

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 58		SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No. * SR 2025 - * 027 Amendment No. (req. for Amendments *)	
Filing by Cboe BYX 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 introduce a Small Retail Broker Hosted Solutions Program.					
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 * Matthew Last Name * Iwamaye Title * VP, Associate General Counsel E-mail * miwamaye@cboe.com Telephone * (732) 687-9355 Fax					
Signature Pursuant to the requirements of the Securities Exchange of 1934, Cboe BYX Exchange, Inc. has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized. Date 08/28/2025 (Title *) By Matthew Iwamaye (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. Matthew Iwamaye Date: 2025.08.28 15:08:32 -05'00'					

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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 *

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25-027 (BYX Small Retail Broker Host

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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25-027 (BYX Small Retail Broker Host

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.

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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.

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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

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25-027 (BYX Small Retail Broker Host

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 BYX Exchange, Inc. (the “Exchange” or “BYX”) proposes to introduce a Small Retail Broker Hosted Solutions Program and to update the existing eligibility requirements for the Small Retail Brokerage Distribution Program for the Cboe One Summary Feed and BYX Top Data Feed. 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 6, 2025.

(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 Matthew Iwamaye, (732) 687-9355, Cboe BYX 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 adopt a Small Retail Broker Hosted Solutions Program (the “Program”) for BYX Top Data and Cboe One Summary Data (collectively, the “Applicable Feeds”).¹ This Program will provide fee waivers and lower data costs for

¹ The Exchange initially submitted the proposed rule change on May 8, 2025 (SR-CboeBYX-2025-011). On May 19, 2025, the Exchange withdrew that filing and submitted SR-CboeBYX-2025-014. On June 30, 2025, the Exchange withdrew that filing and submitted SR-CboeBYX-2025-017. On August 28, 2025 the Exchange withdrew that filing and submitted this filing.

both (i) Small Retail Brokers (as defined herein) that provide the Applicable Feeds to other Small Retail Brokers via its hosted solutions (the “Hosting Small Retail Broker Distributor”) and (ii) the Small Retail Brokers that receive this data from a Hosting Small Retail Broker Distributor as set forth herein.

Further, the Exchange proposes to increase the allowed maximum Non-Professional Data User subscriber count for the existing Small Retail Broker Program for Cboe One Summary Feed and BYX Top Data Feed. By way of background, the Exchange currently offers the BYX Top Data Feed, which is a data feed that offers top-of-book quotations and last sale information based on orders entered into the Exchange’s System. The BYX Top Data Feed benefits investors by facilitating their prompt access to real-time top-of-book information contained in BYX Top Data. The Exchange’s affiliated equities exchanges (i.e., Cboe EDGA, Inc. (“EDGA”), Cboe BZX Exchange, Inc. (“BZX”), and Cboe EDGX Exchange, Inc. (“EDGX”) (collectively, “Affiliates” and together with the Exchange, “Cboe Equities Exchanges”) also offer similar top-of-book data feeds. Particularly, each of the Exchange’s Affiliates offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the BYX Top Data Feed. Additionally, the Exchange also offers Cboe One Summary Data Feed that disseminates, on a real-time basis, the aggregate BBO of all displayed orders for securities traded on BYX and its Affiliates and also contains individual last sale information for the BYX and its Affiliates. The Cboe One Summary Data Feed is created using the data from the Exchange and its Affiliates’ Top data feeds.

Currently, the Exchange offers a Small Retail Broker Distribution Program² for both Applicable Data Feeds. This program provides a discounted Distribution Fee of \$250/month for BYX Top Data Feed and \$3,500/month for Cboe One Summary Data Feed as well as a discounted Data Consolidation Fee³ of \$350/month for Cboe One Summary Data for eligible participants.⁴ Participants of the existing Small Retail Broker Distribution Program must be an External Distributor that meets the following criteria: (i) Distributor is a broker-dealer distributing the Applicable Feed to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship; (ii) At least 90% of the Distributor's total subscriber population must consist of Non-Professional subscribers, inclusive of any subscribers not receiving the Applicable Feed; and (iii) Distributor distributes the Applicable Feed to no more than 5,000 Non-Professional Data Users (the Exchange notes that it is proposing to increase this to 10,000 Non-Professional Data Users for Cboe One Summary Data Feed and BYX Top Data Feed as described further herein).⁵ The Exchange introduced this program to allow small retail brokers that purchase top of book market data from the Exchange to benefit from discounted fees for access to such market data. The Small Retail Broker Distribution Program reduces the distribution and consolidation fees paid by small broker-dealers that operate a retail business. In turn, the Small Retail Broker Distribution Program is intended to increase retail investor access to real-time U.S. equity quote and trade information, and allow the

² See Cboe BYX Equities Fee Schedule.

³ This fee reflects the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Summary Feed.

⁴ See Cboe BYX Equities Fee Schedule.

⁵ Id.

Exchange to better compete for this business with competitors⁶ that offer similar optional products.⁷

The Exchange now proposes to create a new Program based on the proposed eligibility criteria for Small Retail Brokers to specifically support Small Retail Brokers who are operating platforms on behalf of other Small Retail Brokers. Based on customer feedback, there are Small Retail Brokers who would like to provide this data via a hosted solution as a White Label Service⁸ to other Small Retail Brokers, who then provide this data to their retail clients (an “External Hosted Subscriber”).⁹ Unfortunately, under the existing structure, both the External Hosted Subscriber and the Hosting Small Retail Broker Distributor are only eligible for the standard discounted Distribution Fee (and for Cboe One Summary, the discounted Data Consolidation Fee) under the existing Small Retail Broker Program. These fees are, in addition to the standard Professional and Non-Professional User fees. Therefore, the existing fee structure under the Small Retail Broker Program does not allow for any additional benefits for Hosting Small Retail Broker Distributors for providing the valuable service of operating platforms that External Hosted Subscribers may use for their clients, and furthermore, does not account for the

⁶ Such as NYSE Arca BBO feed or Nasdaq Basic.

⁷ See Securities Exchange Act Release No. 88221 (February 14, 2020), 85 FR 9904 (February 20, 2020) (SR-CboeBYX-2020-007).

⁸ A “White Label Service” is a type of hosted display solution in which an External Distributor hosts or maintains a website or platform on behalf of the External Hosted Subscriber. The service allows the External Distributor to make the applicable data (i.e., Cboe One Summary or BYX Top Data) available on a platform that is branded with the External Hosted Subscriber, or co-branded with the External Hosted Subscriber and the External Distributor. The External Distributor maintains control of the application's data, entitlements and display.

⁹ An External Hosted Subscriber of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product from an External Distributor through a hosted display solution where the External Hosted Subscriber's Users are hosted by the External Distributor and data is distributed for display use only to one or more Users outside the External Hosted Subscriber's own entity. The Exchange proposes to add this definition into its Fee Schedule.

fact that Hosting Small Retail Broker Distributors are also billed for the fees of their External Hosted Subscribers (which Small Retail Brokers under the original program do not have).

Of further note, the Hosting Small Retail Broker Distributor is responsible for reporting its External Hosted Subscribers and their users, and ultimately the Hosting Small Retail Broker is responsible for payment of all data fees for both its External Hosted Subscribers and itself. While the Exchange is not privy to pass-through costs between Hosting Small Retail Broker Distributors and External Hosted Subscribers, this proposed pricing allows Hosting Small Retail Broker Distributors the freedom to charge or not charge External Hosted Subscribers while also appropriately charging for a service provided to an External Hosted Subscriber that is benefitting from an infrastructure developed and supported by the Hosting Small Retail Broker Distributor. The Exchange notes that the current Small Retail Broker Program prevents the Hosting Small Retail Broker Distributor from packaging this waiver as part of their overall service to their External Hosted Subscribers (as External Hosted Subscribers would be billed directly under the existing Small Retail Broker Program).

