

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 20

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. \* SR 2022 - \* 006

Amendment No. (req. for Amendments \*)

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"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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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) \*

Section 806(e)(2) \*

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934  
Section 3C(b)(2) \*

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

### 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 \* Rebecca Last Name \* Tenuta

Title \* Senior Counsel

E-mail \* rtenuta@cboe.com

Telephone \* (312) 786-7068 Fax

### Signature

Pursuant to the requirements of the Securities Exchange of 1934, Cboe EDGX Exchange, Inc. has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 02/01/2022

(Title \*)

By Laura G. Dickman

(Name \*)

VP, Associate General Counsel

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

*Laura Dickman* Date: 2022.02.01 14:41:05 -06'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

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

Add Remove View

22-006 (EDGX Opt Fees - February 2022)

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

22-006 (EDGX Opt Fees - February 2022)

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 Advanced 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 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**

Add Remove View

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 Sent As Paper Document

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

Add Remove View

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 Sent As Paper Document

**Exhibit 4 - Marked Copies**

Add Remove View

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

22-006 (EDGX Opt Fees - February 2022)

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**

Add Remove View

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 Options”)

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 January 31, 2022.

- (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 Rebecca Tenuta, (312) 786-7068, Cboe EDGX Exchange, Inc., 400 South LaSalle, Chicago, Illinois 60605.

**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 by clarifying the definition of the existing fee code in connection with trades at the EDGX Options open and adopting a fee code in connection with trades at the open of the Complex Order Book (“COB”), effective February 1, 2022.

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 options venues to which market participants

may direct their order flow. Based on publicly available information, no single options exchange has more than 15% of the market share and currently the Exchange represents only approximately 4.5% of the market share.<sup>1</sup> Thus, in such a low-concentrated and highly competitive market, no single options exchange, including the Exchange, possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Exchange's Fees Schedule sets forth standard rebates and rates applied per contract. For example, the Exchange provides standard rebates ranging from \$0.01 up to \$0.21 per contract for Customer orders in both Penny and Non-Penny Securities. The Fee Codes and Associated Fees section of the Fees Schedule also provides for certain fee codes associated with certain order types and market participants that provide for various other fees or rebates. Fee code OO, for example, is appended to all orders executed (i.e., in any capacity) as part of the EDGX Options opening and assesses no fee. The Exchange proposes to amend the definition of fee code OO to clarify that it applies to orders executed as part of the EDGX Options opening on the simple order book,<sup>2</sup> and proposes

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<sup>1</sup> See Cboe Global Markets U.S. Options Market Monthly Volume Summary (January 26, 2022), available at [https://markets.cboe.com/us/options/market\\_statistics/](https://markets.cboe.com/us/options/market_statistics/).

<sup>2</sup> See Securities Exchange Act Release No. 76453 (November 17, 2015), 80 FR 72999 (November 23, 2015) (SR-EDGX-2015-56), which provides that an order

to adopt fee code OC, which applies to all orders executed as part of the EDGX Options opening on the COB and assesses no fee.<sup>3</sup> The proposed rule change is merely intended to add clarity regarding the fee codes that apply in connection with orders that participate in the Exchange's opening processes for its different order books. All orders executed on the open, whether the open for the simple order book or the COB, will continue to transact free of charge. The Exchange notes that the Fee Schedule of the Exchange's affiliated options exchange, Cboe C2 Exchange, Inc. ("C2 Options") applies substantively identical fee codes for trades at the open of its simple order book and for trades at the open of its complex order book.<sup>4</sup>

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>5</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>6</sup> 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,

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that participates in the EDGX Options opening process under Exchange Rule 21.7 would yield fee code OO. Rule 21.7 governs the opening auction process for the Exchange's simple order book.

<sup>3</sup> The proposed rule change also adds fee code OC to the "Complex Order Types" table under footnote 8 of the Fee Schedule,

<sup>4</sup> See C2 Options Fee Schedule, Fee Codes and Associated Fees, fee codes OO and OC.

