Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 35

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

File No. * SR 2022 - * 028
Amendment No. (req. for Amendments *)

Filing by Cboe EDGX Exchange, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal
✓		

Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
	✓	

Pilot	Extension of Time Period for Commission Action *	Date Expires *

Rule

19b-4(f)(1)	19b-4(f)(4)
✓ 19b-4(f)(2)	19b-4(f)(5)
19b-4(f)(3)	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 Fees Schedule relating to the sale of Open-Close volume data.

Contact Information

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

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

Date	05/03/2022		(Title *)
By	Laura G. Dickman	VP, Associate General Counsel	
	(Name *)		

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: 2022.05.03 12:48:32 -05'00'

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 EFFS website.

Form 19b-4 Information *

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22-028 (EDGX Open-Close Fees) 19b

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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22-028 (EDGX Open-Close Fees) Exh

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

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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

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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

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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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22-028 (EDGX Open-Close Fees) Exh

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 Options") proposes to amend its Fees Schedule relating to the sale of Open-Close volume data. 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 May 2, 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 Corinne Klott, (312) 786-7793, Cboe EDGX Exchange, Inc., 433 West Van Buren Street, Chicago, Illinois 60607.

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 update its Fee Schedule for its equity options platform ("EDGX Options") to (i) offer a free trial during the months of May, June and July 2022 for an ad-hoc request of three (3) historical months of Intraday Open-Close historical data to all EDGX Options Members and non-Members who have never before subscribed to

the Intraday Open-Close historical files and (ii) adopt fees for the external distribution of products derived from Open-Close Data, effective May 2, 2022.[1]

By way of background, the Exchange currently offers End-of-Day ("EOD") and Intraday Open-Close Data (collectively, "Open-Close Data"). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts). The Open-Close Data is proprietary EDGX 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 Exchange also offers Intraday Open-Close Data, which 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.[2] 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,

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1 The Exchange initially filed the proposed fee changes on May 2, 2022 (SR-CboeEDGX-2022-027). On May 3, 2022, the Exchange withdrew that filing and submitted this filing.

2 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."

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 available for purchase to Members and non-Members on the LiveVol DataShop website (datashop.cboe.com). Customers may currently purchase Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (e.g., request for Intraday Open-Close Data for month of January 2022).

Open-Close Data is subject to direct competition from similar end-of-day and intraday options trading summaries offered by several other options exchanges.[3] All of these exchanges offer essentially the same end-of-day and intraday options trading summary information.

Free Trial

The Exchange first seeks to adopt a free trial for historical ad hoc requests for Intraday Open-Close Data for new purchasers. Currently, ad hoc requests for historical Intraday Open-Close Data are available to all customers at the same price and in the same manner. The current charge for this historical Intraday Open-Close Data covering all of

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[3] These substitute products are: Nasdaq PHLX Options Trade Outline, Nasdaq Options Trade Outline, ISE Trade Profile, GEMX Trade Profile data; open-close data from Cboe Options, C2, and BZX; and Open Close Reports from MIAX Options, Pearl, and Emerald.

the Exchange's securities (Equities, Indexes & ETF's) is $500 per month. The Exchange now proposes to adopt a free trial available during the months of May, June and July 2022 to provide a total 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.[4] The Exchange notes that it previously offered this free trial period last year for the months of June and July 2021.[5] The Exchange believes bringing back the proposed trial will again serve as an incentive for new users who have never purchased Intraday Open-Close historical data to start purchasing Intraday Open-Close historical data. Particularly, 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.[6] Lastly, the purchase of Intraday Open-Close historical data is discretionary and not compulsory.

External Distribution of Derived Data

The external distribution of Open-Close Data or any product derived from such data is not currently permitted. The Exchange proposes to remove that prohibition and

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4 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 2022 during the month of June 2022, 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 2022 during the month of June 2022, then the data for January, February and March 2022 would be provided free of charge, and the new user would be charged $500 for the April 2022 historical file.

5 The Exchange notes it inadvertently never eliminated the obsolete rule text language from the Fees Schedule. The Exchange proposes to update the text to conform to the proposed fee change.