Additionally, given that External Hosted Subscribers are smaller relative to other Small Retail Brokers currently participating in the Program, their ability to subscribe to the Applicable Feeds as Hosting Small Retail Brokers is likely not feasible. Specifically, the costs of the Applicable Feeds may themselves make access to data impractical. Additionally, the costs associated with building and maintain the technological infrastructure to receive and disseminate data, may make access to such data impractical. Generally speaking, technology, infrastructure, and connectivity costs are a significant

monetary investment and require significant human expertise and resources to maintain. As such, the totality of costs can make access to data difficult. The Exchange believes, though, that the proposed fees and the ability to subscribe to the Applicable Feeds as External Hosted Subscribers will make access to data more feasible. Indeed, the Exchange anticipates that the retail broker-dealers that would seek to become External Hosted Subscribers are broker-dealers that do not have the technological infrastructure in place to ingest and disseminate data as a Hosting Small Retail Broker, and that are likely to have smaller client bases and business models not as conducive to making the investments necessary to become a Hosting Small Retail Broker.

In these regards, the Exchange believes that the proposed program will incentivize Hosting Small Retail Brokers to offer the Applicable Feeds to External Hosted Subscribers, thereby making data accessible to a larger number of broker-dealers and their clients, at an affordable cost. Specifically, under the proposed program, a Hosting Small Retail Broker providing the data to at least one External Hosted Subscriber would be eligible for a credit of its Distribution Fee (a credit of \$250/month for BYX Top Data Feed and a credit of \$3,500/month for Cboe One Summary Feed) that it is normally responsible for under the existing Small Retail Broker Program. Additionally, the External Hosted Subscriber shall also receive a waiver of the Distribution Fee (a credit of \$250/month for BYX Top Data Feed and a credit of \$3,500/month for Cboe One Summary Feed). The External Hosted Subscriber will also receive a waiver of the Data Consolidation Fee for the Cboe One Summary Data (a credit of \$350/month) and in lieu of paying the Non-Professional User fees, it shall be a set monthly fee of \$100 for BYX

Top and \$850 for Cboe One Summary Data.¹⁰ The Professional User fees shall remain the same. Once an External Hosted Subscriber exceeds the Non-Professional Data User maximum (no more than 10,000 Non-Professional Data Users for Cboe One Summary Data and BYX Top Data), the External Hosted Subscriber shall no longer be eligible for the program and will be required to directly license with the Exchange for the Applicable Feed.¹¹ The Exchange notes that the 10,000 Non-Professional Data User count eligibility requirement is looked at on a firm level (i.e., the counts of the Non-Professional Data Users for each of the Hosting Small Retail Broker Distributor and each of its External Hosted Subscribers will be looked at separately). Additionally, the Hosting Small Retail Broker Distributor shall continue to remain eligible for this Program so long as it has at least one External Hosted Subscriber (i.e., if it has two External Hosted Subscribers and one External Hosted Subscriber exceeds the 10,000 Non-Professional Data User threshold, the Hosting Small Retail Broker Distributor and the other External Hosted Subscriber may still continue under this Program).

In addition to the changes set forth above, the Exchange also proposes to modify the existing Small Retail Broker Program for Cboe One Summary Feed and BYX Top Feed to increase the number of Non-Professional Data User maximum from 5,000 to 10,000 to be consistent with the proposed threshold for External Hosted Subscribers. As previously discussed, the Exchange proposes to also use the cap of 10,000 Non-

¹⁰ As the Program is capped at 10,000 users for Cboe One Summary Feed and 10,000 for BYX Top Data Feed, this equates to a maximum, savings of \$150 (10,000 Users x 0.025/Non-Professional User = \$250 and \$250-100=\$150) for BYX Top Data Feed and \$1,650 (10,000 Users x 0.25/Non-Professional = \$2,500 and \$2,500 – 850 = \$1,650) for Cboe One Summary Feed.

¹¹ The Exchange notes that it will include a clarifying note in its Fee Schedule to specify that in the event a Hosting Small Retail Broker Distributor joins this program mid-month, that its fees shall be prorated for the month based on the initial date of the subscription; however, the External Hosted Subscriber's fees shall not be prorated.

Professional Data Users for the proposed Program. The Exchange proposes to increase this in support of increased participation across both retail and investor markets in order to facilitate the growth of smaller retail brokers on a global scale.

As mentioned above, the existing fee structure makes it costly for both Hosting Small Retail Broker Distributors and its External Hosted Subscribers to provide data to the External Hosted Subscribers' retail clients as Distribution Fees are assessed on both Small Retail Brokers. Overall, the Exchange believes that this fee proposal will help to make its data more widely accessible for retail users who receive their data from External Hosted Subscribers. Specifically, the Exchange believes that that this proposal will (i) further increase the competitiveness of the Exchange's top of book market data products compared to competitor offerings that may currently be cheaper for firms with a limited subscriber base that do not yet have the scale to take advantage of the lower subscriber fees offered by the Exchange; and will (ii) provide additional incentives for Hosting Small Retail Broker Distributors to provide hosted solution services for other Small Retail Brokers in order to make data more widely available to retail investors. In turn, the Exchange believes that this change may benefit market participants and investors by spurring additional competition and increasing the accessibility of the Exchange's top of book data.

The Exchange notes that at least one other exchange has a similar offering. For example, the New York Stock Exchange has a Redistribution Fee Waiver for NYSE Trades, for which redistributors of data may have their redistribution fee waived so long as they provide the data to at least one data feed recipient and reports such data feed

recipient or recipients to the Exchange.¹² Additionally, the Access Fee that is charged is reduced by more than 93% for redistributors of NYSE BBO and NYSE Trades that subscribe to only such data feeds and do not subscribe to any other market data product listed on the Fee Schedule other than NYSE BQT, and/or the NYSE OpenBook data feed, and/or the NYSE Aggregated Lite data feed, and/or the NYSE Pillar Depth data feed, and such market data products are used in a display-only format for internal or external use only.¹³ This means that a redistributor that meets the above requirements will both (i) pay a Per User Access Fee¹⁴ and (ii) have its redistribution fee waived. A Redistributor that receives a data feed of NYSE BBO and NYSE Trades and uses the market data products for any other purpose (such as internal use) or that subscribes to any other products listed on the Fee Schedule (other than NYSE BQT, and/or the NYSE OpenBook data feed, and/or the NYSE Aggregated Lite data feed, and/or the NYSE Pillar Depth data feed) would continue to pay the \$1,500 per month General Access Fee (as opposed to the lower Per User Access Fee).¹⁵ Accordingly, the fee changes are not designed for redistributors that are existing customers of specific NYSE market data products, that use NYSE BQT for internal purposes, or if the data is provided as non-display. The fee reductions in NYSE BBO and NYSE Trades are intended to incentive eligible redistributors to subscribe to the NYSE BQT data feeds so that such product would be

¹² See Securities Exchange Act Release No. 90407 (November 12, 2020), 85 FR 73570 (November 18, 2020) (SR-NYSE-2020-91).

¹³ See NYSE Proprietary Market Data Fees. The Exchange notes that NYSE American and NYSE Arca also implement this same incentive.

¹⁴ The Exchange notes that this is the equivalent to the fixed Non-Professional User charge it has proposed for the External Hosted Subscriber under the Program.

