

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 24	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2021 - * 028	Amendment No. (req. for Amendments *)
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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"/> Extension of Time Period for Commission Action * <input type="checkbox"/> Date Expires * <input type="text"/>			Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

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

**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 \* Corinne      Last Name \* Klott  
 Title \* Assistant General Counsel  
 E-mail \* cklott@cboe.com  
 Telephone \* (312) 786-7793      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 06/01/2021      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.

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 Options”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend Open-Close Data fees. 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 May 28, 2021.

(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 Corinne Klott, (312) 786-7793, 400 South LaSalle, Chicago, Illinois 60605.

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

(a) Purpose

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

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

The Exchange proposes to amend its Fees Schedule to (i) adopt an academic discount for its historical End-of-Day Open-Close and Intraday Open-Close data and (ii) offer a free trial during the months of June and July 2021 for an ad-hoc request of three (3) historical months of Intraday Open-Close historical data to all Members and non-Members who have never before subscribed to the Intraday Open-Close historical files.

By way of background, the Exchange historically offered 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) ("End-of-Day Open-Close Data"). 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 End-of-Day Open-Close Data is proprietary EDGX Options 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. The recently adopted Intraday Open-Close Data provides similar information to that of Open-Close Data but is 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.<sup>3</sup> The Intraday Open-Close Data provides 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

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<sup>3</sup> For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current "snapshot" and all previous "snapshots."

(buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts). The Intraday Open-Close Data is also proprietary EDGX Options trade data and does not include trade data from any other exchange. Cboe LiveVol, LLC (“LiveVol”), a wholly owned subsidiary of the Exchange’s parent company, Cboe Global Markets, Inc., makes the Open-Close Data and Intraday Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website ([datashop.cboe.com](http://datashop.cboe.com)). Customers may currently purchase end-of-day Open-Close Data on a subscription basis (\$500 per month) or by ad hoc request for a specified historical month (\$400 per request per month). Customers may also purchase Intraday Open-Close Data on a subscription basis (\$1,000 per month or \$12,000 per year) or by ad hoc request for a specified historical month (\$500 per request per month).

The Exchange now proposes to adopt an academic discount for ad-hoc requests of historical months of these data sets. Specifically, the Exchange proposes to charge qualifying academic purchasers \$500 per year for the first year (instead of \$4,800 per year) for historical End-of-Day Open-Close Data and \$1,000 per year for the first year (instead of \$6,000 per year) for historical Intraday Open-Close Data. Additional months after the first year may be purchased separately and will be assessed a prorated amount based on the yearly rate (i.e., \$41.67 per month for historical End-of-Day Open-Close and \$83.33 per month for historical Intraday Open-Close). Particularly, the Exchange believes that academic institutions and researchers provide a valuable service for the Exchange in studying and promoting the options market. Though academic institutions

and researchers have need for granular options data sets, they do not trade upon the data for which they subscribe. The Exchange believes the proposed reduced fee for qualifying academic purchasers of historical End-of-Day Open-Close Data and Intraday Open-Close Data will encourage and promote academic studies of its market data by academic institutions. In order to qualify for the academic pricing, an academic purchaser must be 1) an accredited academic institution or member of the faculty or staff of such an institution, 2) that will use the data in independent academic research, academic journals and other publications, teaching and classroom use, or for other bona fide educational purposes (i.e. academic use). Furthermore, use of the data must be limited to faculty and students of an accredited academic institution, and any commercial or profit-seeking usage is excluded. Academic pricing will not be provided to any purchaser whose research is funded by a securities industry participant. LiveVol subscriber policies will reflect the academic discount program, and academic users interested in qualifying will be required to submit a brief application. LiveVol Business Development will have the discretion to review and approve such applications and request additional information when it deems necessary.

The Exchange notes that another exchange currently offers an academic discount for a similar data feed.<sup>4</sup> Additionally, the Exchange's affiliate Cboe Exchange, Inc. ("Cboe Options") offers an academic discount for historical End-of-Day Open-Close and Intraday Open-Close Data products.<sup>5</sup> The Exchange recognizes the high value of academic research and educational instruction and publications, and believes that the

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<sup>4</sup> See Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile Intraday.

<sup>5</sup> See Cboe Options Fees Schedule, Livevol Fees, Open Close Data.

proposed academic discount for historical End-of-Day Open-Close Data and Intraday Open-Close Data will encourage the promotion of academic research of the options industry, which will serve to benefit all market participants while also opening up a new potential user base among students. Finally, the Exchange notes that academic purchasers' ad hoc requests of historical End-of-Day Open-Close an Intraday Open-Close Data would be educational in use and purpose, and not vocational.

