

2. Rule 17d-3 under the Act provides an exemption from section 17(d) and rule 17d-1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b-1 under the Act. Applicants request an order under section 17(d) and rule 17d-1 under the Act to the extent necessary to permit the Fund to impose asset-based distribution and/or service fees. Applicants have agreed to comply with rules 12b-1 and 17d-3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c-10, 12b-1, 17d-3, 18f-3, 22d-1, and, where applicable, 11a-3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the FINRA Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018-26797 Filed 12-11-18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84738; File No. SR-CboeBZX-2018-079]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Granting Approval to a Proposed Rule Change, as Modified by Amendment No. 1, To Establish How the BZX Official Closing Price Would Be Determined for BZX-Listed Securities

December 6, 2018.

I. Introduction

On October 18, 2018, Cboe BZX Exchange, Inc. (the "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 amend how the BZX Official Closing price would be determined for BZX-listed securities that are not corporate securities if the Exchange does not conduct a Closing Auction or if a Closing Auction trade is less than a round lot.³ The proposed rule change was published for comment in the **Federal Register** on November 5, 2018.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal, as Modified by Amendment No. 1

The Exchange proposes to amend BZX Rule 11.23(c)(2)(B) to change how it would determine the BZX Official Closing Price⁵ for an Exchange-listed security that is not a corporate security ("Derivative Securities Product") if the Exchange does not conduct a Closing Auction or if a Closing Auction trade is less than a round lot. Current Rule 11.23(c)(2)(B) provides that in the event that there is no Closing Auction for a BZX-listed security, the BZX Official Closing Price will be the price of the Final Last Sale Eligible Trade.⁶ The

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On October 29, 2018, the Exchange filed Amendment No. 1 to the proposed rule change to specify the date upon which the Exchange's President (or designee) approved the proposed rule change, pursuant to delegated authority.

⁴ See Securities Exchange Act Release No. 84507 (October 30, 2018), 83 FR 55435 ("Notice").

⁵ See BZX Rule 11.23(a)(3) (defining the term "BZX Official Closing Price" as the price disseminated to the consolidated tape as the market center closing trade).

⁶ As defined in BZX Rule 11.23(a)(9), the term "Final Last Sale Eligible Trade" means the last trade occurring during Regular Trading Hours on the Exchange if the trade was executed within the last one second prior to either the Closing Auction

Exchange proposes to amend this provision to provide that for Derivative Securities Products only, in the event there is no Closing Auction, or if less than a round lot was executed in the Closing Auction, the BZX Official Closing Price will depend upon when the Final Last Sale Eligible Trade in that security occurred.

Specifically, if the Final Last Sale Eligible Trade occurred within the final five minutes before the end of Regular Trading Hours, the Final Last Sale Eligible Trade will be the BZX Official Closing Price.⁷ However, if such trade occurred prior to the last five minutes before the end of Regular Trading Hours, the time-weighted average price of the NBBO midpoint measured over the last five minutes before the end of Regular Trading Hours will be the BZX Official Closing Price.⁸

If the BZX Official Closing Price cannot be determined under proposed BZX Rule 11.23(c)(2)(B)(i) or (ii), the Final Last Sale Eligible Trade will be the BZX Official Closing Price.⁹ If there is no qualifying trade for the current day, the BZX Official Closing Price from the previous trading day will be used.¹⁰

The Exchange states that it will implement the proposed rule change as soon as is practicable after the Commission's approval and will announce the implementation date via Trade Desk Notice.¹¹

III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of Section 6 of the Act¹² and the rules and regulations thereunder applicable to a national securities exchange.¹³ In particular, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5) the Act,¹⁴ which requires, among other things, that the rules of a national securities exchange be designed to

or, for Halt Auctions, trading in the security being halted. Where the trade was not executed within the last one second, the last trade reported to the consolidated tape received by BZX Exchange during Regular Trading Hours and, where applicable, prior to trading in the security being halted will be used. If there is no qualifying trade for the current day, the BZX Official Closing Price from the previous trading day will be used.

⁷ See proposed BZX Rule 11.23(c)(2)(B)(ii)(a).

⁸ See proposed BZX Rule 11.23(c)(2)(B)(ii)(b).

⁹ See proposed BZX Rule 11.23(c)(2)(B)(iii).

¹⁰ See BZX Rule 11.23(a)(9).

¹¹ See Notice, *supra* note 4, at 55436.

¹² 15 U.S.C. 78f(b).

¹³ In approving this proposed rule change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78f(b)(5).

promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,¹⁵ which requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Commission notes that the primary listing market's official closing price for a security is relied upon by market participants for a variety of reasons, including, but not limited to, calculation of index values, calculation of the net asset value of mutual funds and exchange-traded products, the price of derivatives that are based on the security, and certain types of trading benchmarks such as volume weighted average price strategies. For Derivatives Securities Products, in circumstances where there is no Closing Auction, or the Closing Auction trade consists of less than one round lot, the Exchange proposes to utilize more recent firm quotations instead of less recent trades, as such trades may provide less information about the current value of a security. The Exchange asserts that by doing so, the BZX Official Closing Price for such a Derivative Securities Product would be more reflective of the true and current value of such security on that trading day than otherwise would under the Exchange's current rule, particularly for a Derivative Securities Product that is thinly traded.¹⁶ The Commission therefore believes that the Exchange's proposal is reasonably designed to achieve the Act's objectives to protect investors and the public interest. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act¹⁷ that the proposed rule change (SR-CboeBZX-2018-079), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84731; File No. SR-CboeBZX-2018-040]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of SolidX Bitcoin Shares Issued by the VanEck SolidX Bitcoin Trust

December 6, 2018.

On June 20, 2018, Cboe BZX Exchange, Inc. ("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 shares of SolidX Bitcoin Shares issued by the VanEck SolidX Bitcoin Trust under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on July 2, 2018.³

On August 7, 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, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On September 20, 2018, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.⁷ As of December 6, 2018,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 83520 (June 26, 2018), 83 FR 31014 (July 2, 2018).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 83792 (Aug. 7, 2018), 83 FR 40112 (Aug. 13, 2018).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 84231 (Sept. 20, 2018), 83 FR 48665 (Sept. 26, 2018). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires among other things, that the rules of a national securities exchange be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade," and "to protect investors and the public

the Commission has received more than 1,600 comments on the proposed rule change.⁸

Section 19(b)(2) of the Act⁹ provides that after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on July 2, 2018. December 29, 2018, is 180 days from that date, and February 27, 2019 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁰ designates February 27, 2019, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-CboeBZX-2018-040).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84745; File No. SR-GEMX-2018-40]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Supplementary Material .02 to Rule 715

December 7, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

interest." See *id.* at 48667 (citing 15 U.S.C. 78f(b)(5)).

⁸ All comments on the proposed rule change are available on the Commission's website at: <https://www.sec.gov/comments/sr-cboebzx-2018-040/cboebzx2018040.htm>.

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ *Id.*

¹¹ 17 CFR 200.30-3(a)(57).

¹⁵ 15 U.S.C. 78f(b)(8).

¹⁶ See Notice, *supra* note 4, at 55437.

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).