

will be assessed the lower fee. The Exchange believes that the complex fee structure as proposed will remain attractive to market participants, who will continue to be charged lower fees for adding liquidity to the complex order book than for removing liquidity. ISE notes that other options exchanges assess similar surcharges on complex orders that remove liquidity from the complex order book.<sup>21</sup>

The Exchange's proposal to adopt the \$0.03 per contract Non-Priority Customer complex order surcharge in the manner discussed above is equitable and not unfairly discriminatory because the surcharge will apply to all similarly-situated market participants.

#### Update Fee Schedule Headings

The Exchange believes that the clean-up changes to update the section headings in its Schedule of Fees is reasonable, equitable and not unfairly discriminatory because these are non-substantive changes intended to make the Schedule of Fees more transparent to members and investors.

#### *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 not necessary or appropriate in furtherance of the purposes of the Act. The proposed fees and rebates are designed to attract additional order flow to ISE, and the Exchange believes that its complex order pricing remains attractive to market participants. The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

<sup>21</sup> Nasdaq PHLX ("Phlx"), CBOE Options ("CBOE"), and MIAX Options ("MIAX") assess similar surcharges for complex order executions that remove liquidity from the complex order book for non-penny classes. See Phlx Pricing Schedule, Section II, note 7; CBOE Fees Schedule, Complex Surcharge, and note 35; and MIAX Fee Schedule, Sections (1)(a)(i) and (ii).

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>22</sup> and Rule 19b-4(f)(2)<sup>23</sup> thereunder. 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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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 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-ISE-2018-10 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-ISE-2018-10. 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-ISE-2018-10 and should be submitted on or before March 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-82643; File No. SR-CboeBZX-2017-012]

#### **Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the LHA Market State<sup>®</sup> Tactical U.S. Equity ETF, a Series of the ETF Series Solutions, Under Rule 14.11(i), Managed Fund Shares**

February 6, 2018.

On December 7, 2017, Cboe BZX 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade the shares of the LHA Market State<sup>®</sup> Tactical U.S. Equity ETF ("Fund") under BZX Rule 14.11(i). The proposed rule change was published for comment in the **Federal**

<sup>24</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>22</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>23</sup> 17 CFR 240.19b-4(f)(2).

**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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**BILLING CODE 8011-01-P**

## 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>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.

<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.