

Required fields are shown with yellow backgrounds and asterisks.

Filing by Cboe EDGX Exchange, Inc.  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 3C(b)(2) * <input type="checkbox"/>
Section 806(e)(2) * <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
 Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).  
 The Exchange proposes a rule change to introduce a new data product to be known as Intraday Open-Close Data.

**Contact Information**  
 Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Sarah      Last Name \* Tadtman  
 Title \* Counsel  
 E-mail \* stadtman@cboe.com  
 Telephone \* (913) 815-7203      Fax

**Signature**  
 Pursuant to the requirements of the Securities Exchange Act of 1934,  
 has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.  
 (Title \*)  
 Date 07/29/2020      VP, Associate General Counsel  
 By Laura G. Dickman      (Name \*)  
 NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.  
 Idickman@cboe.com

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) 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> Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to introduce a new data product to be known as Intraday Open-Close Data. The text of the proposed rule change is provided in Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

(a) The Exchange’s President (or designee) pursuant to delegated authority approved the proposed rule change on July 7, 2020.

(b) Please refer questions and comments on the proposed rule change to Pat Sexton, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7467, or Sarah Tadtman, Counsel, (913) 815-7203.

3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The Exchange proposes to introduce a new data product on EDGX to be known as Intraday Open-Close Data, which will be available for purchase to EDGX Members (“Members”) and non-Members.<sup>3</sup> Cboe LiveVol, LLC (“LiveVol”), a wholly owned subsidiary of the Exchange’s parent company, Cboe Global Markets, Inc., will make the

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

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

<sup>3</sup> The Exchange intends to submit a separate rule filing to establish fees for Intraday Open-Close Data.

Intraday Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website.<sup>4</sup> The Exchange also proposes to amend Exchange Rule 21.15(b) to provide that the Open-Close Data product will be available on an end-of-day basis and intraday basis.

Currently, the Exchange offers Open-Close Data, which is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts). The Open-Close Data is proprietary EDGX trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

Now, the Exchange is proposing to offer an additional product, the Intraday Open-Close Data. The Intraday Open-Close Data will provide similar information to that of Open-Close Data, but will be produced and updated every 10 minutes during the trading day. Data is captured in "snapshots" taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10 minute period. For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:45 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update by 9:55 a.m., representing the data previously provided aggregated with data captured through 9:50 a.m., and so forth. Each update will represent combined data captured from the

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<sup>4</sup> See <https://datashop.cboe.com/>.

current "snapshot" and all previous "snapshots" and thus will provide open-close data on an aggregate basis. The Intraday Open-Close Data will provide a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume will be further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts). The Intraday Open-Close Data is proprietary EDGX trade data and does not include trade data from any other exchange. In contrast to the existing Open-Close Data product, the Intraday Open-Close Data will not provide execution price.<sup>5</sup>

A description of each market data product offered by the Exchange is described in Exchange Rule 21.15(b). The Exchange proposes to amend Rule 21.15(b)(5) to provide that Open-Close Data will be offered on an end-of-day and intraday basis.

The Exchange will establish a monthly subscriber fee for Intraday Open-Close Data by way of a separate proposed rule change, which the Exchange will submit in connection with the launch of the Intraday Open-Close market data product.

The Exchange anticipates a wide variety of market participants to purchase Intraday Open-Close Data, including, but not limited to, individual customers, buy-side investors, and investment banks. The Exchange believes the proposed Open-Close Data product may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides

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<sup>5</sup> Price information is not included in Intraday Open-Close Data because it cannot be provided within the time parameters necessary to generate the file.

comprehensive insight into trading on EDGX. For example, intraday open data may allow a market participant to identify new interest or possible risk throughout the trading day, while intraday closing data may allow a market participant to identify fading interests in a security. The proposal is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer a similar data product.<sup>6</sup>

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and

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<sup>6</sup> See Securities Exchange Act Release No. 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR-Phlx-2010-121); See also Securities Exchange Act Release No. 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR-NASDAQ-2011-144).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

competition for the provision of market data. The Exchange believes that the proposed Intraday Open-Close Data would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The proposal also promotes increased transparency through the dissemination of Intraday Open-Close Data. The proposed rule change would benefit investors by providing access to the Intraday Open-Close Data, which may promote better informed trading throughout the trading day. Moreover, other exchanges offer a similar data product.<sup>9</sup>

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Intraday Open-Close Data would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The proposal also promotes increased transparency through the dissemination of Intraday Open-Close Data. The proposed rule change would benefit investors by providing access to the Intraday Open-Close Data, which as noted above, may promote better informed trading. Particularly, information regarding opening and closing activity across different option series may indicate investor sentiment, which can be helpful trading information. Subscribers to the data may be able to enhance their ability to analyze option trade and volume data on an intraday basis, and create and test trading models and analytical strategies. The Exchange believes Intraday Open-Close Data provides a valuable tool that

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<sup>9</sup> See Supra note 6.

subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading.