The Exchange next seeks to adopt a free trial for historical ad hoc requests for Intraday Open-Close Data for new purchasers. Particularly, the Exchange proposes to adopt a free trial available during the months of June and July 2021 to provide up to three (3) historical months of Intraday Open-Close Data to any Member or non-Member that has not previously subscribed to this offering.<sup>6</sup> The Exchange believes the proposed trial will serve as an incentive for new users to start purchasing Intraday Open-Close historical data. More specifically, the Exchange believes it will give potential subscribers the ability to use and test the data offering before signing up for additional months. The Exchange also notes another exchange offers a free trial for new subscribers of a similar data product.<sup>7</sup> Lastly, the purchase of Intraday Open-Close historical data is discretionary and not compulsory.

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<sup>6</sup> For example, if a Member or non-Member that has never made an ad-hoc request for a specified month of Intraday Open-Close historical data wishes to purchase Intraday Open-Close Data for the months of January, February and March 2021 during the month of June 2021, the historical files for those months would be provided free of charge. If a new user wishes to purchase Intraday Open-Close historical data for the months of January, February, March and April 2021 during the month of June 2021, then the data for January, February and March 2021 would be provided free of charge, and the new user would be charged \$1,000 for the April 2021 historical file.

<sup>7</sup> See Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</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. The Exchange also believes that its proposal to adopt fees for Intraday Open-Close Data is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>10</sup> in particular, in that it is an equitable allocation of dues, fees and other charges among its members and other recipients of Exchange data.

In particular, the Exchange believes that the discount for qualifying academic purchasers of the ad hoc historical End-of-Day Open-Close and Intraday Open-Close Data is reasonable because academic users are not able to monetize access to the data as they do not trade on the data set. The Exchange believes the proposed discount will allow for more academic institutions and faculty members to purchase historical End-of-Day Open-Close and Intraday Open-Close Data, and, as a result, promote research and studies of the options industry to the benefit of all market participants. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all academic users that submit an application and meet the

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<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

accredited academic institution or faculty member and academic use criteria. As stated above, qualified academic users will subscribe to the data set for educational use and purposes and are not permitted to use the data for commercial or monetizing purposes, nor can qualify if they are funded by an industry participant. As a result, the Exchange believes the proposed discount is equitable and not unfairly discriminatory because it maintains equal treatment for all industry participants or other subscribers that use the data for vocational, commercial or other for-profit purposes.

The Exchange also believes that the proposed free trial for any Member or non-Member who has not previously purchased Intraday Open-Close historical data is reasonable because such users would not be subject to fees for up to 3 months' worth of Intraday Open-Close historical data. The Exchange believes the proposed free trial is also reasonable as it will give potential subscribers the ability to use and test the Intraday Open-Close historical data prior to purchasing additional months and will therefore encourage and promote new users to purchase the Intraday Open-Close historical data. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all Members and non-Members who have not previously purchased Intraday Open-Close historical data. Lastly, as noted above, another exchange offers a free trial to new users for a similar data product<sup>11</sup> and purchase of this data product is discretionary and not compulsory.

4. 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

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<sup>11</sup> See Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change relating to the academic discount will apply to all qualifying academic purchasers uniformly. While the proposed fee reduction applies only to qualifying academic purchasers, academic purchasers' research and publications as a result of access to historical market data benefits all market participants. The Exchange also does not believe that the proposed rule change relating to the free trial will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change will apply to all Members and non-Members who have never made an ad-hoc request to purchase Intraday Open-Close historical data. Moreover, purchase of Intraday Open-Close historical files is discretionary and not compulsory.

The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change applies only to the Exchange. Furthermore, another exchange currently offers similar historical data to academic users at a discounted price as well as a similar free-trial period for similar data.<sup>12</sup>

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.

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<sup>12</sup> Id.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>13</sup> and Rule 19b-4(f)(2) thereunder,<sup>14</sup> the Exchange has designated this proposal as establishing or changing a due, fee, or other charge applicable to the Exchange's Members and non-Members, which renders the proposed rule change effective upon filing.

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.

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

Not applicable.

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

Not applicable.

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 – Text of the Proposed Rule Change.

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

<sup>14</sup> 17 CFR 240.19b-4(f)(2).

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CboeEDGX-2021-028]

[Insert date]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Open-Close Data Fees

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 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 Options”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend Open-Close Data fees. The text of the proposed rule change is provided in Exhibit 5.

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.