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>7</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change is reasonable as it is intended to provide additional clarity in the Fee Schedule regarding the fee codes that apply in connection with orders that participate in the Exchange's opening processes for its simple order book and COB and all orders executed on either open may transact free of charge. The Exchange again notes that the C2 Options Fee Schedule applies substantively identical fee codes for trades at the open of its simple order book and for trades at the open of its complex order book.<sup>8</sup> The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory as fee codes OO and OC apply automatically and uniformly to all orders executed upon the open of the simple order book or COB, respectively.

**Item 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 of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because fee codes OO and OC apply automatically and uniformly to all orders executed upon the open of the simple order book or COB,

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<sup>7</sup> Id.

<sup>8</sup> See supra note 4.

respectively. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition because the proposed rule change is merely intended to provide additional clarity in the Fee Schedule regarding the fee codes that apply in connection with orders that participate in the Exchange's opening processes for its simple order book and COB and all orders executed on either open may continue to transact free of charge. The Exchange again notes that the C2 Options Fee Schedule applies substantively identical fee codes for trades at the open of its simple order book and for trades at the open of its complex order book.<sup>9</sup> Also, as previously discussed, the Exchange operates in a highly competitive market. TPHs have numerous alternative venues they may participate on and direct their order flow, including 15 other options exchanges. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 15% of the market share. Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchanges if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange believes that the proposed fee changes are comparable to that of other exchanges offering similar functionality. 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

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<sup>9</sup> See supra note 4.

competition in its broader forms that are most important to investors and listed companies.” 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 otherwise, in the execution of order flow from broker dealers’ ....”. 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 Act<sup>10</sup> and Rule 19b-4(f)(2)<sup>11</sup> thereunder.

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

(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 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 5. Proposed rule text.

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CboeEDGX-2022-006]

[Insert date]

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

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”) 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/](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

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

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

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 by clarifying the definition of the existing fee code in connection with trades at the EDGX Options open and adopting a fee code in connection with trades at the open of the Complex Order Book ("COB"), effective February 1, 2022.

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 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 15% of the market share and currently the Exchange represents only approximately 4.5% of the market share.<sup>3</sup> Thus, in such a low-concentrated and highly competitive market, no single options exchange, including the Exchange, possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive

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<sup>3</sup> See Cboe Global Markets U.S. Options Market Monthly Volume Summary (January 26, 2022), available at [https://markets.cboe.com/us/options/market\\_statistics/](https://markets.cboe.com/us/options/market_statistics/).

forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Exchange's Fees Schedule sets forth standard rebates and rates applied per contract. For example, the Exchange provides standard rebates ranging from \$0.01 up to \$0.21 per contract for Customer orders in both Penny and Non-Penny Securities. The Fee Codes and Associated Fees section of the Fees Schedule also provides for certain fee codes associated with certain order types and market participants that provide for various other fees or rebates. Fee code OO, for example, is appended to all orders executed (i.e., in any capacity) as part of the EDGX Options opening and assesses no fee. The Exchange proposes to amend the definition of fee code OO to clarify that it applies to orders executed as part of the EDGX Options opening on the simple order book,<sup>4</sup> and proposes to adopt fee code OC, which applies to all orders executed as part of the EDGX Options opening on the COB and assesses no fee.<sup>5</sup> The proposed rule change is merely intended to add clarity regarding the fee codes that apply in connection with orders that participate in the Exchange's opening processes for its different order books. All orders executed on the open, whether the open for the simple order book or the COB, will continue to transact free of charge. The Exchange notes that the Fee Schedule of the Exchange's affiliated options exchange, Cboe C2 Exchange, Inc. ("C2 Options") applies

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<sup>4</sup> See Securities Exchange Act Release No. 76453 (November 17, 2015), 80 FR 72999 (November 23, 2015) (SR-EDGX-2015-56), which provides that an order that participates in the EDGX Options opening process under Exchange Rule 21.7 would yield fee code OO. Rule 21.7 governs the opening auction process for the Exchange's simple order book.

<sup>5</sup> The proposed rule change also adds fee code OC to the "Complex Order Types" table under footnote 8 of the Fee Schedule,

substantively identical fee codes for trades at the open of its simple order book and for trades at the open of its complex order book.<sup>6</sup>

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>7</sup>

Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>8</sup> 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change is reasonable as it is intended to provide additional clarity in the Fee Schedule regarding the fee codes that apply in connection with orders that participate in the Exchange’s opening processes for its simple order book and COB and all orders executed on either open may transact free

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<sup>6</sup> See C2 Options Fee Schedule, Fee Codes and Associated Fees, fee codes OO and OC.

