

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 26

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

File No. * SR 2023 - * 102

Amendment No. (req. for Amendments *)

Filing by Cboe BZX Exchange, Inc.

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

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|--|---|--|--|--|---|
| 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

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| <input type="checkbox"/> 19b-4(f)(1) | <input type="checkbox"/> 19b-4(f)(4) |
| <input type="checkbox"/> 19b-4(f)(2) | <input type="checkbox"/> 19b-4(f)(5) |
| <input type="checkbox"/> 19b-4(f)(3) | <input checked="" type="checkbox"/> 19b-4(f)(6) |

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) *

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Section 806(e)(2) *

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Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) *

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Exhibit 2 Sent As Paper Document

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Exhibit 3 Sent As Paper Document

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Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

The Exchange proposes to amend Rule 11.22 to introduce a new data product to be known as the Short Interest Report.

Contact Information

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

| | | | |
|--------------|--------------------|-------------|----------|
| First Name * | Sarah | Last Name * | Williams |
| Title * | Senior Counsel | | |
| E-mail * | swilliams@cboe.com | | |
| Telephone * | (224) 461-6793 | Fax | |

Signature

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

Date 12/11/2023

(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: 2023.12.11
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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

23-102 (Short Interest Report) 19b-4v.

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

23-102 (Short Interest Report) Exhibit

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.

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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.

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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

Add Remove View

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

Partial Amendment

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

Item 1. Text of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) proposes to amend Rule 11.22 to introduce a new data product to be known as the Short Interest Report. The text of the proposed rule change is provided below and in Exhibit 1.

(additions are underlined; deletions are [bracketed])

* * * * *

Rules of Cboe BZX Exchange, Inc.

* * * * *

Rule 11.22. Data Products

The Exchange offers the following data products free of charge, except as otherwise noted in the Exchange’s fee schedule:

(a) – (m) No change.

(n) Short Interest Report. The Short Interest Report contains a summary of consolidated market short interest positions in all BZX-listed securities.

* * * * *

(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 November 28, 2023.

(b) Please refer questions and comments on the proposed rule change to Pat Sexton, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7467, or Sarah Williams, (224) 461-6793, Cboe BZX 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 amend Rule 11.22 to adopt new subparagraph (n) to include the Short Interest Report as an Exchange data product.

The Exchange currently makes available via its website, without charge, a Short Interest Report.¹ By way of background, pursuant to the Financial Industry Regulatory Authority, Inc. (“FINRA”) Rule 4560, each FINRA member firm is required to report its “total” short interest positions in all customer and proprietary firm accounts.² FINRA uses the short interest data to, among other things, assess its members’ short selling activity and compliance with Regulation SHO. The short interest data provided by FINRA members also provides analytical and investment data that the brokerage industry, academic institutions and investors use in developing risk-assessment tools and trading models. The Short Interest Report that the Exchange currently makes available is a summary of consolidated market short interest positions in all BZX-listed securities³ only as reported by FINRA. The file is provided daily, for each business day, but values are only updated twice per month.

Proposed Rule 11.22(n) provides that the Short Interest Report contains a summary of consolidated market short interest positions in all BZX-listed securities. The report data fields include Cycle Settlement Date,⁴ BATS-Symbol,⁵ Security Name,

¹ https://www.cboe.com/us/equities/market_statistics/short_interest/

² See FINRA Rule 4560.

³ A BZX-listed security is a security listed on the Exchange pursuant to Chapter 14 of the Exchange’s Rules and includes both corporate listed securities and Exchange Traded Products (“ETPs”).

⁴ “Cycle Settlement Date” is the reporting period date.

⁵ “BATS-Symbol” is the Exchange-assigned symbol for the given security.

