

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"/>
			Rule		
Pilot <input type="checkbox"/>	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 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	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
Section 3C(b)(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 to amend its Fee Schedule.

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 08/02/2021
 By Kyle Murray
 (Name *)

VP, Associate General Counsel

kmurray@cboe.com

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 *

Add Remove View

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 *

Add Remove View

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

Add Remove View

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.

Item 1. Text of the Proposed Rule Change

(a) Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX” or “EDGX Equities”) proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

(b) Not applicable.

(c) Not applicable.

Item 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 30, 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 Sarah Tadtman, Counsel, (913) 815-7203.

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

(a) Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform (“EDGX Equities”) to modify the fee associated with Remove Volume Tier 2.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market

participants may direct their order flow. Based on publicly available information,¹ no single registered equities exchange has more than 17% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a “Maker-Taker” model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity. The Exchange’s Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above \$1.00, the Exchange provides a standard rebate of \$0.00160 per share for orders that add liquidity and assesses a fee of \$0.00285 per share for orders that remove liquidity. For orders in securities priced below \$1.00, the Exchange provides a standard rebate of \$0.00009 per share for orders that add liquidity and assesses a fee of 0.30% of total dollar value for orders that remove liquidity. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Pursuant to footnote 1 of the Fee Schedule, the Exchange currently offers Remove Volume Tiers that provide Members an opportunity to receive a reduced fee from the

¹ See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (July 26, 2021), available at https://markets.cboe.com/us/equities/market_statistics/.

standard fee assessed for liquidity removing orders that yield fee codes BB,² N,³ and W.⁴

The Remove Volume Tiers offer two different tiers that vary in criteria difficulty and incentive opportunities which Members may qualify for reduced fees for such orders. For example, the Remove Volume Tier 2 currently provides a reduced fee of \$.00270 for Members who have either (1) an ADAV⁵ greater than or equal to 0.25% of the TCV⁶ with displayed orders that yield fee codes B,⁷ V⁸ or Y;⁹ or (2) Retail Order ADV¹⁰ (i.e., yielding fee code ZA¹¹) greater than or equal to 0.45% of the TCV. The Exchange now proposes to increase the reduced fee to \$0.00275 provided under the Remove Volume Tier 2. The Exchange notes that the Remove Volume Tier 2, as modified, continues to be

² Fee code 'BB' is appended to orders that remove liquidity from EDGX (Tape B) and is assessed a fee of \$0.00285 per share.

³ Fee code 'N' is appended to orders that remove liquidity from EDGX (Tape C) and is assessed a fee of \$0.00285 per share.

⁴ Fee code 'W' is appended to orders that remove liquidity from EDGX (Tape A) and is assessed a fee of \$0.00285 per share.

⁵ ADAV means average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

⁶ TCV means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

⁷ Fee code 'B' is appended to orders that add liquidity to EDGX (Tape B) and is provided a rebate of \$0.0016 per share.

⁸ Fee code 'V' is appended to orders that add liquidity to EDGX (Tape A) and is provided a rebate of \$0.0016 per share.

⁹ Fee code 'Y' is appended to orders that add liquidity to EDGX (Tape C) and is provided a rebate of \$0.0016 per share.

¹⁰ ADV means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.

¹¹ Fee code 'ZA' is appended to Retail Orders that add liquidity to EDGX and is provided a rebate of \$0.0032 per share.

available to all Members and provides Members an opportunity to receive a reduced fee, albeit less of a reduced fee than currently offered. Further, the Remove Volume Tier 2 continues to be designed to encourage Members to increase their order flow on the Exchange which further contributes to a deeper, more liquid market and provides even more execution opportunities for active market participants at improved prices.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,¹² in general, and furthers the objectives of Section 6(b)(4),¹³ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)¹⁴ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem

¹² 15 U.S.C. 78f.

¹³ 15 U.S.C. 78f(b)(4).

¹⁴ 15 U.S.C. 78f.(b)(5).

fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change to the Remove Volume Tier 2 reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members. In particular, the Exchange believes the proposed fee change for Remove Volume Tier 2 is reasonable because the tier will continue to be available to all Members and provide all Members with an additional opportunity to receive a reduced fee. The Exchange further believes Remove Volume Tier 2 is a reasonable means to encourage growth in Members' overall order flow to the Exchange and to incentivize Members to continue to provide liquidity adding and liquidity removing on the Exchange by offering them an opportunity to receive a reduced fee on qualifying orders. The Exchange believes that the proposed tier will generally benefit all market participants by incentivizing continuous liquidity and thus, deeper more liquid markets as well as increased execution opportunities. This overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality, for all investors.

