

proposed rule change as operative upon filing.²³

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 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 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. Please include File Number SR-BX-2019-021 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-BX-2019-021. 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-BX-2019-021 and should be submitted on or before July 23, 2019.

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

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86204; File No. SR-BYX-2012-019]

Self-Regulatory Organization; Cboe BYX Exchange, Inc.; Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program

June 26, 2019.

On November 27, 2012, the Securities and Exchange Commission ("Commission") issued an order pursuant to its authority under Rule 612(c) of Regulation NMS ("Sub-Penny Rule")¹ that granted the BATS BYX-Exchange, Inc. (k/n/a "Cboe BYX" or the "Exchange") a limited exemption from the Sub-Penny Rule in connection with the operation of the Exchange's Retail Price Improvement ("RPI") Program (the "Program"). The limited exemption was granted concurrently with the Commission's approval of the Exchange's proposal to adopt the Program for a one-year pilot term.² The exemption was granted coterminous with the effectiveness of the pilot Program and has been extended seven times;³ both the pilot Program and

exemption are scheduled to expire on December 31, 2018.

The Exchange now seeks to extend the exemption until September 30, 2019.⁴ The Exchange's request was made in conjunction with an immediately effective filing that extends the operation of the Program until September 30, 2019.⁵ In its request to extend the exemption, the Exchange notes that the Program was implemented gradually over time. Accordingly, the Exchange has asked for additional time to allow itself and the Commission to analyze data concerning the Program, which the Exchange committed to provide to the

From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 74111 (January 22, 2015), 80 FR 4598 (January 28, 2015) (SR-BYX-2015-05) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); and 74115 (January 22, 2015), 80 FR 4324 (January 27, 2015) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 76965 (January 22, 2016), 81 FR 4682 (January 27, 2016) (SR-BYX-2016-01) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 76953 (January 21, 2016), 81 FR 4728 (January 27, 2016) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 78180 (June 28, 2016), 81 FR 43306 (July 1, 2016) (SR-BYX-2016-15) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 78178 (July 5, 2016), 81 FR 43689 (July 5, 2016) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 81368 (August 10, 2017), 82 FR 38960 (August 16, 2017) (SR-BatsBYX-2017-18) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 81364 (August 8, 2018), 82 FR 38733 (August 15, 2017) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 83758 (August 1, 2018), 83 FR 38757 (August 7, 2018) (SR-CboeBYX-2018-015) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 83756 (August 1, 2018), 83 FR 38748 (August 7, 2018) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program); 84830 (December 17, 2018) 83 FR 65769 (December 21, 2018) (SR-CboeBYX-2018-025) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 84845 (December 18, 2018), 83 FR 66329 (December 26, 2018) (Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program). The Exchange filed to make the pilot program permanent, but subsequently withdrew that filing. See Securities Exchange Act Release No. 83831 (August 13, 2018), 83 FR 41128 (August 17, 2018) (SR-CboeBYX-2018-014); 85586 (April 10, 2019), 84 FR 15657 (April 16, 2019) (SR-CBOE-2018-014).

⁴ See letter from Adrian Griffiths, Assistant General Counsel, Cboe BYX, to Vanessa Countryman, Secretary, Commission, dated June 25, 2019.

⁵ See SR-CboeBYX-2019-010.

²⁴ 17 CFR 200.30-3(a)(12).

¹ 17 CFR 242.612(c).

² See Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) ("RPI Approval Order") (SR-BXY-2012-019).

³ See Securities Exchange Act Release Nos. 71249 (January 7, 2014), 79 FR 2229 (January 13, 2012) (SR-BYX-2014-001) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Period for the RPI); 71250 (January 7, 2014), 79 FR 2234 (January 13, 2012) (Order Granting an Extension to Limited Exemption

²³ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Commission, as well as to allow additional opportunities for greater participation in the Program.⁶ For this reason and the reasons stated in the Order originally granting the limited exemption, the Commission finds that extending the exemption, pursuant to its authority under Rule 612(c) of Regulation NMS, is appropriate in the public interest and consistent with the protection of investors.

Therefore, it is hereby ordered, that, pursuant to Rule 612(c) of Regulation NMS, the Exchange is granted a limited exemption from Rule 612(c) of Regulation NMS that allows it to accept and rank orders priced equal to or greater than \$1.00 per share in increments of \$0.001, in connection with the operation of its RPI Program.

The limited and temporary exemption extended by this Order is subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934. Responsibility for compliance with any applicable provisions of the federal securities laws must rest with the persons relying on the exemptions that are the subject of this Order.

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

Eduardo A. Aleman,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33535; 812-15039]

WicShares Trust and Water Island Capital, LLC; Notice of Application

June 27, 2019.

AGENCY: Securities and Exchange Commission (the “Commission”).

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(j) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of

the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (“Funds”) to issue shares redeemable in large aggregations (“Creation Units”); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (“NAV”); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (“Funds of Funds”) to acquire shares of the Funds; and (f) certain Funds (“Feeder Funds”) to create and redeem Creation Units in-kind in a master-feeder structure.

APPLICANTS: WicShares Trust (the “Trust”), a Delaware statutory trust, that intends to register under the Act as a series open-end management investment company, and Water Island Capital, LLC (the “Initial Adviser”), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940.

FILING DATES: The application was filed on June 11, 2019.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 22, 2019, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090; Applicants: WicShares Trust and Water Island Capital, LLC, 41 Madison Avenue, 42nd Floor, New York, New York 10010; Counsel for Applicants: Fatima S. Sulaiman, Esq. and Stacy L.

Fuller, Esq., K&L Gates LLP, 1601 K Street NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT:

Edward J. Rubenstein, Senior Special Counsel, at (202) 551-6854, or Nadya B. Roytblat, Assistant Director, at (202) 551-6823 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission’s website by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm>, or by calling (202) 551-8090.

Summary of Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (“ETFs”).¹ Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an “Authorized Participant,” which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond closely to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (“Affiliated Person”), or an affiliated person of an Affiliated Person (“Second-Tier Affiliate”), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor

¹ Applicants request that the order apply to the initial series of the Trust and any additional series of the Trust, and any other existing or future open-end management investment company or existing or future series thereof (each, included in the term “Fund”), each of which will operate as an ETF, and their respective existing or future master funds, and will track a specified index comprised of domestic and/or foreign equity securities and/or domestic and/or foreign fixed income securities (each, an “Underlying Index.” Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each of the foregoing and any successor thereto, an “Adviser”) and (b) comply with the terms and conditions of the application. For purposes of the requested order, a “successor” is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

⁶ See RPI Approval Order, *supra* note 2, at 77 FR at 71657.

⁷ 17 CFR 200.30-3(a)(83).