Number of Shares Net Short Current Cycle,⁶ Number of Shares Net Short Previous Cycle,⁷ Cycle Average Daily Trade Volume,⁸ Minimum Number of Trade Days to Cover Shorts,⁹ Split Indicator,¹⁰ Manual Revision Indicator,¹¹ Percent Change in Short Position,¹² and Change in Short Position from Previous.¹³

Cboe LiveVol, LLC (“LiveVol”), a wholly owned subsidiary of the Exchange’s parent company, Cboe Global Markets, Inc., will make the Short Interest Reports available for purchase¹⁴ to Members and non-Members on the LiveVol DataShop website.¹⁵

The Exchange notes that the data fields included in the Short Interest Report are substantially similar to the fields included by the Nasdaq Stock Market LLC (“Nasdaq”)¹⁶ and the New York Stock Exchange LLC (“NYSE”)¹⁷ in their Short Interest

⁶ “Number Shares Net Short Current Cycle” is the total of uncovered open short interest positions in a particular security in shares, for the current reporting period.

⁷ “Number of Shares Net Short Previous Cycle” is the total number of uncovered open short interest positions in a particular security in shares, for the previous reporting period.

⁸ “Cycle Average Daily Trade Volume” is the number of shares traded on average per day in a particular security in shares.

⁹ “Minimum Number of Trade Days to Cover Shorts” is the ratio of the current short interest position over the average daily volume for the current settlement date.

¹⁰ “Split Indicator” indicates whether the security has undergone a stock split during the current reporting period.

¹¹ “Manual Revision Indicator” indicates whether the security’s short interest for the previous reporting period has been revised.

¹² “Percent Change in Short Position” is the percent change from the current reporting period’s short interest compared to the previous reporting period’s short interest.

¹³ “Change in Short Position from Previous” is the difference between the current and previous reporting period of uncovered short interest positions in a particular security in shares.

¹⁴ The Exchange intends to submit a separate filing to establish fees for the Short Interest Report.

¹⁵ See <https://datashop.cboe.com/>.

¹⁶ See Specifications for Short Interest file, available at: <https://www.nasdaq.com/solutions/short-interest-report>.

¹⁷ See NYSE Group Short Interest Client Specification, available at: [NYSE Group Short Interest Client Specification v1.5.pdf](#). Unlike NYSE, the proposed Short

Report files. Specifically, the Nasdaq Short Interest Report file also includes Security Name and Symbol, Current Shares Short, Previous Month Shares Short, Change in Shares Short, Percent Change, Average Daily Share Volume, Days to Cover, and Stock Split Flag, and New Issue Flag.¹⁸ The proposed Short Interest Report is also similar to NYSE's Short Interest Report file, which includes Stock Symbol and Standard Suffix, Issue Name, Revision Indicator, Split Indicator Current Short Interest Position, Previous Short Interest Position, Change in Short Interest Position, Average Daily Volume, and Current Days to Cover.¹⁹ Accordingly, the data fields included in the Short Interest Report are nearly identical to the fields included by Nasdaq and NYSE in their respective short interest reports, except that the Exchange will not include one field that appears within the Nasdaq report (i.e., the New Issue Flag) and three fields that appear within the NYSE report (i.e., the Change in Days to Cover, Free Float and Change in Average Daily Volume). The Exchange's proposed Short Interest Report will include only data points provided by FINRA, and as the foregoing fields are not included in the FINRA-provided data points, the Exchange will not include such fields in the report. Additionally, like NYSE, the Exchange will offer historical Short Interest Reports, dating back to March 31, 2015, which will include the same data fields as the daily end-of-day files.

The Exchange anticipates that a wide variety of market participants will purchase the proposed Short Interest Report, including, but not limited to, active equity trading firms and academic institutions. For example, the Exchange notes that academic institutions may utilize the Short Interest Report data and as a result promote research and studies of the

Volume Report will not include the trading exchange, as the proposed report includes short interest information only for transactions executed on BZX.

¹⁸ See supra note 16.

¹⁹ See supra note 17.

equities industry to the benefit of all market participants. The Exchange further believes the proposed Short Interest Report may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. The proposal is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so.

(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.²⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²¹ 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

²⁰ 15 U.S.C. 78f(b).