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

allow vendors to distribute "Derived Data" based on Open-Close Data. "Derived Data" is pricing data or other data that (i) is created in whole or in part from Exchange Data, (ii) is not an index or financial product, and (iii) cannot be readily reverse-engineered to recreate Exchange Data or used to create other data that is a reasonable facsimile or substitute for Exchange Data.[7] Derived Data may be created by Distributors for a number of different purposes, as determined by the Distributor. The Exchange believes allowing market data vendors to identify, develop, and sell derived market data products, enables them to harness the power of the competitive marketplace to promote innovation.

The Exchange proposes to adopt a fee of $5,000 per month to allow the unlimited external distribution of Derived Data from Open-Close Data.[8] The fee charged to distribute the Derived Data will be constrained by potential competition, as any exchange with an options trading product would be able to submit an immediately-effective fee filing to allow redistribution, most likely without needing to modify the underlying product in any way, thereby subjecting the proposed fee to market competition.

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7 "Derived Data" is not currently a defined term in the Cboe EDGX Options Fees Schedule. The Exchange proposes to add the definition to the Notes section of the LiveVol Fees table for clarity.

8 The External Distribution Fee for Derived Open-Close Data will be in addition to fees for the underlying data. For example, external distribution of data derived from the Intraday product will be $1,000 per month (the monthly subscription fee), plus the proposed $5,000 per month External Distribution fee.

Moreover, the Exchange notes at least one other Exchange currently allows, and charges for, external distribution of derived data based on similar open-close data.[9]

(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.[10] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[11] 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)[12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations ("SROs") and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would

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9 See Nasdaq PHLX, Options 7 Pricing Schedule, Photo Historical Data, External Distribution.

10 15 U.S.C. 78f(b).

11 15 U.S.C. 78f(b)(5).

12 Id.

expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes the proposed fee changes will further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Open-Close Data is designed to help investors understand underlying market trends to improve the quality of investment decisions. Indeed, subscribers to the data may be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and as noted above, is entirely optional. Moreover, several other exchanges offer a similar data product which offer same type of data content through end-of-day or intraday reports.[13]

The Exchange also operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 16% of the market share.[14] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, 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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13 See supra note 2.

14 See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (April 29, 2022), available at https://markets.cboe.com/us/options/market_statistics/.

competition in its broader forms that are most important to investors and listed companies."[15] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of historical Intraday Open-Close Data, as well as attract Distributors for derived data of its Open-Close Data.

The Exchange 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. Also as noted above, another exchange offers a free trial to new users for a similar data product[16] and the

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15 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

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

Exchange itself previously offered a similar free trial.[17] Lastly, the purchase of this data product is discretionary and not compulsory.

Next, the Exchange notes that the proposal to allow the external distribution of derived data is subject to competition as discussed above, and also introduces a new category of market participant for Open-Close Data—market data vendors—into the equation. Currently, Open-Close data is not available for redistribution, in either native form or through Derived Data. This proposal will create a new market for the sale of Derived Data from the Exchange's Open-Close Data products to the general investing public. This is itself evidence of the competitive environment for Open-Close and its substitutes, as it is exactly the type of innovation one would expect to see in a competitive market. It will also spur further innovation by challenging market data vendors to create new and innovative Derived Data products. Any exchange that wishes to allow distribution of a Derived Data product based on options trading information would be able to do so with an immediately effective fee filing similar to this proposal, most likely without requiring any technological enhancement to the underlying product. Indeed, as discussed, another Exchange already allows, and charges for, external distribution of derived data based on similar open-close data.[18]

Allowing the redistribution of Derived Data, but not the underlying information, to the general investing public is an equitable allocation of reasonable dues, fees and other charges because it is the most efficient mechanism for widespread delivery of

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17 See Securities Exchange Act Release No. 92167 (June 14, 2021), 86 FR 33439 (June 24, 2021) (SR-CboeEDGX-2021-028).