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

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

## **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 amend its Fees Schedule to (i) adopt an academic discount for its historical End-of-Day Open-Close and Intraday Open-Close data and (ii) offer a free trial during the months of June and July 2021 for an ad-hoc request of three (3) historical months of Intraday Open-Close historical data to all Members and non-Members who have never before subscribed to the Intraday Open-Close historical files.

By way of background, the Exchange historically offered 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) ("End-of-Day Open-Close Data"). 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 End-of-Day Open-Close Data is proprietary EDGX Options 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. The recently adopted Intraday Open-Close Data provides similar information to that of Open-Close Data but is 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.<sup>3</sup> The Intraday Open-Close Data provides 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 are further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts). The Intraday Open-Close Data is also proprietary EDGX Options trade data and does not include trade data from any other exchange. Cboe LiveVol, LLC ("LiveVol"), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., makes the Open-Close Data and Intraday Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website ([datashop.cboe.com](http://datashop.cboe.com)). Customers may currently purchase end-of-day Open-Close Data on a subscription basis (\$500 per month) or by ad hoc request for a specified historical month (\$400 per request per month). Customers may also purchase Intraday Open-Close Data on a subscription basis (\$1,000 per month or \$12,000 per year) or by ad hoc request for a specified historical month (\$500 per request per month).

The Exchange now proposes to adopt an academic discount for ad-hoc requests of historical months of these data sets. Specifically, the Exchange proposes to charge

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<sup>3</sup> For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current "snapshot" and all previous "snapshots."

qualifying academic purchasers \$500 per year for the first year (instead of \$4,800 per year) for historical End-of-Day Open-Close Data and \$1,000 per year for the first year (instead of \$6,000 per year) for historical Intraday Open-Close Data. Additional months after the first year may be purchased separately and will be assessed a prorated amount based on the yearly rate (i.e., \$41.67 per month for historical End-of-Day Open-Close and \$83.33 per month for historical Intraday Open-Close). Particularly, the Exchange believes that academic institutions and researchers provide a valuable service for the Exchange in studying and promoting the options market. Though academic institutions and researchers have need for granular options data sets, they do not trade upon the data for which they subscribe. The Exchange believes the proposed reduced fee for qualifying academic purchasers of historical End-of-Day Open-Close Data and Intraday Open-Close Data will encourage and promote academic studies of its market data by academic institutions. In order to qualify for the academic pricing, an academic purchaser must be 1) an accredited academic institution or member of the faculty or staff of such an institution, 2) that will use the data in independent academic research, academic journals and other publications, teaching and classroom use, or for other bona fide educational purposes (i.e. academic use). Furthermore, use of the data must be limited to faculty and students of an accredited academic institution, and any commercial or profit-seeking usage is excluded. Academic pricing will not be provided to any purchaser whose research is funded by a securities industry participant. LiveVol subscriber policies will reflect the academic discount program, and academic users interested in qualifying will be required to submit a brief application. LiveVol Business Development will have the

discretion to review and approve such applications and request additional information when it deems necessary.

The Exchange notes that another exchange currently offers an academic discount for a similar data feed.<sup>4</sup> Additionally, the Exchange's affiliate Cboe Exchange, Inc. ("Cboe Options") offers an academic discount for historical End-of-Day Open-Close and Intraday Open-Close Data products.<sup>5</sup> The Exchange recognizes the high value of academic research and educational instruction and publications, and believes that the proposed academic discount for historical End-of-Day Open-Close Data and Intraday Open-Close Data will encourage the promotion of academic research of the options industry, which will serve to benefit all market participants while also opening up a new potential user base among students. Finally, the Exchange notes that academic purchasers' ad hoc requests of historical End-of-Day Open-Close and Intraday Open-Close Data would be educational in use and purpose, and not vocational.

The Exchange next seeks to adopt a free trial for historical ad hoc requests for Intraday Open-Close Data for new purchasers. Particularly, the Exchange proposes to adopt a free trial available during the months of June and July 2021 to provide up to three (3) historical months of Intraday Open-Close Data to any Member or non-Member that has not previously subscribed to this offering.<sup>6</sup> The Exchange believes the proposed trial

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<sup>4</sup> See Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile Intraday.

<sup>5</sup> See Cboe Options Fees Schedule, Livevol Fees, Open Close Data.