¹⁵ See supra note 12.

available to their customers, which have expressed an interest in subscribing to NYSE BQT.¹⁶ The Exchange notes that these same discounts exists for NYSE Americas and NYSE Arca as well.¹⁷

Without these discounts, a redistributor of NYSE Trades would pay the General Access Fee of \$1,500/month in addition to the Redistribution Fee of \$1,000/month and the applicable Professional User Fee (\$4/month/User) and Non-Professional User Fee (\$0.20/month/User).¹⁸ Under these discounts, that same redistributor now only pays the Per User Access Fee of \$100/month.¹⁹ The Exchange notes that in order to receive the NYSE BQT data feed (which is comparable to the Cboe One Summary Feed), a subscriber must pay the applicable fees for the following data feeds: NYSE BBO, NYSE Trades, NYSE Arca BBO, NYSE Arca Trades, NYSE American BBO, NYSE American Trades, NYSE National BBO, NYSE National Trades, NYSE Texas BBO and NYSE Texas Trades.²⁰ The cost of the Per User Access fees for each of these applicable data feeds (including NYSE BQT) totals \$850, the equivalent to the Cboe One Summary proposed fee.

While the eligibility requirements of the NYSE program and the proposed Program differ, both programs are intended to incentivize redistribution of applicable data feeds by providing enhanced discounts and both programs target different segments for a specific purpose. The proposed discounts under this Program are intended to make

¹⁶ Id.

¹⁷ See e.g., NYSE Americas Proprietary Market Data Fees.

¹⁸ See NYSE Proprietary Market Data Fees.

¹⁹ Id.

²⁰ Id.

the Exchange's offering competitively priced relative to alternative options that participants may have.

Without the proposed pricing discounts, the Exchange believes that (i) prospective customers may not be interested in purchasing top of book data from the Exchange, and may instead purchase such data from other national securities exchanges or the SIPs, potentially at a higher cost than would be available pursuant to the proposed program and (ii) that Hosting Small Retail Broker Distributors are not incentivized to make the Applicable Feeds available via a hosted solution for retail investors of its External Hosted Subscribers. Similar to the existing Small Retail Broker Program, the Exchange believes that this Program will continue to increase competition for such market data, and that enhanced competition could help to further reduce data fees as providers compete for subscribers, as well as help diversify the availability and quality of data offerings available to retail investors through their Hosting Small Retail Broker Distributors. Ultimately, the Exchange believes that it is critical that it be allowed to compete by offering attractive pricing to customers as increasing the availability of such products ensures continued competition with alternative offerings. Such competition may be constrained when competitors are impeded from offering alternative and cost-effective solutions to customers.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,²¹ in general, and furthers the objectives of Section

²¹ 15 U.S.C. 78f.

6(b)(4),²² in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act.²³ Specifically, the proposed rule change supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. In addition, the proposed rule change is consistent with Rule 603 of Regulation NMS,²⁴ which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory.

In adopting Regulation NMS, the Commission granted 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 fee change would further broaden the availability of U.S. equity market data to investors, and in particular retail investors, consistent with the principles of Regulation NMS.

²² 15 U.S.C. 78f(b)(4).

²³ 15 U.S.C. 78k-1.

²⁴ See 17 CFR 242.603.

The Exchange operates in a highly competitive environment. Indeed, there are sixteen registered national securities exchanges that trade U.S. equities and offer associated top of book market data products to their customers. The national securities exchanges also compete with the SIPs for market data customers. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”²⁵ The proposed fee change is a result of the competitive environment, as the Exchange seeks to amend its fees to attract additional subscribers for its proprietary top of book data offerings.

Making alternative data products available to market participants ultimately ensures increased competition in the marketplace, and constrains the ability of exchanges to charge prohibitive fees. In the event that a market participant views one exchange’s top of book data fees as more or less attractive than the competition they can, and frequently do, switch between competing products. In fact, the competitiveness of the market for such top of book data products is one of the primary factors animating this proposed rule change, which is designed to allow the Exchange to further compete for this business. As mentioned above, at least one other Exchange provides a similar waiver for redistribution of market data.²⁶

²⁵ See Securities Exchange Act Release No. 51808 (June 9, 2005), [70 FR 37496](#), [37499](#) (June 29, 2005) (“Regulation NMS Adopting Release”).

²⁶ See *supra* note 8.

The Exchange notes that the Applicable Feeds are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

The Commission has long stressed the need to ensure that the equities markets are structured in a way that meets the needs of ordinary investors. For example, the Commission's strategic plan for fiscal years 2018-2022 touts “focus on the long-term interests of our Main Street investors” as the Commission's number one strategic goal.²⁷ The Program would be consistent with the Commission's stated goal of improving the retail investor experience in the public markets. Furthermore, national securities exchanges commonly charge reduced fees and offer market structure benefits to retail investors, and the Commission has consistently held that such incentives are consistent with the Act. The Exchange believes that the Program is consistent with longstanding precedent indicating that it is consistent with the Act to provide reasonable incentives to retail investors that rely on the public markets for their investment needs.

The Exchange proposes that the proposed waivers for the Applicable Feeds only apply to Hosting Small Retail Broker Distributors and its External Hosted Subscribers for three reasons. First, the Hosting Small Retail Broker Distributor is creating a full-service

²⁷ See U.S. Securities and Exchange Commission, Strategic Plan, Fiscal Years 2018-2022, available at https://www.sec.gov/files/SEC_Strategic_Plan_FY18-FY22_FINAL_0.pdf.

offering for External Hosted Subscribers in contrast to the Small Retail Brokers under the current Program, which only provide services directly to its own retail clients.

Maintaining an additional platform for External Hosted Subscribers' clients is an additional workstream for Hosted Subscribers (in contrast to Small Retail Brokers that only provide data and services directly to their retail clients) as they support additional ecosystems of business, each with its own book of retail clients. In order to incentivize the Hosting Small Retail Broker Distributors to take on the additional duties associated with hosting External Hosted Subscribers (such as managing the data, entitlements, and display of the application provided to the External Hosted Subscriber), the Exchange believes it is not unfairly discriminatory to provide a waiver of the Distribution Fee for the Hosting Small Retail Broker, as opposed to the standard discounted Distribution Fee it would normally pay under the Small Retail Broker Program.

Second, by creating this program, the Exchange is further able to reach additional retail investors. By waiving Distribution Fees for both the Hosting Small Retail Broker Distributor and its External Hosted Subscriber, both parties are incentivized to work together to provide data to retail investors. Third, as mentioned previously, the Hosting Small Retail Broker is responsible for the fees and reporting for both its own activity and that of its External Hosted Subscriber. While the Exchange is not privy to pass-through costs between Hosting Small Retail Broker Distributors and External Hosted Subscribers, this proposed pricing allows Hosting Small Retail Broker Distributors the freedom to charge or not charge External Hosted Subscribers while also appropriately charging for a service provided to an External Hosted Subscriber that is benefitting from an infrastructure developed and supported by the Hosting Small Retail Broker Distributor.

The Exchange notes that the current Small Retail Broker Program prevents the Hosting Small Retail Broker Distributor from packaging this waiver as part of their overall service to their External Hosted Subscribers (as External Hosted Subscribers would be billed directly under the existing Small Retail Broker Program)., Given that External Hosted Subscribers are smaller relative to other Small Retail Brokers currently participating in the Program, these costs associated with the Applicable Feeds are inherently prohibitive to the External Hosted Subscriber. Through this program, fees will not be a deterrent for Hosting Small Retail Brokers and External Hosted Subscribers to establish platforms that reach a wider scope of retail investors.

Furthermore, while this Program would be effectively limited to smaller firms in accordance with the proposed eligibility requirements, the Exchange does not believe that this limitation makes the fees inequitable or unfairly discriminatory. The Exchange notes that large broker-dealers and/or vendors that distribute the Exchange's data products to a sizeable number of investors benefit from the current fee structure, which includes lower subscriber fees and Enterprise licenses. Due to lower subscriber fees, distributors that provide the Applicable Feeds to more than the proposed capped amounts of Users permitted under either the Small Retail Broker Program or this Program already enjoy cost savings compared to competitor products. The Program, in addition to the existing Small Retail Broker Program, would therefore continue to ensure that small retail brokers that distribute top of book data to their retail investor customers could also benefit from reduced pricing, and would aid in increasing the competitiveness of the Exchange's data products for this key segment of the market.