²¹ 15 U.S.C. 78f(b)(5).

the Section 6(b)(5)²² 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 that the proposed Short Interest Report, which supplies data on short interest positions for all BZX-listed securities as reported by FINRA, broadens the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The proposal also promotes transparency through the dissemination of short interest data. The proposed rule change would benefit investors by providing access to the Short Interest Report data, which may promote better informed trading, as well as research and studies of the equities industry. Further, data products such as the Short Interest Report are a means by which exchanges compete to attract order flow. To the extent that exchanges are successful in such competition, they earn trading revenues and also enhance the value of their data products by increasing the amount of data they provide. The need to compete for order flow places substantial pressure upon exchanges to keep their market data offerings competitive.

Moreover, as noted above, Nasdaq offers a Short Interest file which provides short interest data that is nearly identical to that currently proposed by the Exchange.²³ The proposed Short Interest Report is also nearly identical to NYSE’s Short Interest

²² Id.

²³ See supra note 16.

file.²⁴ As stated previously, the Exchange's Short Interest Report is nearly identical to the NYSE and Nasdaq reports in that the Exchange will offer identical data fields except that the Exchange will not include one field that appears within the Nasdaq report (i.e., the New Issue Flag) and three fields that appear within the NYSE report (i.e., the Change in Days to Cover, Free Float and Change in Average Daily Volume). As noted above, the Exchange's report will include data points provided by FINRA, and the foregoing Nasdaq and NYSE fields are not included in the FINRA-provided data points.

Accordingly, the proposed Short Interest Report does not provide a unique or novel data offering, but rather offers data points consistent with other data products already available and utilized by market participants today.

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. Rather, the Exchange believes that the proposal will promote fair competition among the national securities exchanges by permitting the Exchange to offer a data product that provides substantially the same data offered by other competitor equities exchanges, with the only difference, as noted above, being that the Exchange's report not include fields outside of those provided by FINRA.

Additionally, the Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Short Interest Report will be available equally to Members and non-Members. Market participants are not required to purchase the Short

²⁴ See supra note 17.

Interest Report, and the Exchange is not required to make the Short Interest Report available to investors. Rather, the Exchange is voluntarily making the Short Interest Report available, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data. Given the above, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange also believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Moreover, as noted above, Nasdaq offers a Short Interest file which provides short interest data that is nearly identical to that currently proposed by the Exchange.²⁵ The proposed Short Interest Report is also nearly identical to NYSE's Short Interest file.²⁶ As stated previously, the Exchange's Short Interest Report is nearly identical to the NYSE and Nasdaq reports in that the Exchange will offer identical data fields except that the Exchange will not include one field that appears within the Nasdaq report (i.e., the New Issue Flag) and three fields that appear within the NYSE report (i.e., the Change in Days to Cover, Free Float and Change in Average Daily Volume). As noted above, the Exchange's report will include data points provided by FINRA, and the foregoing Nasdaq and NYSE fields are not included in the FINRA-provided data points. Accordingly, the proposed Short Interest Report does not provide a unique or novel data offering, but rather offers data points consistent with other data products already available and utilized by market participants today.

²⁵ See supra note 16.

²⁶ See supra note 17.

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 Act²⁷ and Rule 19b-4(f)(6)²⁸ thereunder.

(b) The Exchange designates that the proposed rule change effects a change that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Additionally, the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

As stated, the Short Interest Report is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes the Short Interest Report available, and users may choose to subscribe (and pay for) the report based on their own individual

²⁷ 15 U.S.C. 78s(b)(3)(A).

²⁸ 17 CFR 240.19b-4(f)(6).

business needs. Potential subscribers may subscribe to the Short Interest Report at any time if they believe it to be valuable or may decline to purchase it. Therefore, the Exchange does not believe the proposed Short Interest Report will significantly affect the protection of investors or the public interest. Rather, the Exchange believes the proposed report will benefit investors by promoting better informed trading, as well as research and studies of the equities industry.

Additionally, the Exchange does not believe the proposed Short Interest Report will impose any significant burden on competition. Rather, the Exchange believes that the introduction of the proposed Short Interest Report will promote competition amongst the national securities exchanges, particularly Nasdaq and NYSE, which offer nearly identical or vastly similar data products. Additionally, and as stated above, the proposed report will be available for purchase to all market participants, Members and non-Members, on a voluntary basis.