Further, the Exchange believes that the amended Remove Volume Tier 2 is reasonable as it does not represent a significant departure from the criteria or corresponding rates currently offered in the Fee Schedule, and that the proposed reduced fee is commensurate with the criteria. The Exchange also believes that the proposal represents an equitable allocation of fees and rebates and is not unfairly discriminatory because all Members are and will continue to be eligible for Remove Volume Tiers and have the opportunity to meet the tiers' criteria and receive the applicable reduced fee if

such criteria is met. The Exchange also notes that amended tier will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebate offered under other tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding reduced fee.

Item 4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed amendment to the Remove Volume Tier 2 would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the Remove Volume Tiers will continue to apply to all Members equally in that all Members are eligible for these tiers, have a reasonable opportunity to meet the tiers' criteria and will receive the reduced fee on their qualifying orders if such criteria is met. Additionally, the Remove Volume Tiers are designed to attract additional order flow to the Exchange. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange

by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 17% of the market share.¹⁵ Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁶ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit

¹⁵ Supra note 2.

¹⁶ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ ... As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’....”¹⁷ Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

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

Item 6. Extension of Time Period for Commission Action

Not applicable.

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

(a) The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act¹⁸ and Rule 19b-4(f)(2)¹⁹ thereunder.

(b) The Exchange designates that the proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, which renders the proposed

¹⁷ NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(2).

rule change effective upon filing with the Securities and Exchange Commission (the “Commission”). At any time within 60 days of the filing of this 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.

(c) Not applicable.

(d) Not applicable.

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

The proposed rule change is not based on a rule either of another self-regulatory organization or of the Commission.

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

Not applicable.

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

Not applicable.

Item 11. Exhibits

Exhibit 1. Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 2-4. Not applicable.

Exhibit 5. Proposed rule text.

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CboeEDGX-2021-036]

[Insert date]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend its Fee Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² 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” or “EDGX Equities”) proposes to amend its Fee Schedule. 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/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 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 Fee Schedule applicable to its equities trading platform (“EDGX Equities”) to modify the fee associated with Remove Volume Tier 2.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly available information,³ no single registered equities exchange has more than 17% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses

³ See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (July 26, 2021), available at https://markets.cboe.com/us/equities/market_statistics/.

significant pricing power in the execution of order flow. The Exchange in particular operates a “Maker-Taker” model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity. The Exchange’s Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above \$1.00, the Exchange provides a standard rebate of \$0.00160 per share for orders that add liquidity and assesses a fee of \$0.00285 per share for orders that remove liquidity. For orders in securities priced below \$1.00, the Exchange provides a standard rebate of \$0.00009 per share for orders that add liquidity and assesses a fee of 0.30% of total dollar value for orders that remove liquidity. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Pursuant to footnote 1 of the Fee Schedule, the Exchange currently offers Remove Volume Tiers that provide Members an opportunity to receive a reduced fee from the standard fee assessed for liquidity removing orders that yield fee codes BB,⁴ N,⁵ and W.⁶ The Remove Volume Tiers offer two different tiers that vary in criteria difficulty and

⁴ Fee code ‘BB’ is appended to orders that remove liquidity from EDGX (Tape B) and is assessed a fee of \$0.00285 per share.

⁵ Fee code ‘N’ is appended to orders that remove liquidity from EDGX (Tape C) and is assessed a fee of \$0.00285 per share.

⁶ Fee code ‘W’ is appended to orders that remove liquidity from EDGX (Tape A) and is assessed a fee of \$0.00285 per share.

incentive opportunities which Members may qualify for reduced fees for such orders. For example, the Remove Volume Tier 2 currently provides a reduced fee of \$.00270 for Members who have either (1) an ADAV⁷ greater than or equal to 0.25% of the TCV⁸ with displayed orders that yield fee codes B,⁹ V¹⁰ or Y,¹¹ or (2) Retail Order ADV¹² (i.e., yielding fee code ZA¹³) greater than or equal to 0.45% of the TCV. The Exchange now proposes to increase the reduced fee to \$0.00275 provided under the Remove Volume Tier 2. The Exchange notes that the Remove Volume Tier 2, as modified, continues to be available to all Members and provides Members an opportunity to receive a reduced fee, albeit less of a reduced fee than currently offered. Further, the Remove Volume Tier 2 continues to be designed to encourage Members to increase their order flow on the Exchange which further contributes to a deeper, more liquid market and provides even more execution opportunities for active market participants at improved prices.