Moreover, the Exchange does not believe that the proposed fees unfairly discriminate between Hosting Small Retail Brokers and External Hosted Subscribers. While the proposal provides additional benefits to External Hosted Subscribers that would not otherwise accrue to them under the current program, the Exchange notes that such benefits are designed only to make access to market data more accessible to smaller retail broker-dealers that either do not possess the financial and technological resources necessary to receive data as a Small Retail Broker, or simply choose not commit such resourced based on their business models. In turn, to continue to incentive the provision of the Applicable Feeds by Hosting Small Retail Brokers, the Exchange has sought to provide appropriate incentives to these brokers as well. Collectively, the fee structure provides benefits to both Hosting Small Retail Brokers and External Hosted Subscribers.

While External Hosted Subscribers would receive benefits they would not accrue under the current program, these are not benefits that today's Small Retail Brokers would choose to avail themselves of under the new fee structure, because it is highly unlikely that today's Small Retail Brokers would choose to instead become External Hosted Subscribers. The Exchange notes that today's Small Retail Brokers that qualify under the current program, have already committed significant capital in terms of time, technology, and finances towards building out and maintaining the technological infrastructure and staffing needed to receive and distribute the Applicable Feeds to their end users. To forego such financial and technological commitments simply to avail themselves of additional benefits afforded to External Hosted Subscribers under this proposal, would very likely require an existing Small Retail Broker to drastically change their current business model simply to avail themselves of the additional benefits provided to External

Hosted Subscribers. Moreover, today's existing Small Retail Brokers are likely to be providing services to their subscribers other than the Additional Feeds, such as market access, order management systems, and other trading tools. To cease providing such a full suite of services – which required significant time and cost contributions – is unlikely and, again, would require a significant reversal in a Small Retail Broker's business model.

Rather, the Exchange believes that the more likely case is that the proposed fee structure will attract a new population of Small Retail Brokers who will seek to access the Applicable Feeds as Hosted External Subscribers, at a cost-effective price point, thereby providing even more investors with access to top of book market data for U.S. equities. Another likely use case is that the proposed fee structure may incentivize more Small Retail Brokers to subscribe to the Applicable Feeds as External Hosted Subscribers and, as they build their own business models and attract subscribers of their own, eventually commit time and resources to building their own infrastructure to evolve into a Hosting Small Retail Broker.

Finally, the Exchange notes that nothing in the current proposal prevents an existing Small Retail Broker from choosing to instead subscribe to the Applicable Feeds as an External Hosted Subscriber. However, the Exchange does not believe that this makes the proposal unfairly discriminatory between Hosting Small Retail Brokers and External Hosted Subscribers, as broker-dealers are free to operate their businesses however they may choose in response to a host of reasons, only one of which are associated costs.

The Exchange believes that the proposed cap of 10,000 for the Cboe One Summary Data Feed and BYX Top Data Feed for this Program, as well as increasing this cap to 10,0000 for the Cboe One Summary Data Feed and BYX Top Data Feed for the Small Retail Broker Program is reasonable and not unfairly discriminatory as the Exchange believes it is in the best interest of all market participants to more broadly expand this in support of inclusion for more retail investors by participation in both programs by small retail brokers on a global scale.

Distribution Fee Waiver

The Exchange believes that the Distribution Fee Waivers for both the External Hosted Subscriber and the Hosting Small Retail Broker Distributor are reasonable as they represent a significant cost reduction for the Hosting Small Retail Broker Distributor to provide a hosted solution for the External Hosted Subscriber, to ultimately provide the data to the External Hosted Subscriber's retail investors. While the existing fee structure does provide a benefit of a discounted waiver for Small Retail Brokers that externally distribute the data, these discounted Distribution Fees are still incurred by both the External Hosted Subscriber and the Hosting Small Retail Broker Distributor. In an attempt to alleviate these costs, and make this data more available to retail investors, the Exchange proposes to waive the Distribution Fees for both the Hosting Small Retail Broker Distributor and the External Hosted Subscriber. With this Program, the Exchange believes it will increase market accessibility and data to investors on a global scale. Exchange Hosted Subscribers may not have the infrastructure or technical capabilities to offer market data and/or execution services to its retail investors. Through waiving these fees for the External Hosted Subscriber, the Exchange hopes to reach a broader scale of

retail investors globally. Further, as discussed above, the Exchange also believes it is appropriate and not unfairly discriminatory to limit this specific credit to the External Hosted Subscriber and the Hosting Small Retail Broker Distributor given the development and maintenance the Hosting Small Retail Broker Distributor acquires to provide this data to the External Hosted Subscriber's end users.

Data Consolidation Fee Waiver

The Exchange believes it is reasonable to not charge the External Hosted Subscriber the Data Consolidation Fee for Cboe One Summary Data for the duration of the time that they are eligible for this program. As previously discussed, the waiver of fees for the External Hosted Subscriber is intended to make this data more available to retail investors. The Exchange also believes it is appropriate and not unfairly discriminatory to limit this specific credit to the External Hosted Subscriber because, as described above, the Exchange believes by alleviating some of the barriers to entry, that Exchange Hosted Subscribers are able to bring this data and execution services to their retail investors. Of further note, the Exchange believes it is reasonable to maintain this cost for the Hosting Small Retail Broker Distributor as the Hosting Small Retail Broker Distributor is the party receiving this data from the Exchange where it is consolidated for the benefit of the Hosting Small Retail Broker Distributor.

Fixed Cost of Non-Professional Users

The Exchange believes it is reasonable to set a fixed cost for Non-Professional Users fees for External Hosted Subscribers by charging a flat, fixed cost instead of charging per user to allow for additional savings. Under this structure, the External Hosted Subscriber shall still be responsible by paying the standard per User fee of a

Professional Users under the Applicable Feed. The Exchange does not believe this is unfairly discriminatory as the program is based around making the Applicable Feeds available for Non-Professional Users. The Exchange also notes that it has taken a similar approach here to the NYSE Per User Access Fee, which sets a fixed cost where the data is used only for display purposes.²⁸

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

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price these data products is constrained by: (i) Competition among exchanges that offer similar data products to their customers; and (ii) the existence of inexpensive real-time consolidated data disseminated by the SIPs. Top of book data is disseminated by both the SIPs and the sixteen equities exchanges. There are therefore a number of alternative products available to market participants and investors. In this competitive environment potential subscribers are free to choose which competing product to purchase to satisfy their need for market information. Often, the choice comes down to price, as broker-dealers or vendors look to purchase the cheapest top of book data product, or quality, as market participants seek to purchase data that represents significant market liquidity. In order to better compete for this segment of the market, the Exchange is proposing to reduce the cost of top of book data provided by Hosting Small Retail Broker Distributors to its External Hosted Subscribers, and in turn, their retail investors. The Exchange

²⁸

See NYSE Proprietary Market Data Pricing Guide, April 1, 2025.

believes that this would facilitate greater access to such data, ultimately benefiting the retail investors that are provided access to such market data.