Further, the Exchange does not believe that the proposed Short Interest Report presents any substantive issues not already considered by the Commission. As noted above, the proposed Short Interest Report is substantially similar to Nasdaq's Short Interest Report as well as to NYSE's Short Interest Report. As such, the proposed Short Interest Report does not provide a unique or novel data offering, but instead offers data points consistent with other data products for which market participants may already access.

For the foregoing reasons, this rule filing qualifies as a "non-controversial" rule change under Rule 19b-4(f)(6), which renders the proposed rule change effective upon filing with 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.

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. Waiver of this requirement is consistent with the public interest for the reasons described above, as well for competitive reasons in that waiver of the operative delay period will permit the Exchange to make the Short Interest Report available to subscribers, with an anticipated launch date of January 2, 2024, as an alternative to similar products offered by NYSE and Nasdaq. As stated previously, the Exchange's Short Interest Report is nearly identical to the NYSE and Nasdaq reports and presents no new or novel issues. Thus, waiver of the 30-day operative delay period is consistent with the protection of investors.

(c) Not applicable.

(d) Not applicable.

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

As noted above, the proposed Short Interest Report is nearly identical to the NYSE's Short Interest file²⁹ and Nasdaq's Short Interest file³⁰, except that the Exchange will not include one field that appears within the Nasdaq report (i.e., the New Issue Flag) and

²⁹ See supra note 16.

³⁰ See supra note 17.

three fields that appear within the NYSE report (i.e., the Change in Days to Cover, Free Float and Change in Average Daily Volume). The Exchange's proposed Short Interest Report will include only data points provided by FINRA, and as the foregoing fields are not included in the FINRA-provided data points, the Exchange will not include such fields in the report.

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 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CboeBZX-2023-102]

[Insert date]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 11.22 to Introduce a New Data Product to be Known as the Short Interest Report

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 BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 BZX Exchange, Inc. (the “Exchange” or “BZX”) proposes to amend Rule 11.22 to introduce a new data product to be known as the Short Interest Report. The text of the proposed rule change is provided below.

(additions are underlined; deletions are [bracketed])

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

Rules of Cboe BZX Exchange, Inc.

* * * * *

Rule 11.22. Data Products

The Exchange offers the following data products free of charge, except as otherwise noted in the Exchange's fee schedule:

(a) – (m) No change.

(n) Short Interest Report. The Short Interest Report contains a summary of consolidated market short interest positions in all BZX-listed securities.

* * * * *

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend Rule 11.22 to adopt new subparagraph (n) to include the Short Interest Report as an Exchange data product.

The Exchange currently makes available via its website, without charge, a Short Interest Report.⁵ By way of background, pursuant to the Financial Industry Regulatory Authority, Inc. (“FINRA”) Rule 4560, each FINRA member firm is required to report its “total” short interest positions in all customer and proprietary firm accounts.⁶ FINRA uses the short interest data to, among other things, assess its members’ short selling activity and compliance with Regulation SHO. The short interest data provided by FINRA members also provides analytical and investment data that the brokerage industry, academic institutions and investors use in developing risk-assessment tools and trading models. The Short Interest Report that the Exchange currently makes available is a summary of consolidated market short interest positions in all BZX-listed securities⁷ only as reported by FINRA. The file is provided daily, for each business day, but values are only updated twice per month.

Proposed Rule 11.22(n) provides that the Short Interest Report contains a summary of consolidated market short interest positions in all BZX-listed securities. The report data fields include Cycle Settlement Date,⁸ BATS-Symbol,⁹ Security Name, Number of Shares Net Short Current Cycle,¹⁰ Number of Shares Net Short Previous Cycle,¹¹ Cycle Average Daily Trade Volume,¹² Minimum Number of Trade Days to

⁵ https://www.cboe.com/us/equities/market_statistics/short_interest/

⁶ See FINRA Rule 4560.