18 See Nasdaq PHLX, Options 7 Pricing Schedule, Photo Historical Data, External Distribution.

market sentiment information. The proposal is designed to promote the dissemination of a variety of analytical insights—previously available only to investment banks, market makers, asset managers and other buy-side investors—to the general investing public by creating an incentive for market data vendors to identify, develop, and sell such indicators. Ordinarily, neither exchanges nor vendors allow redistribution of analytic products—such products are typically designed solely for the use of direct customers, not for redistribution to the customers of customers in the manner of a data feed. Allowing the redistribution of Derived Data provides an incentive for vendors to innovate with new compelling and varied analytic products for the general investing public that will provide broader access to market sentiment insights currently available only to sophisticated investors.

The Exchange believes that the proposed fee for the external distribution of Derived Data from Open-Close Data is reasonable because the rate is the same as the amount charged by another exchange that also allows, and charges for, external distribution of derived data from similar open-close products.[19] Furthermore, the proposed fee will only apply to Distributors that elect to distribute Derived Data from Open-Close Data and as discussed, Open-Close Data, and Derived Data therefrom, is purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, Distributors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Firms have a wide variety of alternative market data products from which to choose, such as similar proprietary data

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19 Id.

products offered by other exchanges. Moreover, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. While the Exchange has no way of predicting with certainty the impact of the proposed changes, it anticipates at least two Distributors will create Derived Data from Open-Close Data. Also, while the Exchange does not have a precise estimate of the number of individuals expected to benefit, which will ultimately depend on the usefulness of the Derived Data products that reach the market it expects this to be a popular product that may benefit thousands of investors.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to charge an external distributor of Derived Data a $5,000 fee as vendors will ordinarily charge a fee to their downstream customers for this service, and, even if the vendor is not charging a specific fee for this particular service, the Exchange expects Derived Data products from Open-Close Data to be part of a suite of offerings from distributors that generally promote sales. External distribution is also fundamentally different than internal use, in that the former generates revenue from external sales while the latter does not. Therefore, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a fee for a product that generates downstream revenue. Further, the proposed fee will apply equally to all distributors that choose to distribute Derived Data from Open-Close Data.

Additionally, the Exchange does not believe it is unfair discrimination to allow the redistribution of Derived Data, but not the underlying information, to the general investing public. As explained above, neither exchanges nor vendors ordinarily allow redistribution of analytic products—such products are typically designed solely for the

use of direct customers, not for redistribution to the customers of customers in the manner of a data feed. Allowing the redistribution of Derived Data provides an incentive for vendors to innovate with new compelling and varied analytic products for the general investing public that will provide access to market sentiment insights currently available only to sophisticated investors. This proposal is therefore not unfair discrimination, but rather allows for more equitable access to market sentiment information to the general investing public.

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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

As discussed above, Open-Close Data is subject to direct competition from several other options exchanges that offer substitutes to Open-Close. Moreover, purchase of Open-Close is optional. It is designed to help investors understand underlying market trends to improve the quality of investment decisions, but is not necessary to execute a trade.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. The Exchange is proposing to broaden distribution of Open-Close information beyond investment banks, market makers, asset managers and other buy-side investors to market data vendors and the general investing public, and to provide a free trial for market participants to test investment strategies and trading models, and develop market sentiment

indicators. These changes will not cause any unnecessary or inappropriate burden on intermarket competition, but rather will promote competition by expanding the market for Open-Close data and encouraging new market participants to investigate the product. Other exchanges are, of course, free to match these changes or undertake other competitive responses, enhancing overall competition.

The proposed rule changes will not cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fee applies uniformly to any Distributor, in that it does not differentiate between distributors that choose to distribute Derived Open-Close Data. Additionally, the Exchange believes it will foster competition by expanding dissemination of data to vendors and the general investing public, and by encouraging more market participants to use Open-Close data to help inform their investments strategies and analytic models. Lastly, the proposed fee will only apply to Distributors that elect to distribute Derived Data from Open-Close Data and as discussed, Open-Close Data, and Derived Data therefrom, is purchased on a voluntary basis.

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[20] and Rule 19b-4(f)(2)[21] 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 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.

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20 15 U.S.C. 78s(b)(3)(A).

21 17 CFR 240.19b-4(f)(2).