Moreover, other exchanges also offer a substantially identical data product.<sup>10</sup> Specifically, NASDAQ OMX PHLX (“PHLX”) and the NASDAQ Stock Market LLC (“NASDAQ”) offer the PHLX Options Trade Outline (“PHOTO”) and NASDAQ Options Trade Outline (“NOTO”), respectively. PHOTO and NOTO provide substantially the same information as that included in the proposed Intraday Open-Close Data product. Further, like the proposed product, the data is provided to subscribers cumulatively every 10 minutes and is available to subscribers within five minutes of the conclusion of each 10 minute period.

#### 4. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to offer a data product similar to those offered by other competitor options exchanges.<sup>11</sup> The Exchange is proposing to introduce Intraday Open-Close Data in order to keep pace with changes in the industry and evolving customer needs, and believes this proposed rule change would contribute to robust competition among national securities exchanges. As noted, at least two other U.S. options exchanges offer a market data product that is similar to the Intraday Open-Close Data.<sup>12</sup> As a result, the Exchange believes this proposed rule change permits fair competition among national

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<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.



securities exchanges. Therefore, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>13</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>14</sup> The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, and (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission.<sup>15</sup>

Accordingly, the Exchange has designated this rule filing as non-controversial under

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4.

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii).

Section 19(b)(3)(A) of the Act<sup>16</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>17</sup>

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4<sup>18</sup> because the proposed rule change would not significantly affect investors or the public interest. Specifically, the Exchange believes the Intraday Open-Close Data will further promote increased transparency in trading activity and may promote better informed trading on the Exchange throughout the trading day. The proposed rule change will not impose any significant burden on competition, but rather the Exchange believes will promote competition by offering a similar product that is offered by other exchanges.<sup>19</sup> Specifically, the proposed product is substantially identical to the PHOTO and NOTO data products offered on PHLX and NASDAQ, respectively. Given that the proposed rule change is substantially identical as similar products offered by other exchanges, the proposed rule change presents no new novel issues. Based on the foregoing, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>20</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>21</sup>

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

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<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

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

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

<sup>19</sup> See Supra note 6.

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 17 CFR 240.19b-4(f)(6).

protection of investors, or otherwise in furtherance of the purposes of the Act.

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. Waiver of the 30-day operative delay would benefit investors by enabling the Exchange to implement the proposed rule change on July 30, 2020, the anticipated date upon which the Exchange expects to offer Intraday Open-Close Data. As discussed above, the Exchange believes the proposed data product will promote competition by offering a similar product to that offered by other exchanges. The Exchange also notes that because other exchanges offer a substantially identical data product, the proposed rule change presents no new or novel issues. Waiver of the operative delay is, therefore, consistent with the protection of investors and the public interest.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is based on substantially identical products offered on NASDAQ and PHLX,<sup>22</sup> which offer the NOTO and PHOTO data products, respectively. PHOTO and NOTO provide substantially the same information as that included in the proposed Intraday Open-Close Data. Further, like the proposed product, the data is provided to subscribers cumulatively every 10 minutes, and is available to subscribers within five minutes of the conclusion of each 10 minute period.

9. Security Based-Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

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<sup>22</sup> See Supra note 6.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Federal Register.

Exhibit 5. Proposed rule text.

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CboeEDGX-2020-036]

[Insert date]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Introduce a New Data Product to be known as Intraday Open-Close Data

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 [insert date], Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) 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 Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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**

Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to introduce a new data product to be known as Intraday Open-Close Data. The text of the proposed rule change is provided in Exhibit 5.

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<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)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/options/regulation/rule\\_filings/edgx/](http://markets.cboe.com/us/options/regulation/rule_filings/edgx/)), at the Exchange's Office of the Secretary, 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 aspects 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 introduce a new data product on EDGX to be known as Intraday Open-Close Data, which will be available for purchase to EDGX Members ("Members") and non-Members.<sup>5</sup> Cboe LiveVol, LLC ("LiveVol"), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., will make the Intraday Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website.<sup>6</sup> The Exchange also proposes to amend Exchange Rule 21.15(b) to provide that the Open-Close Data product will be available on an end-of-day basis and intraday basis.

Currently, the Exchange offers Open-Close Data, which is an end-of-day volume

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<sup>5</sup> The Exchange intends to submit a separate rule filing to establish fees for Intraday Open-Close Data.