The Exchange also believes the proposed fee changes will better enable it to compete in the Asia Pacific region, which is an area of increasing interest and growth within the U.S. equities markets, generally. As the Asia Pacific investor base seeks access to the liquidity and efficient price discovery processes that exist in the U.S. equities markets, various broker-dealers have begun offering trading in this region, and exchanges have begun to contemplate 24-hour trading solutions designed to capture the increased demand from the Asia Pacific investor base.²⁹ Naturally, U.S. equities market data will be in demand as Asia Pacific trading increases in the U.S. markets. Indeed, in formulating its current pricing, the Exchange has considered the growth in the Asia Pacific region and has sought to propose fees that would continue to appeal to the existing Small Retail Brokers in this region, and that would incentivize additional smaller retail broker-dealers in this region to subscribe to the Applicable Feeds as External

²⁹ See “Cboe Announces Plans to Launch 24x5 U.S. Equities Trading,” February 3, 2025, available at: <https://ir.cboe.com/news/news-details/2025/Cboe-Announces-Plans-to-Launch-24x5-U.S.-Equities-Trading-2025-NwujmKvsxb/default.aspx>, (“[Cboe] continue[s] to hear from market participants globally – particularly those in Asia Pacific markets like Hong Kong, Japan, Korea, Singapore and Australia – that they want greater access to U.S. equities trading and need trusted venues that can offer transparency, robust liquidity and efficient price discovery,” said Oliver Sung, Head of North American Equities at Cboe Global Markets. “As the world’s largest global exchange operator, Cboe is uniquely positioned to meet that demand. By leveraging our global infrastructure, leading-edge technology, and proven experience facilitating around-the-clock trading in global markets, we believe we can seamlessly support a 24x5 trading model for U.S. equities.”; see also “Nasdaq’s View: The Road to 24 Hour Trading,” June 16, 2025, available at: <https://www.nasdaq.com/newsroom/nasdaqs-view-road-24-hour-trading>; see also “The New York Stock Exchange Plans to Extend Weekday Trading on its NYSE Arca Equities Exchange to 22 Hours a Day,” October 25, 2024, available at: <https://ir.theice.com/press/news-details/2024/The-New-York-Stock-Exchange-Plans-to-Extend-Weekday-Trading-on-its-NYSE-Arca-Equities-Exchange-to-22-Hours-a-Day/default.aspx>; see also “Robinhood 24 Hour Market,” available at: <https://robinhood.com/us/en/support/articles/24hour-market/>.

Hosted Subscribers. In this regard, the Exchange believes its proposed fees will better enable it to compete in Asia Pacific, thereby offering competitively priced data products to more and more investors, at attractive price points.

The Exchange does not believe that this price reduction would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges and data vendors are free to lower their prices to better compete with the Exchange's offering. Indeed, as explained in the basis section of this proposed rule change, the Exchange's decision to (i) waive the Distribution Fee for the Hosting Small Retail Broker and the External Hosted Subscriber and (ii) waiving the Consolidation Fee (when applicable) for the External Hosted Subscriber and (iii) setting a fixed cost for the Non-Professional Users for the External Hosted Subscriber is itself a competitive response to different fee structures available on competing markets. The Exchange therefore believes that the proposed rule change is pro-competitive as it seeks to offer pricing incentives to customers to better position the Exchange as it competes to attract additional market data subscribers. The Exchange also believes that the proposed reduction in fees the Hosting Small Retail Broker and the External Hosted Subscriber would not cause any unnecessary or inappropriate burden on intramarket competition. Although the proposed fee discount would be largely limited to small retail broker subscribers, larger broker-dealers and vendors can already purchase top of book data from the Exchange at prices that represent a significant cost savings when compared to competitor products that combine higher subscriber fees with lower fees for distribution. In light of the benefits already provided to this group of subscribers, the Exchange believes that additional discounts to small retail brokers would increase rather than decrease competition among broker-dealers that

participate on the Exchange. Furthermore, as discussed earlier in this proposed rule change, the Exchange believes that offering pricing benefits to brokers that represent retail investors facilitates the Commission's mission of protecting ordinary investors, and is therefore consistent with the Act.

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

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

Item 6. Extension of Time Period for Commission Action

Not applicable.

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

(a) The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act³⁰ and Rule 19b-4(f)(2)³¹ 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

³⁰ 15 U.S.C. 78s(b)(3)(A).

³¹ 17 CFR 240.19b-4(f)(2).

Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

(c) Not applicable.

(d) Not applicable.

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

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

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

Not applicable.

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

Not applicable.

Item 11. Exhibits

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

Exhibit 5. Proposed rule text.

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CboeBYX-2025-027]

[Insert date]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Introduce a Small Retail Broker Hosted Solutions Program and to Update the Existing Eligibility Requirements for the Small Retail Brokerage Distribution Program for the Cboe One Summary Feed and BYX Top Data Feed

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 BYX Exchange, Inc. (the “Exchange” or “BYX”) 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 BYX Exchange, Inc. (the “Exchange” or “BYX”) proposes to introduce a Small Retail Broker Hosted Solutions Program and to update the existing eligibility requirements for the Small Retail Brokerage Distribution Program for the Cboe One Summary Feed and BYX Top Data Feed. The text of the proposed rule change is provided in Exhibit 5.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/BYX/), 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 adopt a Small Retail Broker Hosted Solutions Program (the "Program") for BYX Top Data and Cboe One Summary Data (collectively, the "Applicable Feeds").³ This Program will provide fee waivers and lower data costs for both (i) Small Retail Brokers (as defined herein) that provide the Applicable Feeds to other Small Retail Brokers via its hosted solutions (the "Hosting Small Retail Broker Distributor") and (ii) the Small Retail Brokers that receive this data from a Hosting Small Retail Broker Distributor as set forth herein.

Further, the Exchange proposes to increase the allowed maximum Non-Professional Data User subscriber count for the existing Small Retail Broker Program for

³ The Exchange initially submitted the proposed rule change on May 8, 2025 (SR-CboeBYX-2025-011). On May 19, 2025, the Exchange withdrew that filing and submitted SR-CboeBYX-2025-014. On June 30, 2025, the Exchange withdrew that filing and submitted SR-CboeBYX-2025-017. On August 28, 2025 the Exchange withdrew that filing and submitted this filing.

Cboe One Summary Feed and BYX Top Data Feed. By way of background, the Exchange currently offers the BYX Top Data Feed, which is a data feed that offers top-of-book quotations and last sale information based on orders entered into the Exchange's System. The BYX Top Data Feed benefits investors by facilitating their prompt access to real-time top-of-book information contained in BYX Top Data. The Exchange's affiliated equities exchanges (i.e., Cboe EDGA, Inc. ("EDGA"), Cboe BZX Exchange, Inc. ("BZX"), and Cboe EDGX Exchange, Inc. ("EDGX") (collectively, "Affiliates" and together with the Exchange, "Cboe Equities Exchanges") also offer similar top-of-book data feeds. Particularly, each of the Exchange's Affiliates offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the BYX Top Data Feed. Additionally, the Exchange also offers Cboe One Summary Data Feed that disseminates, on a real-time basis, the aggregate BBO of all displayed orders for securities traded on BYX and its Affiliates and also contains individual last sale information for the BYX and its Affiliates. The Cboe One Summary Data Feed is created using the data from the Exchange and its Affiliates' Top data feeds.

Currently, the Exchange offers a Small Retail Broker Distribution Program⁴ for both Applicable Data Feeds. This program provides a discounted Distribution Fee of \$250/month for BYX Top Data Feed and \$3,500/month for Cboe One Summary Data Feed as well as a discounted Data Consolidation Fee⁵ of \$350/month for Cboe One

⁴ See Cboe BYX Equities Fee Schedule.

⁵ This fee reflects the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Summary Feed.

Summary Data for eligible participants.⁶ Participants of the existing Small Retail Broker Distribution Program must be an External Distributor that meets the following criteria: (i) Distributor is a broker-dealer distributing the Applicable Feed to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship; (ii) At least 90% of the Distributor's total subscriber population must consist of Non-Professional subscribers, inclusive of any subscribers not receiving the Applicable Feed; and (iii) Distributor distributes the Applicable Feed to no more than 5,000 Non-Professional Data Users (the Exchange notes that it is proposing to increase this to 10,000 Non-Professional Data Users for Cboe One Summary Data Feed and BYX Top Data Feed as described further herein).⁷ The Exchange introduced this program to allow small retail brokers that purchase top of book market data from the Exchange to benefit from discounted fees for access to such market data. The Small Retail Broker Distribution Program reduces the distribution and consolidation fees paid by small broker-dealers that operate a retail business. In turn, the Small Retail Broker Distribution Program is intended to increase retail investor access to real-time U.S. equity quote and trade information, and allow the Exchange to better compete for this business with competitors⁸ that offer similar optional products.⁹

The Exchange now proposes to create a new Program based on the proposed eligibility criteria for Small Retail Brokers to specifically support Small Retail Brokers who are operating platforms on behalf of other Small Retail Brokers. Based on customer

⁶ See Cboe BYX Equities Fee Schedule.