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-2022-028]

[Insert date]

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

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 Options") proposes to amend its Fees Schedule relating to the sale of Open-Close volume data. 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.

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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 update its Fee Schedule for its equity options platform ("EDGX Options") to (i) offer a free trial during the months of May, June and July 2022 for an ad-hoc request of three (3) historical months of Intraday Open-Close historical data to all EDGX Options Members and non-Members who have never before subscribed to the Intraday Open-Close historical files and (ii) adopt fees for the external distribution of products derived from Open-Close Data, effective May 2, 2022.[3]

By way of background, the Exchange currently offers End-of-Day ("EOD") and Intraday Open-Close Data (collectively, "Open-Close Data"). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than

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[3] The Exchange initially filed the proposed fee changes on May 2, 2022 (SR-CboeEDGX-2022-027). On May 3, 2022, the Exchange withdrew that filing and submitted this filing.

100 contracts, 100-199 contracts, greater than 199 contracts). The 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 Exchange also offers Intraday Open-Close Data, which 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.[4] 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 available for purchase to Members and non-Members on the LiveVol DataShop website (datashop.cboe.com). Customers may currently purchase Open-Close Data on a

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[4] 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."

subscription basis (monthly or annually) or by ad hoc request for a specified month (e.g., request for Intraday Open-Close Data for month of January 2022).

Open-Close Data is subject to direct competition from similar end-of-day and intraday options trading summaries offered by several other options exchanges.[5] All of these exchanges offer essentially the same end-of-day and intraday options trading summary information.

Free Trial

The Exchange first seeks to adopt a free trial for historical ad hoc requests for Intraday Open-Close Data for new purchasers. Currently, ad hoc requests for historical Intraday Open-Close Data are available to all customers at the same price and in the same manner. The current charge for this historical Intraday Open-Close Data covering all of the Exchange's securities (Equities, Indexes & ETF's) is $500 per month. The Exchange now proposes to adopt a free trial available during the months of May, June and July 2022 to provide a total 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.[6] The Exchange notes that it previously offered this free trial period last year for the months of

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5 These substitute products are: Nasdaq PHLX Options Trade Outline, Nasdaq Options Trade Outline, ISE Trade Profile, GEMX Trade Profile data; open-close data from Cboe Options, C2, and BZX; and Open Close Reports from MIAX Options, Pearl, and Emerald.

6 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 2022 during the month of June 2022, 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 2022 during the month of June 2022, then the data for January, February and March 2022 would be provided free of charge, and the new user would be charged $500 for the April 2022 historical file.

June and July 2021.[7] The Exchange believes bringing back the proposed trial will again serve as an incentive for new users who have never purchased Intraday Open-Close historical data to start purchasing Intraday Open-Close historical data. Particularly, 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.[8] Lastly, the purchase of Intraday Open-Close historical data is discretionary and not compulsory.

External Distribution of Derived Data

The external distribution of Open-Close Data or any product derived from such data is not currently permitted. The Exchange proposes to remove that prohibition and allow vendors to distribute "Derived Data" based on Open-Close Data. "Derived Data" is pricing data or other data that (i) is created in whole or in part from Exchange Data, (ii) is not an index or financial product, and (iii) cannot be readily reverse-engineered to recreate Exchange Data or used to create other data that is a reasonable facsimile or substitute for Exchange Data.[9] Derived Data may be created by Distributors for a number of different purposes, as determined by the Distributor. The Exchange believes allowing

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7 The Exchange notes it inadvertently never eliminated the obsolete rule text language from the Fees Schedule. The Exchange proposes to update the text to conform to the proposed fee change.

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

9 "Derived Data" is not currently a defined term in the Cboe EDGX Options Fees Schedule. The Exchange proposes to add the definition to the Notes section of the LiveVol Fees table for clarity.

market data vendors to identify, develop, and sell derived market data products, enables them to harness the power of the competitive marketplace to promote innovation.