⁷ ADAV means average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

⁸ TCV means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

⁹ Fee code 'B' is appended to orders that add liquidity to EDGX (Tape B) and is provided a rebate of \$0.0016 per share.

¹⁰ Fee code 'V' is appended to orders that add liquidity to EDGX (Tape A) and is provided a rebate of \$0.0016 per share.

¹¹ Fee code 'Y' is appended to orders that add liquidity to EDGX (Tape C) and is provided a rebate of \$0.0016 per share.

¹² ADV means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.

¹³ Fee code 'ZA' is appended to Retail Orders that add liquidity to EDGX and is provided a rebate of \$0.0032 per share.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,¹⁴ in general, and furthers the objectives of Section 6(b)(4),¹⁵ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)¹⁶ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change to the Remove Volume Tier 2 reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members. In particular, the Exchange believes the proposed fee change for Remove

¹⁴ 15 U.S.C. 78f.

¹⁵ 15 U.S.C. 78f(b)(4).

¹⁶ 15 U.S.C. 78f.(b)(5).

Volume Tier 2 is reasonable because the tier will continue to be available to all Members and provide all Members with an additional opportunity to receive a reduced fee. The Exchange further believes Remove Volume Tier 2 is a reasonable means to encourage growth in Members' overall order flow to the Exchange and to incentivize Members to continue to provide liquidity adding and liquidity removing on the Exchange by offering them an opportunity to receive a reduced fee on qualifying orders. The Exchange believes that the proposed tier will generally benefit all market participants by incentivizing continuous liquidity and thus, deeper more liquid markets as well as increased execution opportunities. This overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality, for all investors.

Further, the Exchange believes that the amended Remove Volume Tier 2 is reasonable as it does not represent a significant departure from the criteria or corresponding rates currently offered in the Fee Schedule, and that the proposed reduced fee is commensurate with the criteria. The Exchange also believes that the proposal represents an equitable allocation of fees and rebates and is not unfairly discriminatory because all Members are and will continue to be eligible for Remove Volume Tiers and have the opportunity to meet the tiers' criteria and receive the applicable reduced fee if such criteria is met. The Exchange also notes that amended tier will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebate offered under other tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding reduced fee.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed amendment to the Remove Volume Tier 2 would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the Remove Volume Tiers will continue to apply to all Members equally in that all Members are eligible for these tiers, have a reasonable opportunity to meet the tiers' criteria and will receive the reduced fee on their qualifying orders if such criteria is met. Additionally, the Remove Volume Tiers are designed to attract additional order flow to the Exchange. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may

participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 17% of the market share.¹⁷ Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁸ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ ... As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or

¹⁷ Supra note 4.

¹⁸ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

otherwise, in the execution of order flow from broker dealers'".¹⁹ Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange neither solicited nor received 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 Act²⁰ and paragraph (f) of Rule 19b-4²¹ 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:

¹⁹ NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²⁰ 15 U.S.C. 78s(b)(3)(A).

²¹ 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. Please include File Number SR-CboeEDGX-2021-036 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-2021-036. 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-2021-036 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.²²

Secretary

²² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

* * * * *

Cboe U.S. Equities Fee Schedules**EDGX Equities**Effective [July 23]August 2, 2021

* * * * *

Footnotes:**¹ Add/Remove Volume Tiers:**

* * * * *

The fees to remove provided by the below tiers are applicable to the following fee codes: BB, N and W.

Tier	Fee Per Share to Remove		Required Criteria
	Securities at or above \$1.00	Securities below \$1.00	
Remove Volume Tier 1	\$0.00275	0.28% of total dollar value	(1) Member adds a Step-Up ADAV from June 2021 \geq 0.10% of the TCV or Member adds a Step-Up ADAV from June 2021 \geq 8,000,000; and (2) Member has a total remove ADV \geq 0.70% of the TCV
Remove Volume Tier 2	\$0.0027[0] <u>5</u>	0.28% of total dollar value	(1) Member has an ADAV \geq 0.25% TCV with displayed orders that yield fee codes B, V or Y; or (2) Member adds Retail Order ADV (i.e., yielding fee code ZA) \geq 0.45% of the TCV.

* * * * *