⁷ Id.

⁸ Such as NYSE Arca BBO feed or Nasdaq Basic.

⁹ See Securities Exchange Act Release No. 88221 (February 14, 2020), 85 FR 9904 (February 20, 2020) (SR-CboeBYX-2020-007).

feedback, there are Small Retail Brokers who would like to provide this data via a hosted solution as a White Label Service¹⁰ to other Small Retail Brokers, who then provide this data to their retail clients (an “External Hosted Subscriber”).¹¹ Unfortunately, under the existing structure, both the External Hosted Subscriber and the Hosting Small Retail Broker Distributor are only eligible for the standard discounted Distribution Fee (and for Cboe One Summary, the discounted Data Consolidation Fee) under the existing Small Retail Broker Program. These fees are, in addition to the standard Professional and Non-Professional User fees. Therefore, the existing fee structure under the Small Retail Broker Program does not allow for any additional benefits for Hosting Small Retail Broker Distributors for providing the valuable service of operating platforms that External Hosted Subscribers may use for their clients, and furthermore, does not account for the fact that Hosting Small Retail Broker Distributors are also billed for the fees of their External Hosted Subscribers (which Small Retail Brokers under the original program do not have).

Of further note, the Hosting Small Retail Broker Distributor is responsible for reporting its External Hosted Subscribers and their users, and ultimately the Hosting Small Retail Broker is responsible for payment of all data fees for both its External

¹⁰ A “White Label Service” is a type of hosted display solution in which an External Distributor hosts or maintains a website or platform on behalf of the External Hosted Subscriber. The service allows the External Distributor to make the applicable data (i.e., Cboe One Summary or BYX Top Data) available on a platform that is branded with the External Hosted Subscriber, or co-branded with the External Hosted Subscriber and the External Distributor. The External Distributor maintains control of the application's data, entitlements and display.

¹¹ An External Hosted Subscriber of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product from an External Distributor through a hosted display solution where the External Hosted Subscriber's Users are hosted by the External Distributor and data is distributed for display use only to one or more Users outside the External Hosted Subscriber's own entity. The Exchange proposes to add this definition into its Fee Schedule.

Hosted Subscribers and itself. While the Exchange is not privy to pass-through costs between Hosting Small Retail Broker Distributors and External Hosted Subscribers, this proposed pricing allows Hosting Small Retail Broker Distributors the freedom to charge or not charge External Hosted Subscribers while also appropriately charging for a service provided to an External Hosted Subscriber that is benefitting from an infrastructure developed and supported by the Hosting Small Retail Broker Distributor. The Exchange notes that the current Small Retail Broker Program prevents the Hosting Small Retail Broker Distributor from packaging this waiver as part of their overall service to their External Hosted Subscribers (as External Hosted Subscribers would be billed directly under the existing Small Retail Broker Program).

Additionally, given that External Hosted Subscribers are smaller relative to other Small Retail Brokers currently participating in the Program, their ability to subscribe to the Applicable Feeds as Hosting Small Retail Brokers is likely not feasible. Specifically, the costs of the Applicable Feeds may themselves make access to data impractical. Additionally, the costs associated with building and maintain the technological infrastructure to receive and disseminate data, may make access to such data impractical. Generally speaking, technology, infrastructure, and connectivity costs are a significant monetary investment and require significant human expertise and resources to maintain. As such, the totality of costs can make access to data difficult. The Exchange believes, though, that the proposed fees and the ability to subscribe to the Applicable Feeds as External Hosted Subscribers will make access to data more feasible. Indeed, the Exchange anticipates that the retail broker-dealers that would seek to become External Hosted Subscribers are broker-dealers that do not have the technological infrastructure in

place to ingest and disseminate data as a Hosting Small Retail Broker, and that are likely to have smaller client bases and business models not as conducive to making the investments necessary to become a Hosting Small Retail Broker.

In these regards, the Exchange believes that the proposed program will incentivize Hosting Small Retail Brokers to offer the Applicable Feeds to External Hosted Subscribers, thereby making data accessible to a larger number of broker-dealers and their clients, at an affordable cost. Specifically, under the proposed program, a Hosting Small Retail Broker providing the data to at least one External Hosted Subscriber would be eligible for a credit of its Distribution Fee (a credit of \$250/month for BYX Top Data Feed and a credit of \$3,500/month for Cboe One Summary Feed) that it is normally responsible for under the existing Small Retail Broker Program. Additionally, the External Hosted Subscriber shall also receive a waiver of the Distribution Fee (a credit of \$250/month for BYX Top Data Feed and a credit of \$3,500/month for Cboe One Summary Feed). The External Hosted Subscriber will also receive a waiver of the Data Consolidation Fee for the Cboe One Summary Data (a credit of \$350/month) and in lieu of paying the Non-Professional User fees, it shall be a set monthly fee of \$100 for BYX Top and \$850 for Cboe One Summary Data.¹² The Professional User fees shall remain the same. Once an External Hosted Subscriber exceeds the Non-Professional Data User maximum (no more than 10,000 Non-Professional Data Users for Cboe One Summary Data and BYX Top Data), the External Hosted Subscriber shall no longer be eligible for the program and will be required to directly license with the Exchange for the Applicable

¹² As the Program is capped at 10,000 users for Cboe One Summary Feed and 10,000 for BYX Top Data Feed, this equates to a maximum, savings of \$150 (10,000 Users x 0.025/Non-Professional User = \$250 and \$250-100=\$150) for BYX Top Data Feed and \$1,650 (10,000 Users x 0.25/Non-Professional = \$2,500 and \$2,500 – 850 = \$1,650) for Cboe One Summary Feed.

Feed.¹³ The Exchange notes that the 10,000 Non-Professional Data User count eligibility requirement is looked at on a firm level (i.e., the counts of the Non-Professional Data Users for each of the Hosting Small Retail Broker Distributor and each of its External Hosted Subscribers will be looked at separately). Additionally, the Hosting Small Retail Broker Distributor shall continue to remain eligible for this Program so long as it has at least one External Hosted Subscriber (i.e., if it has two External Hosted Subscribers and one External Hosted Subscriber exceeds the 10,000 Non-Professional Data User threshold, the Hosting Small Retail Broker Distributor and the other External Hosted Subscriber may still continue under this Program).

In addition to the changes set forth above, the Exchange also proposes to modify the existing Small Retail Broker Program for Cboe One Summary Feed and BYX Top Feed to increase the number of Non-Professional Data User maximum from 5,000 to 10,000 to be consistent with the proposed threshold for External Hosted Subscribers. As previously discussed, the Exchange proposes to also use the cap of 10,000 Non-Professional Data Users for the proposed Program. The Exchange proposes to increase this in support of increased participation across both retail and investor markets in order to facilitate the growth of smaller retail brokers on a global scale.