The Exchange proposes to adopt a fee of $5,000 per month to allow the unlimited external distribution of Derived Data from Open-Close Data.[10] The fee charged to distribute the Derived Data will be constrained by potential competition, as any exchange with an options trading product would be able to submit an immediately-effective fee filing to allow redistribution, most likely without needing to modify the underlying product in any way, thereby subjecting the proposed fee to market competition. Moreover, the Exchange notes at least one other Exchange currently allows, and charges for, external distribution of derived data based on similar open-close data.[11]

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.[12] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[13] 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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10 The External Distribution Fee for Derived Open-Close Data will be in addition to fees for the underlying data. For example, external distribution of data derived from the Intraday product will be $1,000 per month (the monthly subscription fee), plus the proposed $5,000 per month External Distribution fee.

11 See Nasdaq PHLX, Options 7 Pricing Schedule, Photo Historical Data, External Distribution.

12 15 U.S.C. 78f(b).

13 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)[14] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations ("SROs") and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes the proposed fee changes will further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Open-Close Data is designed to help investors understand underlying market trends to improve the quality of investment decisions. Indeed, subscribers to the data may be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and as noted above, is entirely optional. Moreover, several other exchanges offer a similar data product which offer same type of data content through end-of-day or intraday reports.[15]

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14 Id.

15 See supra note 4.

The Exchange also operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 16% of the market share.[16] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, 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."[17] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of historical Intraday Open-Close Data, as well as attract Distributors for derived data of its Open-Close Data.

The Exchange 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

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16 See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (April 29, 2022), available at https://markets.cboe.com/us/options/market_statistics/.

17 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

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. Also as noted above, another exchange offers a free trial to new users for a similar data product[18] and the Exchange itself previously offered a similar free trial.[19] Lastly, the purchase of this data product is discretionary and not compulsory.

Next, the Exchange notes that the proposal to allow the external distribution of derived data is subject to competition as discussed above, and also introduces a new category of market participant for Open-Close Data—market data vendors—into the equation. Currently, Open-Close data is not available for redistribution, in either native form or through Derived Data. This proposal will create a new market for the sale of Derived Data from the Exchange's Open-Close Data products to the general investing public. This is itself evidence of the competitive environment for Open-Close and its substitutes, as it is exactly the type of innovation one would expect to see in a competitive market. It will also spur further innovation by challenging market data vendors to create new and innovative Derived Data products. Any exchange that wishes to allow distribution of a Derived Data product based on options trading information

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

19 See Securities Exchange Act Release No. 92167 (June 14, 2021), 86 FR 33439 (June 24, 2021) (SR-CboeEDGX-2021-028).

would be able to do so with an immediately effective fee filing similar to this proposal, most likely without requiring any technological enhancement to the underlying product. Indeed, as discussed, another Exchange already allows, and charges for, external distribution of derived data based on similar open-close data.[20]

Allowing the redistribution of Derived Data, but not the underlying information, to the general investing public is an equitable allocation of reasonable dues, fees and other charges because it is the most efficient mechanism for widespread delivery of market sentiment information. The proposal is designed to promote the dissemination of a variety of analytical insights—previously available only to investment banks, market makers, asset managers and other buy-side investors—to the general investing public by creating an incentive for market data vendors to identify, develop, and sell such indicators. Ordinarily, neither exchanges nor vendors allow redistribution of analytic products—such products are typically designed solely for the use of direct customers, not for redistribution to the customers of customers in the manner of a data feed. Allowing the redistribution of Derived Data provides an incentive for vendors to innovate with new compelling and varied analytic products for the general investing public that will provide broader access to market sentiment insights currently available only to sophisticated investors.

The Exchange believes that the proposed fee for the external distribution of Derived Data from Open-Close Data is reasonable because the rate is the same as the amount charged by another exchange that also allows, and charges for, external

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[20] See Nasdaq PHLX, Options 7 Pricing Schedule, Photo Historical Data, External Distribution.