<sup>6</sup> For example, if a Member or non-Member that has never made an ad-hoc request for a specified month of Intraday Open-Close historical data wishes to purchase Intraday Open-Close Data for the months of January, February and March 2021 during the month of June 2021, the historical files for those months would be provided free of charge. If a new user wishes to purchase Intraday Open-Close historical data for the months of January, February, March and April 2021 during

will serve as an incentive for new users to start purchasing Intraday Open-Close historical data. More specifically, the Exchange believes it will give potential subscribers the ability to use and test the data offering before signing up for additional months. The Exchange also notes another exchange offers a free trial for new subscribers of a similar data product.<sup>7</sup> Lastly, the purchase of Intraday Open-Close historical data is discretionary and not compulsory.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</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. The Exchange also believes that its proposal to adopt fees for Intraday Open-Close Data is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>10</sup> in particular, in that it is an equitable allocation of dues, fees and other charges among its members and other recipients of Exchange data.

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the month of June 2021, then the data for January, February and March 2021 would be provided free of charge, and the new user would be charged \$1,000 for the April 2021 historical file.

<sup>7</sup> See Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

In particular, the Exchange believes that the discount for qualifying academic purchasers of the ad hoc historical End-of-Day Open-Close and Intraday Open-Close Data is reasonable because academic users are not able to monetize access to the data as they do not trade on the data set. The Exchange believes the proposed discount will allow for more academic institutions and faculty members to purchase historical End-of-Day Open-Close and Intraday Open-Close Data, and, as a result, promote research and studies of the options industry to the benefit of all market participants. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all academic users that submit an application and meet the accredited academic institution or faculty member and academic use criteria. As stated above, qualified academic users will subscribe to the data set for educational use and purposes and are not permitted to use the data for commercial or monetizing purposes, nor can qualify if they are funded by an industry participant. As a result, the Exchange believes the proposed discount is equitable and not unfairly discriminatory because it maintains equal treatment for all industry participants or other subscribers that use the data for vocational, commercial or other for-profit purposes.

The Exchange also believes that the proposed free trial for any Member or non-Member who has not previously purchased Intraday Open-Close historical data is reasonable because such users would not be subject to fees for up to 3 months' worth of Intraday Open-Close historical data. The Exchange believes the proposed free trial is also reasonable as it will give potential subscribers the ability to use and test the Intraday Open-Close historical data prior to purchasing additional months and will therefore encourage and promote new users to purchase the Intraday Open-Close historical data.

The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all Members and non-Members who have not previously purchased Intraday Open-Close historical data. Lastly, as noted above, another exchange offers a free trial to new users for a similar data product<sup>11</sup> and purchase of this data product is discretionary and not compulsory.

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. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change relating to the academic discount will apply to all qualifying academic purchasers uniformly. While the proposed fee reduction applies only to qualifying academic purchasers, academic purchasers' research and publications as a result of access to historical market data benefits all market participants. The Exchange also does not believe that the proposed rule change relating to the free trial will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change will apply to all Members and non-Members who have never made an ad-hoc request to purchase Intraday Open-Close historical data. Moreover, purchase of Intraday Open-Close historical files is discretionary and not compulsory.

The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance

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<sup>11</sup> See Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

of the purposes of the Act because the proposed change applies only to the Exchange.

Furthermore, another exchange currently offers similar historical data to academic users at a discounted price as well as a similar free-trial period for similar data.<sup>12</sup>

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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and paragraph (f) of Rule 19b-4<sup>14</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>12</sup> Id.

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

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

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-2021-028 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-2021-028. 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-2021-028 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>15</sup>

Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Proposed new language is underlined; proposed deletions are in [brackets].

**Cboe EDGX Options Exchange Fee Schedule**

Effective [April 7]June 1, 2021

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**Market Data Fees:**

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**Cboe LiveVol, LLC Market Data Fees****Open-Close Data:**

End-of-Day Subscription	\$500 per month
End-of-Day Ad-hoc Request (historical data)	<p>\$400 per request per month. An ad-hoc request can be for any number of months beginning with January 2018 for which the data is available.</p> <p><u>Qualifying Academic Purchasers will be charged \$500 per year for the first year. Each additional month purchased thereafter will be prorated based on the \$500 per year rate.</u></p>
Intraday Subscription	\$1,000 per month or \$12,000 per year
Intraday Ad-hoc Request (historical data)	<p>\$500 per request month</p> <p><u>Qualifying Academic Purchasers will be charged \$1,000 per year for the first year. Each additional month purchased thereafter will be prorated based on the \$1,000 per year rate.</u></p> <p><u>For the months of June and July 2021, a free trial is available for up to 3 months of Intraday Open-Close Historical Data to both Members and non-Members who have</u></p>

	<u>not previously subscribed to Intraday Open-Close Historical Data.</u>
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