As mentioned above, the existing fee structure makes it costly for both Hosting Small Retail Broker Distributors and its External Hosted Subscribers to provide data to the External Hosted Subscribers' retail clients as Distribution Fees are assessed on both Small Retail Brokers. Overall, the Exchange believes that this fee proposal will help to

¹³ The Exchange notes that it will include a clarifying note in its Fee Schedule to specify that in the event a Hosting Small Retail Broker Distributor joins this program mid-month, that its fees shall be prorated for the month based on the initial date of the subscription; however, the External Hosted Subscriber's fees shall not be prorated.

make its data more widely accessible for retail users who receive their data from External Hosted Subscribers. Specifically, the Exchange believes that that this proposal will (i) further increase the competitiveness of the Exchange's top of book market data products compared to competitor offerings that may currently be cheaper for firms with a limited subscriber base that do not yet have the scale to take advantage of the lower subscriber fees offered by the Exchange; and will (ii) provide additional incentives for Hosting Small Retail Broker Distributors to provide hosted solution services for other Small Retail Brokers in order to make data more widely available to retail investors. In turn, the Exchange believes that this change may benefit market participants and investors by spurring additional competition and increasing the accessibility of the Exchange's top of book data.

The Exchange notes that at least one other exchange has a similar offering. For example, the New York Stock Exchange has a Redistribution Fee Waiver for NYSE Trades, for which redistributors of data may have their redistribution fee waived so long as they provide the data to at least one data feed recipient and reports such data feed recipient or recipients to the Exchange.¹⁴ Additionally, the Access Fee that is charged is reduced by more than 93% for redistributors of NYSE BBO and NYSE Trades that subscribe to only such data feeds and do not subscribe to any other market data product listed on the Fee Schedule other than NYSE BQT, and/or the NYSE OpenBook data feed, and/or the NYSE Aggregated Lite data feed, and/or the NYSE Pillar Depth data feed, and such market data products are used in a display-only format for internal or external use

¹⁴ See Securities Exchange Act Release No. 90407 (November 12, 2020), 85 FR 73570 (November 18, 2020) (SR-NYSE-2020-91).

only.¹⁵ This means that a redistributor that meets the above requirements will both (i) pay a Per User Access Fee¹⁶ and (ii) have its redistribution fee waived. A Redistributor that receives a data feed of NYSE BBO and NYSE Trades and uses the market data products for any other purpose (such as internal use) or that subscribes to any other products listed on the Fee Schedule (other than NYSE BQT, and/or the NYSE OpenBook data feed, and/or the NYSE Aggregated Lite data feed, and/or the NYSE Pillar Depth data feed) would continue to pay the \$1,500 per month General Access Fee (as opposed to the lower Per User Access Fee).¹⁷ Accordingly, the fee changes are not designed for redistributors that are existing customers of specific NYSE market data products, that use NYSE BQT for internal purposes, or if the data is provided as non-display. The fee reductions in NYSE BBO and NYSE Trades are intended to incentive eligible redistributors to subscribe to the NYSE BQT data feeds so that such product would be available to their customers, which have expressed an interest in subscribing to NYSE BQT.¹⁸ The Exchange notes that these same discounts exists for NYSE Americas and NYSE Arca as well.¹⁹

Without these discounts, a redistributor of NYSE Trades would pay the General Access Fee of \$1,500/month in addition to the Redistribution Fee of \$1,000/month and the applicable Professional User Fee (\$4/month/User) and Non-Professional User Fee

¹⁵ See NYSE Proprietary Market Data Fees. The Exchange notes that NYSE American and NYSE Arca also implement this same incentive.

¹⁶ The Exchange notes that this is the equivalent to the fixed Non-Professional User charge it has proposed for the External Hosted Subscriber under the Program.

¹⁷ See supra note 12.

¹⁸ Id.

¹⁹ See e.g., NYSE Americas Proprietary Market Data Fees.

(\$0.20/month/User).²⁰ Under these discounts, that same redistributor now only pays the Per User Access Fee of \$100/month.²¹ The Exchange notes that in order to receive the NYSE BQT data feed (which is comparable to the Cboe One Summary Feed), a subscriber must pay the applicable fees for the following data feeds: NYSE BBO, NYSE Trades, NYSE Arca BBO, NYSE Arca Trades, NYSE American BBO, NYSE American Trades, NYSE National BBO, NYSE National Trades, NYSE Texas BBO and NYSE Texas Trades.²² The cost of the Per User Access fees for each of these applicable data feeds (including NYSE BQT) totals \$850, the equivalent to the Cboe One Summary proposed fee.

While the eligibility requirements of the NYSE program and the proposed Program differ, both programs are intended to incentivize redistribution of applicable data feeds by providing enhanced discounts and both programs target different segments for a specific purpose. The proposed discounts under this Program are intended to make the Exchange's offering competitively priced relative to alternative options that participants may have.

Without the proposed pricing discounts, the Exchange believes that (i) prospective customers may not be interested in purchasing top of book data from the Exchange, and may instead purchase such data from other national securities exchanges or the SIPs, potentially at a higher cost than would be available pursuant to the proposed program and (ii) that Hosting Small Retail Broker Distributors are not incentivized to make the Applicable Feeds available via a hosted solution for retail investors of its

²⁰ See NYSE Proprietary Market Data Fees.

²¹ Id.

²² Id.

External Hosted Subscribers. Similar to the existing Small Retail Broker Program, the Exchange believes that this Program will continue to increase competition for such market data, and that enhanced competition could help to further reduce data fees as providers compete for subscribers, as well as help diversify the availability and quality of data offerings available to retail investors through their Hosting Small Retail Broker Distributors. Ultimately, the Exchange believes that it is critical that it be allowed to compete by offering attractive pricing to customers as increasing the availability of such products ensures continued competition with alternative offerings. Such competition may be constrained when competitors are impeded from offering alternative and cost-effective solutions to customers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,²³ in general, and furthers the objectives of Section 6(b)(4),²⁴ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act.²⁵ Specifically, the proposed rule change supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in

²³ 15 U.S.C. 78f.

²⁴ 15 U.S.C. 78f(b)(4).

²⁵ 15 U.S.C. 78k-1.

securities. In addition, the proposed rule change is consistent with Rule 603 of Regulation NMS,²⁶ which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory.

In adopting Regulation NMS, the Commission granted 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 fee change would further broaden the availability of U.S. equity market data to investors, and in particular retail investors, consistent with the principles of Regulation NMS.

The Exchange operates in a highly competitive environment. Indeed, there are sixteen registered national securities exchanges that trade U.S. equities and offer associated top of book market data products to their customers. The national securities exchanges also compete with the SIPs for market data customers. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”²⁷ The proposed

²⁶ See 17 CFR 242.603.

²⁷ See Securities Exchange Act Release No. 51808 (June 9, 2005), [70 FR 37496](#), [37499](#) (June 29, 2005) (“Regulation NMS Adopting Release”).

fee change is a result of the competitive environment, as the Exchange seeks to amend its fees to attract additional subscribers for its proprietary top of book data offerings.

Making alternative data products available to market participants ultimately ensures increased competition in the marketplace, and constrains the ability of exchanges to charge prohibitive fees. In the event that a market participant views one exchange's top of book data fees as more or less attractive than the competition they can, and frequently do, switch between competing products. In fact, the competitiveness of the market for such top of book data products is one of the primary factors animating this proposed rule change, which is designed to allow the Exchange to further compete for this business. As mentioned above, at least one other Exchange provides a similar waiver for redistribution of market data.²⁸

The Exchange notes that the Applicable Feeds are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

The Commission has long stressed the need to ensure that the equities markets are structured in a way that meets the needs of ordinary investors. For example, the Commission's strategic plan for fiscal years 2018-2022 touts "focus on the long-term

²⁸See supra note 8.

interests of our Main Street investors” as the Commission's number one strategic goal.²⁹

The Program would be consistent with the Commission's stated goal of improving the retail investor experience in the public markets. Furthermore, national securities exchanges commonly charge reduced fees and offer market structure benefits to retail investors, and the Commission has consistently held that such incentives are consistent with the Act. The Exchange believes that the Program is consistent with longstanding precedent indicating that it is consistent with the Act to provide reasonable incentives to retail investors that rely on the public markets for their investment needs.