distribution of derived data from similar open-close products.[21] Furthermore, the proposed fee will only apply to Distributors that elect to distribute Derived Data from Open-Close Data and as discussed, Open-Close Data, and Derived Data therefrom, is purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, Distributors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Firms have a wide variety of alternative market data products from which to choose, such as similar proprietary data products offered by other exchanges. Moreover, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. While the Exchange has no way of predicting with certainty the impact of the proposed changes, it anticipates at least two Distributors will create Derived Data from Open-Close Data. Also, while the Exchange does not have a precise estimate of the number of individuals expected to benefit, which will ultimately depend on the usefulness of the Derived Data products that reach the market it expects this to be a popular product that may benefit thousands of investors.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to charge an external distributor of Derived Data a $5,000 fee as vendors will ordinarily charge a fee to their downstream customers for this service, and, even if the vendor is not charging a specific fee for this particular service, the Exchange expects Derived Data products from Open-Close Data to be part of a suite of offerings from distributors that generally promote sales. External distribution is also fundamentally

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21 Id.

different than internal use, in that the former generates revenue from external sales while the latter does not. Therefore, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a fee for a product that generates downstream revenue. Further, the proposed fee will apply equally to all distributors that choose to distribute Derived Data from Open-Close Data.

Additionally, the Exchange does not believe it is unfair discrimination to allow the redistribution of Derived Data, but not the underlying information, to the general investing public. As explained above, neither exchanges nor vendors ordinarily allow redistribution of analytic products—such products are typically designed solely for the use of direct customers, not for redistribution to the customers of customers in the manner of a data feed. Allowing the redistribution of Derived Data provides an incentive for vendors to innovate with new compelling and varied analytic products for the general investing public that will provide access to market sentiment insights currently available only to sophisticated investors. This proposal is therefore not unfair discrimination, but rather allows for more equitable access to market sentiment information to the general investing public.

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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

As discussed above, Open-Close Data is subject to direct competition from several

other options exchanges that offer substitutes to Open-Close. Moreover, purchase of Open-Close is optional. It is designed to help investors understand underlying market trends to improve the quality of investment decisions, but is not necessary to execute a trade.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. The Exchange is proposing to broaden distribution of Open-Close information beyond investment banks, market makers, asset managers and other buy-side investors to market data vendors and the general investing public, and to provide a free trial for market participants to test investment strategies and trading models, and develop market sentiment indicators. These changes will not cause any unnecessary or inappropriate burden on intermarket competition, but rather will promote competition by expanding the market for Open-Close data and encouraging new market participants to investigate the product. Other exchanges are, of course, free to match these changes or undertake other competitive responses, enhancing overall competition.

The proposed rule changes will not cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fee applies uniformly to any Distributor, in that it does not differentiate between distributors that choose to distribute Derived Open-Close Data. Additionally, the Exchange believes it will foster competition by expanding dissemination of data to vendors and the general investing public, and by encouraging more market participants to use Open-Close data to help inform their investments strategies and analytic models. Lastly, the proposed fee will only apply to Distributors that elect to distribute Derived Data from Open-Close Data and as discussed, Open-Close Data, and Derived Data therefrom, is purchased on a voluntary basis.

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[22] and paragraph (f) of Rule 19b-4[23] 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

22 15 U.S.C. 78s(b)(3)(A).

23 17 CFR 240.19b-4(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CboeEDGX-2022-028 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-2022-028. 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-2022-028 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.[24]

Secretary

[24] 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 1]May 3, 202[1]2

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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)	$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.	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.	
Intraday Subscription	$1,000 per month or $12,000 per year		
Intraday Ad-hoc Request (historical data)	$500 per request month	Qualifying Academic Purchasers will be charged $1,000 per year for the first year. Each additional month purchased thereafter will be	For the months of May, June and July 202[1]2, a free trial is available for up to 3 months of Intraday Open-Close Historical Data to both Members and non-

		prorated based on the $1,000 per year rate.	Members who have not previously subscribed to Intraday Open-Close Historical Data.
External Distribution of Derived Data	$5,000 per month Fees for external distribution of Derived Data from Open-Close Data are in addition to fees for the End-of-Day product or the Intraday product, or both, as applicable.		

The fees for the End-of-Day and Intraday Open-Close Data are payable by all Members and Non-Members that subscribe to such data.

"Derived Data" is pricing data or other data that (i) is created in whole or in part from Data, (ii) is not an index or financial product, and (iii) cannot be readily reverse-engineered to recreate Data or used to create other data that is a reasonable facsimile or substitute for Data.

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