2015-03).

³⁹ See CHX Article 20, Rule 13; see also Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); see also Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

⁴⁰ 15 U.S.C. 78f(b).

⁴¹ 15 U.S.C. 78f(b)(1).

and regulations thereunder, and the rules of the Exchange.

Specifically, the Exchange believes that the non-substantive amendments to Article 19, Rule 3 will clarify the operation of the mandatory Routing Events described thereunder, as distinguished from the optional Route QCT Cross routing option described under proposed Article 19, Rule 4(a)(1). Similarly, the various amendments to provide that the Route QCT Cross routing option will result in Routable Orders being routed away from the "Exchange" generally and to specifically provide when orders would be routed away from the Matching System will clarify how the different types of Routable Orders will be routed away. In addition, the proposal to permit the Exchange to activate or deactivate the routing options under proposed Article 19, Rule 4 at its discretion and, if practicable, after notice to Participants, would be consistent with the Exchange's current authority to activate and deactivate certain order types, modifiers and terms pursuant to Article 20, Rule 4(b). Since the proposed Route QCT Cross routing option is an order type (albeit one that cannot be utilized within the Matching System), the Exchange believes that harmonizing these provisions under proposed Article 19, Rule 4 and current Article 20, Rule 4(b) would clarify the Exchange's discretionary authority with respect to order types, modifiers and related terms.

Accordingly, the Exchange believes that the amendments will better enable the Exchange to enforce compliance by Participants and its associated persons with CHX Rules in furtherance of the objectives of Section 6(b)(1) of the Act.

The Exchange also believes that the proposed rule change furthers the objectives of Section 6(b)(5) of the Act⁴² in that it 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 and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, the Exchange believes that the proposed Route QCT Cross routing option will foster cooperation and coordination with persons engaged in facilitating transactions in securities by providing Participants with an additional execution option for QCT Crosses, which will enhance their

ability to coordinate the execution of QCT Crosses in a timely manner with other market participants that are handling related component orders, as required by the Modified QCT Exemptive Order and CHX Rules.⁴³ Moreover, given that that investors typically utilize QCTs to execute exceptionally large trades and to manage the substantial risk inherent to large positions, the Exchange submits that the proposed Route QCT Cross routing option will also protect investors and the public interest by facilitating the execution (and hedging) of such important transactions.

In addition, since current CHX Rules only permit IBs to submit QCT Crosses to the Matching System,⁴⁴ restricting use of the Route QCT Cross option to IBs only would be consistent with current CHX Rules and thus not unfairly discriminatory. Moreover, the proposal is not designed to be unfairly discriminatory as each IB will be (1) permitted to select the designated executing broker of its choice, subject to certain requirements applicable to all prospective designated executing brokers (e.g., the designated executing broker is a non-affiliated third-party broker-dealer and must establish connectivity to the Exchange's routing systems) and (2) responsible for all execution fees and guaranteed payments due to its designated executing broker, the latter of which may be divided equally among IBs that select the same designated executing broker during a relevant fee measurement period.⁴⁵

Accordingly, the Exchange believes that all proposed amendments to implement the Route QCT Cross routing option, including amendments to Article 1, Rule 1(o) and Article 1, Rule 2(a)(2) to permit cross orders to become Routable Orders, are consistent with Section 6(b)(5) of the Act.

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. To the contrary, the Exchange believes that the proposal will enhance competition among the exchanges by improving QCT Cross execution options for Institutional Brokers. Moreover, the Exchange notes that other national securities exchanges offer order routing options that permit an order sender to bypass the

exchange's own limit order book⁴⁶ or allows the exchange to route an order to alternative trading systems designated by the exchange.⁴⁷ As such, the proposed rule change is a competitive proposal that will enhance competition among the national securities exchanges to the benefit of market participants.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve or disapprove the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be 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. Please include File Number SR-CHX-2018-001 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-CHX-2018-001. 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

⁴³ See *supra* note 3.

⁴⁴ See *supra* note 21.

⁴⁵ See *supra* note 35.

⁴⁶ See Nasdaq Equities Rule 4758(a)(1)(A)(ix), *supra* note 33.

⁴⁷ See e.g., Cboe BYX Rule 11.13(b)(3) and 11.13(b)(3)(D), *supra* note 34.

⁴² 15 U.S.C. 78f(b)(5).

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-CHX-2018-001 and should be submitted on or before April 10, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁸

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82872; File No. SR-CboeBZX-2017-011]

Self-Regulatory Organizations; CboeBZX Exchange, Inc.; Order Granting Approval of a Proposed Rule Change To List and Trade the Common Shares of Beneficial Interest of the PowerShares Income Builder Portfolio, a Series of PowerShares Exchange-Traded Fund Trust II

March 14, 2018.