⁷ A BZX-listed security is a security listed on the Exchange pursuant to Chapter 14 of the Exchange’s Rules and includes both corporate listed securities and Exchange Traded Products (“ETPs”).

⁸ “Cycle Settlement Date” is the reporting period date.

⁹ “BATS-Symbol” is the Exchange-assigned symbol for the given security.

¹⁰ “Number Shares Net Short Current Cycle” is the total of uncovered open short interest positions in a particular security in shares, for the current reporting period.

¹¹ “Number of Shares Net Short Previous Cycle” is the total number of uncovered open short interest positions in a particular security in shares, for the previous reporting period.

¹² “Cycle Average Daily Trade Volume” is the number of shares traded on average per day in a

Cover Shorts,¹³ Split Indicator,¹⁴ Manual Revision Indicator,¹⁵ Percent Change in Short Position,¹⁶ and Change in Short Position from Previous.¹⁷

Cboe LiveVol, LLC (“LiveVol”), a wholly owned subsidiary of the Exchange’s parent company, Cboe Global Markets, Inc., will make the Short Interest Reports available for purchase¹⁸ to Members and non-Members on the LiveVol DataShop website.¹⁹

The Exchange notes that the data fields included in the Short Interest Report are substantially similar to the fields included by the Nasdaq Stock Market LLC (“Nasdaq”)²⁰ and the New York Stock Exchange LLC (“NYSE”)²¹ in their Short Interest Report files. Specifically, the Nasdaq Short Interest Report file also includes Security Name and Symbol, Current Shares Short, Previous Month Shares Short, Change in Shares Short, Percent Change, Average Daily Share Volume, Days to Cover, and Stock

particular security in shares.

¹³ “Minimum Number of Trade Days to Cover Shorts” is the ratio of the current short interest position over the average daily volume for the current settlement date.

¹⁴ “Split Indicator” indicates whether the security has undergone a stock split during the current reporting period.

¹⁵ “Manual Revision Indicator” indicates whether the security’s short interest for the previous reporting period has been revised.

¹⁶ “Percent Change in Short Position” is the percent change from the current reporting period’s short interest compared to the previous reporting period’s short interest.

¹⁷ “Change in Short Position from Previous” is the difference between the current and previous reporting period of uncovered short interest positions in a particular security in shares.

¹⁸ The Exchange intends to submit a separate filing to establish fees for the Short Interest Report.

¹⁹ See <https://datashop.cboe.com/>.

²⁰ See Specifications for Short Interest file, available at: <https://www.nasdaq.com/solutions/short-interest-report>.

²¹ See NYSE Group Short Interest Client Specification, available at: [NYSE_Group_Short_Interest_Client_Specification_v1.5.pdf](#). Unlike NYSE, the proposed Short Volume Report will not include the trading exchange, as the proposed report includes short interest information only for transactions executed on BZX.

Split Flag, and New Issue Flag.²² The proposed Short Interest Report is also similar to NYSE's Short Interest Report file, which includes Stock Symbol and Standard Suffix, Issue Name, Revision Indicator, Split Indicator Current Short Interest Position, Previous Short Interest Position, Change in Short Interest Position, Average Daily Volume, and Current Days to Cover.²³ Accordingly, the data fields included in the Short Interest Report are nearly identical to the fields included by Nasdaq and NYSE in their respective short interest reports, except that the Exchange will not include one field that appears within the Nasdaq report (i.e., the New Issue Flag) and three fields that appear within the NYSE report (i.e., the Change in Days to Cover, Free Float and Change in Average Daily Volume). The Exchange's proposed Short Interest Report will include only data points provided by FINRA, and as the foregoing fields are not included in the FINRA-provided data points, the Exchange will not include such fields in the report. Additionally, like NYSE, the Exchange will offer historical Short Interest Reports, dating back to March 31, 2015, which will include the same data fields as the daily end-of-day files.

The Exchange anticipates that a wide variety of market participants will purchase the proposed Short Interest Report, including, but not limited to, active equity trading firms and academic institutions. For example, the Exchange notes that academic institutions may utilize the Short Interest Report data and as a result promote research and studies of the equities industry to the benefit of all market participants. The Exchange further believes the proposed Short Interest Report may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading

²² See supra note 20.