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

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

<sup>9</sup> Id.

of charge. The Exchange again notes that the C2 Options Fee Schedule applies substantively identical fee codes for trades at the open of its simple order book and for trades at the open of its complex order book.<sup>10</sup> The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory as fee codes OO and OC apply automatically and uniformly to all orders executed upon the open of the simple order book or COB, respectively.

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 because fee codes OO and OC apply automatically and uniformly to all orders executed upon the open of the simple order book or COB, respectively. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition because the proposed rule change is merely intended to provide additional clarity in the Fee Schedule regarding the fee codes that apply in connection with orders that participate in the Exchange's opening processes for its simple order book and COB and all orders executed on either open may continue to transact free of charge. The Exchange again notes that the C2 Options Fee Schedule applies substantively identical fee codes for trades at the open of its simple order book and for trades at the open of its complex order book.<sup>11</sup> Also, as previously discussed, the Exchange operates in a highly competitive market. TPHs have numerous alternative venues they may participate on and direct their order flow, including 15 other options

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<sup>10</sup> See supra note 6.

<sup>11</sup> See supra note 6.

exchanges. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 15% of the market share. Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchanges if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange believes that the proposed fee changes are comparable to that of other exchanges offering similar functionality. 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.” 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 otherwise, in the execution of order flow from broker dealers’ ....”. 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 Act<sup>12</sup> and paragraph (f) of Rule 19b-4<sup>13</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:

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-2022-006 on the subject line.

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f).

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-2022-006. 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-2022-006 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>14</sup>

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<sup>14</sup> 17 CFR 200.30-3(a)(12).

Secretary

## EXHIBIT 5

(additions are underlined; deletions are [bracketed])

\* \* \* \* \*

## Rules of Cboe EDGX Exchange, Inc.

\* \* \* \* \*

**Cboe U.S. Options Fees Schedules****EDGX Options**Effective [June]February 1, 2021[2]

\* \* \* \* \*

**Fee Codes and Associated Fees:**

Fee Code	Description	Fee/(Rebate)
* * * * *		
<u>OC</u>	<u>EDGX Options Opening (Complex Order Book)</u>	<u>FREE</u>
<u>OO</u>	<u>EDGX Options Opening (Simple Order Book)</u>	<u>FREE</u>
* * * * *		

\* \* \* \* \*

**<sup>8</sup> Complex Order Types**

Applicable to fee codes ZA, ZB, ZC, ZD, ZF, ZG, ZH, ZJ, ZM, ZN, ZR, and ZT.

The following rates shall apply for executions on the Exchange's complex order book. With the exception of fee code ZD, standard fee codes shall apply for orders that leg into the Simple Book. As defined in Rule 21.20, the Simple Book is the Exchange's regular electronic book of orders.

**Counter Party: Customer**

	Fee Code	Penny	Fee Code	Non-Penny
<b>Customer</b>	ZC	FREE	ZC	FREE
<b>Market Maker</b>	ZM	\$0.50	ZN	\$1.10
<b>Professional Customer/Firms/ BD/</b>	ZT	\$0.50	ZR	\$1.10

<b>JBO/ and Away MM</b>				
<b><u>All Capacities on the Complex Order Book Open</u></b>	<u>OC</u>	<u>FREE</u>	<u>OC</u>	<u>FREE</u>

**Counter Party: Non-Customer**

	<b>Fee Code</b>	<b>Penny</b>	<b>Fee Code</b>	<b>Non-Penny</b>
<b>Customer</b>	ZA	(\$0.39)	ZB	(\$0.75)
<b>Non-Customer Add</b>	ZF	\$0.10	ZH	\$0.10
<b>Non-Customer Remove</b>	ZG	\$0.47	ZJ	\$0.75
<b><u>All Capacities on the Complex Order Book Open</u></b>	<u>OC</u>	<u>FREE</u>	<u>OC</u>	<u>FREE</u>

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