<sup>6</sup> See <https://datashop.cboe.com/>.

summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts). The Open-Close Data is proprietary EDGX trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

Now, the Exchange is proposing to offer an additional product, the Intraday Open-Close Data. The Intraday Open-Close Data will provide similar information to that of Open-Close Data, but will be produced and updated every 10 minutes during the trading day. Data is captured in "snapshots" taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10 minute period. For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:45 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update by 9:55 a.m., representing the data previously provided aggregated with data captured through 9:50 a.m., and so forth. Each update will represent combined data captured from the current "snapshot" and all previous "snapshots" and thus will provide open-close data on an aggregate basis. The Intraday Open-Close Data will provide a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume will be further broken down into trade size buckets (less than 100 contracts, 100-199

contracts, greater than 199 contracts). The Intraday Open-Close Data is proprietary EDGX trade data and does not include trade data from any other exchange. In contrast to the existing Open-Close Data product, the Intraday Open-Close Data will not provide execution price.<sup>7</sup>

A description of each market data product offered by the Exchange is described in Exchange Rule 21.15(b). The Exchange proposes to amend Rule 21.15(b)(5) to provide that Open-Close Data will be offered on an end-of-day and intraday basis.

The Exchange will establish a monthly subscriber fee for Intraday Open-Close Data by way of a separate proposed rule change, which the Exchange will submit in connection with the launch of the Intraday Open-Close market data product.

The Exchange anticipates a wide variety of market participants to purchase Intraday Open-Close Data, including, but not limited to, individual customers, buy-side investors, and investment banks. The Exchange believes the proposed Open-Close Data product may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on EDGX. For example, intraday open data may allow a market participant to identify new interest or possible risk throughout the trading day, while intraday closing data may allow a market participant to identify fading interests in a security. The proposal is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that

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<sup>7</sup> Price information is not included in Intraday Open-Close Data because it cannot be provided within the time parameters necessary to generate the file.



potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer a similar data product.<sup>8</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>10</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Intraday Open-Close Data would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The proposal also promotes increased transparency through the dissemination of Intraday Open-Close Data. The proposed rule change would benefit investors by providing access to the Intraday

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<sup>8</sup> See Securities Exchange Act Release No. 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR-Phlx-2010-121); See also Securities Exchange Act Release No. 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR-NASDAQ-2011-144).

<sup>9</sup> 15 U.S.C. 78f.

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

Open-Close Data, which may promote better informed trading throughout the trading day. Moreover, other exchanges offer a similar data product.<sup>11</sup>

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Intraday Open-Close Data would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The proposal also promotes increased transparency through the dissemination of Intraday Open-Close Data. The proposed rule change would benefit investors by providing access to the Intraday Open-Close Data, which as noted above, may promote better informed trading. Particularly, information regarding opening and closing activity across different option series may indicate investor sentiment, which can be helpful trading information. Subscribers to the data may be able to enhance their ability to analyze option trade and volume data on an intraday basis, and create and test trading models and analytical strategies. The Exchange believes Intraday Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading.

Moreover, other exchanges also offer a substantially identical data product.<sup>12</sup>

Specifically, NASDAQ OMX PHLX (“PHLX”) and the NASDAQ Stock Market LLC

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<sup>11</sup> See Supra note 8.

<sup>12</sup> Id.

(“NASDAQ”) offer the PHLX Options Trade Outline (“PHOTO”) and NASDAQ Options Trade Outline (“NOTO”), respectively. PHOTO and NOTO provide substantially the same information as that included in the proposed Intraday Open-Close Data product. Further, like the proposed product, the data is provided to subscribers cumulatively every 10 minutes and is available to subscribers within five minutes of the conclusion of each 10 minute period.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to offer a data product similar to those offered by other competitor options exchanges.<sup>13</sup> The Exchange is proposing to introduce Intraday Open-Close Data in order to keep pace with changes in the industry and evolving customer needs, and believes this proposed rule change would contribute to robust competition among national securities exchanges. As noted, at least two other U.S. options exchanges offer a market data product that is similar to the Intraday Open-Close Data.<sup>14</sup> As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Therefore, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>13</sup> Id.

<sup>14</sup> Id.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing proposed rule change does not:

- A. significantly affect the protection of investors or the public interest;
- B. impose any significant burden on competition; and
- C. become operative for 30 days from the date on which it was filed, or such

shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6)<sup>16</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 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 will 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:

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeEDGX-2020-036 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-CboeEDGX-2020-036. This file number should be included on the subject line if e-mail 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, D.C. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All

submissions should refer to File Number SR-CboeEDGX-2020-036 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

Secretary

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

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

\* \* \* \* \*

Rules of Cboe EDGX Exchange, Inc.

\* \* \* \* \*

Rule 21.15. Data Dissemination

(a) No change.

(b) Exchange Data Products. The Exchange offers the following data products free of charge, except as otherwise noted in the Fee Schedule:

(1)-(5) No change.

(6) Open-Close Data. Open-Close Data is a data product that summarizes volume (contracts traded on EDGX Options) by origin (customer and firm orders), original order size and the opening or closing position of the order. Open-Close Data is available on an end-of-day and intraday basis.

(c) No change.

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