²³ See supra note 21.

decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. The proposal is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so.

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.²⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁵ 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)²⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

²⁴ 15 U.S.C. 78f(b).

²⁵ 15 U.S.C. 78f(b)(5).

²⁶ Id.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Short Interest Report, which supplies data on short interest positions for all BZX-listed securities as reported by FINRA, broadens the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The proposal also promotes transparency through the dissemination of short interest data. The proposed rule change would benefit investors by providing access to the Short Interest Report data, which may promote better informed trading, as well as research and studies of the equities industry. Further, data products such as the Short Interest Report are a means by which exchanges compete to attract order flow. To the extent that exchanges are successful in such competition, they earn trading revenues and also enhance the value of their data products by increasing the amount of data they provide. The need to compete for order flow places substantial pressure upon exchanges to keep their market data offerings competitive.

Moreover, as noted above, Nasdaq offers a Short Interest file which provides short interest data that is nearly identical to that currently proposed by the Exchange.²⁷ The proposed Short Interest Report is also nearly identical to NYSE’s Short Interest file.²⁸ As stated previously, the Exchange’s Short Interest Report is nearly identical to the NYSE and Nasdaq reports in that the Exchange will offer identical data fields except that the Exchange

²⁷ See supra note 20.

²⁸ See supra note 21.

will not include one field that appears within the Nasdaq report (i.e., the New Issue Flag) and three fields that appear within the NYSE report (i.e., the Change in Days to Cover, Free Float and Change in Average Daily Volume). As noted above, the Exchange's report will include data points provided by FINRA, and the foregoing Nasdaq and NYSE fields are not included in the FINRA-provided data points. Accordingly, the proposed Short Interest Report does not provide a unique or novel data offering, but rather offers data points consistent with other data products already available and utilized by market participants today.

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. Rather, the Exchange believes that the proposal will promote fair competition among the national securities exchanges by permitting the Exchange to offer a data product that provides substantially the same data offered by other competitor equities exchanges, with the only difference, as noted above, being that the Exchange's report not include fields outside of those provided by FINRA.

Additionally, the Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Short Interest Report will be available equally to Members and non-Members. Market participants are not required to purchase the Short Interest Report, and the Exchange is not required to make the Short Interest Report available to investors. Rather, the Exchange is voluntarily making the Short Interest Report available, and market participants may choose to receive (and pay for) this data

based on their own business needs. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data. Given the above, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange also believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Moreover, as noted above, Nasdaq offers a Short Interest file which provides short interest data that is nearly identical to that currently proposed by the Exchange.²⁹ The proposed Short Interest Report is also nearly identical to NYSE's Short Interest file.³⁰ As stated previously, the Exchange's Short Interest Report is nearly identical to the NYSE and Nasdaq reports in that the Exchange will offer identical data fields except that the Exchange will not include one field that appears within the Nasdaq report (i.e., the New Issue Flag) and three fields that appear within the NYSE report (i.e., the Change in Days to Cover, Free Float and Change in Average Daily Volume). As noted above, the Exchange's report will include data points provided by FINRA, and the foregoing Nasdaq and NYSE fields are not included in the FINRA-provided data points. Accordingly, the proposed Short Interest Report does not provide a unique or novel data offering, but rather offers data points consistent with other data products already available and utilized by market participants today.

²⁹ See supra note 20.

³⁰ See supra note 21.

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

Because the foregoing proposed rule change does not:

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

shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act³¹ and Rule 19b-4(f)(6)³² 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:

³¹ 15 U.S.C. 78s(b)(3)(A).

³² 17 CFR 240.19b-4(f)(6).

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2023-102 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-CboeBZX-2023-102. This file number should be included on the subject line if email 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 (<https://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, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or

subject to copyright protection. All submissions should refer to file number SR-CboeBZX-2023-102 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

Sherry R. Haywood,

Assistant Secretary.

³³ 17 CFR 200.30-3(a)(12).