I. Introduction

On December 1, 2017, CboeBZX Exchange, Inc. ("Exchange" or "BZX") 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 list and trade the common shares of beneficial interest of the PowerShares Income Builder Portfolio ("Fund"), a series of PowerShares Exchange-Traded Fund Trust II ("Trust"), under BZX Rule 14.11(c)(3). The proposed rule change was published for comment in the **Federal Register** on December 20, 2017.³ On January 22, 2018, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, or disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On March 6, 2018, the Exchange filed Amendment No. 1 to the proposed rule change.⁶ The Commission has received no comments on the proposal. The Commission is approving the proposed rule change, as modified by Amendment No. 1.

II. Exchange's Description of the Proposal⁷

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(c)(5), which governs the listing and trading of Index Fund Shares based on equity and fixed income securities.

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 82328 (Dec. 14, 2017), 82 FR 60443 (Dec. 20, 2017).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 82559 (Jan. 22, 2018), 83 FR 3820 (Jan. 26, 2018).

⁶ In Amendment No. 1, which amended and replaced the proposed rule change in its entirety, the Exchange: (1) Corrected certain references to its rules; (2) supplemented information regarding requirements applicable to investment advisers, including information with respect to firewalls and procedures designed to prevent the use and dissemination of material, nonpublic information regarding the Fund's portfolio; (3) corrected the definition and usage of certain defined terms; (4) clarified that the Fund will not be a leveraged or inverse-leveraged fund and will not use derivative instruments to enhance leverage; (5) conformed its representations regarding the calculation and dissemination of the Underlying Index (as defined herein) and information relating to trading halts in accordance with applicable BZX rules; (6) supplemented information regarding pricing availability with respect to holdings in non-exchange-listed securities of other investment companies; and (7) made other technical, non-substantive, and conforming changes. Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, it is not subject to notice and comment. Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-cboebzx-2017-011/cboebzx2017011-3206088-162013.pdf>.

⁷ A more detailed description of the Trust, the Fund, and the Shares, as well as information regarding the methodology of the Underlying Index (as defined herein), the Fund's portfolio holdings, and the Fund's investment restrictions are included in Amendment No. 1 to the proposed rule change and Registration Statement (as defined herein). See Amendment No. 1, *supra* note 6; Registration Statement, *infra* note 8 and accompanying text.

The Fund will be a passively managed, index-based exchange-traded fund ("ETF"), and it is a series of the Trust. The Trust is registered with the Commission as an open-end management investment company and has filed a post-effective amendment to its registration statement on Form N-1A ("Registration Statement") with the Commission.⁸ Invesco PowerShares Capital Management LLC will be the investment adviser ("Adviser"), and Invesco Advisers, Inc. will be the investment sub-adviser ("Sub-Adviser"), to the Fund. The Adviser and the Sub-Adviser are affiliated with a broker-dealer and have implemented, and will maintain, a fire wall with respect to the broker-dealer affiliate regarding access to information concerning the composition of, or changes to, the Fund's portfolio.

The Fund's investment objective is to seek to track the investment results (before fees and expenses) of the Goldman Sachs Bond Buyers Equity Basket Index ("Underlying Index"). The Underlying Index is designed to measure the performance of a hypothetical portfolio of common equity stocks with an overlay of fully-collateralized written put options on those stocks. Solactive AG ("Calculation Agent") maintains, calculates, and publishes the value of the Underlying Index on each business day. The Calculation Agent is not registered as an investment adviser or broker-dealer and is not affiliated with any broker-dealers. The Calculation Agent also has implemented and will maintain procedures designed to prevent the use and dissemination of material, nonpublic information regarding the Underlying Index as required under BZX Rule 14.11(c)(5)(A)(iii).

The Exchange states that it has submitted the proposed rule change because the Underlying Index for the Fund does not meet all of the listing requirements of BZX Rule 14.11(c)(5), which applies to Index Fund Shares based on an index that consists of both equity securities and fixed income securities. BZX Rule 14.11(c)(5) requires that the equity and fixed income component securities separately meet the criteria set forth in BZX Rules 14.11(c)(3) and (4), applicable to equity and fixed income securities indexes,

⁸ See Registration Statement on Form N-1A for the Trust, filed on July 31, 2017 (File Nos. 333-138490 and 811-21977). According to the Exchange, the Commission has issued an order granting certain exemptive relief ("Exemptive Order") with respect to the Trust under the Investment Company Act of 1940 ("1940 Act"). See Investment Company Act Release No. 27841 (May 25, 2007) (File No. 812-13335).

⁴⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).