The Exchange proposes that the proposed waivers for the Applicable Feeds only apply to Hosting Small Retail Broker Distributors and its External Hosted Subscribers for three reasons. First, the Hosting Small Retail Broker Distributor is creating a full-service offering for External Hosted Subscribers in contrast to the Small Retail Brokers under the current Program, which only provide services directly to its own retail clients.

Maintaining an additional platform for External Hosted Subscribers' clients is an additional workstream for Hosted Subscribers (in contrast to Small Retail Brokers that only provide data and services directly to their retail clients) as they support additional ecosystems of business, each with its own book of retail clients. In order to incentivize the Hosting Small Retail Broker Distributors to take on the additional duties associated with hosting External Hosted Subscribers (such as managing the data, entitlements, and display of the application provided to the External Hosted Subscriber), the Exchange believes it is not unfairly discriminatory to provide a waiver of the Distribution Fee for

²⁹ See U.S. Securities and Exchange Commission, Strategic Plan, Fiscal Years 2018-2022, available at https://www.sec.gov/files/SEC_Strategic_Plan_FY18-FY22_FINAL_0.pdf.

the Hosting Small Retail Broker, as opposed to the standard discounted Distribution Fee it would normally pay under the Small Retail Broker Program.

Second, by creating this program, the Exchange is further able to reach additional retail investors. By waiving Distribution Fees for both the Hosting Small Retail Broker Distributor and its External Hosted Subscriber, both parties are incentivized to work together to provide data to retail investors. Third, as mentioned previously, the Hosting Small Retail Broker is responsible for the fees and reporting for both its own activity and that of its External Hosted Subscriber. While the Exchange is not privy to pass-through costs between Hosting Small Retail Broker Distributors and External Hosted Subscribers, this proposed pricing allows Hosting Small Retail Broker Distributors the freedom to charge or not charge External Hosted Subscribers while also appropriately charging for a service provided to an External Hosted Subscriber that is benefitting from an infrastructure developed and supported by the Hosting Small Retail Broker Distributor. The Exchange notes that the current Small Retail Broker Program prevents the Hosting Small Retail Broker Distributor from packaging this waiver as part of their overall service to their External Hosted Subscribers (as External Hosted Subscribers would be billed directly under the existing Small Retail Broker Program)., Given that External Hosted Subscribers are smaller relative to other Small Retail Brokers currently participating in the Program, these costs associated with the Applicable Feeds are inherently prohibitive to the External Hosted Subscriber. Through this program, fees will not be a deterrent for Hosting Small Retail Brokers and External Hosted Subscribers to establish platforms that reach a wider scope of retail investors.

Furthermore, while this Program would be effectively limited to smaller firms in accordance with the proposed eligibility requirements, the Exchange does not believe that this limitation makes the fees inequitable or unfairly discriminatory. The Exchange notes that large broker-dealers and/or vendors that distribute the Exchange's data products to a sizeable number of investors benefit from the current fee structure, which includes lower subscriber fees and Enterprise licenses. Due to lower subscriber fees, distributors that provide the Applicable Feeds to more than the proposed capped amounts of Users permitted under either the Small Retail Broker Program or this Program already enjoy cost savings compared to competitor products. The Program, in addition to the existing Small Retail Broker Program, would therefore continue to ensure that small retail brokers that distribute top of book data to their retail investor customers could also benefit from reduced pricing, and would aid in increasing the competitiveness of the Exchange's data products for this key segment of the market.

Moreover, the Exchange does not believe that the proposed fees unfairly discriminate between Hosting Small Retail Brokers and External Hosted Subscribers. While the proposal provides additional benefits to External Hosted Subscribers that would not otherwise accrue to them under the current program, the Exchange notes that such benefits are designed only to make access to market data more accessible to smaller retail broker-dealers that either do not possess the financial and technological resources necessary to receive data as a Small Retail Broker, or simply choose not to commit such resources based on their business models. In turn, to continue to incentivize the provision of the Applicable Feeds by Hosting Small Retail Brokers, the Exchange has sought to

provide appropriate incentives to these brokers as well. Collectively, the fee structure provides benefits to both Hosting Small Retail Brokers and External Hosted Subscribers.

While External Hosted Subscribers would receive benefits they would not accrue under the current program, these are not benefits that today's Small Retail Brokers would choose to avail themselves of under the new fee structure, because it is highly unlikely that today's Small Retail Brokers would choose to instead become External Hosted Subscribers. The Exchange notes that today's Small Retail Brokers that qualify under the current program, have already committed significant capital in terms of time, technology, and finances towards building out and maintaining the technological infrastructure and staffing needed to receive and distribute the Applicable Feeds to their end users. To forego such financial and technological commitments simply to avail themselves of additional benefits afforded to External Hosted Subscribers under this proposal, would very likely require an existing Small Retail Broker to drastically change their current business model simply to avail themselves of the additional benefits provided to External Hosted Subscribers. Moreover, today's existing Small Retail Brokers are likely to be providing services to their subscribers other than the Additional Feeds, such as market access, order management systems, and other trading tools. To cease providing such a full suite of services – which required significant time and cost contributions – is unlikely and, again, would require a significant reversal in a Small Retail Broker's business model.

Rather, the Exchange believes that the more likely case is that the proposed fee structure will attract a new population of Small Retail Brokers who will seek to access the Applicable Feeds as Hosted External Subscribers, at a cost-effective price point,

thereby providing even more investors with access to top of book market data for U.S. equities. Another likely use case is that the proposed fee structure may incentivize more Small Retail Brokers to subscribe to the Applicable Feeds as External Hosted Subscribers and, as they build their own business models and attract subscribers of their own, eventually commit time and resources to building their own infrastructure to evolve into a Hosting Small Retail Broker.

Finally, the Exchange notes that nothing in the current proposal prevents an existing Small Retail Broker from choosing to instead subscribe to the Applicable Feeds as an External Hosted Subscriber. However, the Exchange does not believe that this makes the proposal unfairly discriminatory between Hosting Small Retail Brokers and External Hosted Subscribers, as broker-dealers are free operate their businesses however they may choose in response to a host of a reasons, only one of which are associated costs.

The Exchange believes that the proposed cap of 10,000 for the Cboe One Summary Data Feed and BYX Top Data Feed for this Program, as well as increasing this cap to 10,0000 for the Cboe One Summary Data Feed and BYX Top Data Feed for the Small Retail Broker Program is reasonable and not unfairly discriminatory as the Exchange believes it is in the best interest of all market participants to more broadly expand this in support of inclusion for more retail investors by participation in both programs by small retail brokers on a global scale.

Distribution Fee Waiver

The Exchange believes that the Distribution Fee Waivers for both the External Hosted Subscriber and the Hosting Small Retail Broker Distributor are reasonable as they

represent a significant cost reduction for the Hosting Small Retail Broker Distributor to provide a hosted solution for the External Hosted Subscriber, to ultimately provide the data to the External Hosted Subscriber's retail investors. While the existing fee structure does provide a benefit of a discounted waiver for Small Retail Brokers that externally distribute the data, these discounted Distribution Fees are still incurred by both the External Hosted Subscriber and the Hosting Small Retail Broker Distributor. In an attempt to alleviate these costs, and make this data more available to retail investors, the Exchange proposes to waive the Distribution Fees for both the Hosting Small Retail Broker Distributor and the External Hosted Subscriber. With this Program, the Exchange believes it will increase market accessibility and data to investors on a global scale. Exchange Hosted Subscribers may not have the infrastructure or technical capabilities to offer market data and/or execution services to its retail investors. Through waiving these fees for the External Hosted Subscriber, the Exchange hopes to reach a broader scale of retail investors globally. Further, as discussed above, the Exchange also believes it is appropriate and not unfairly discriminatory to limit this specific credit to the External Hosted Subscriber and the Hosting Small Retail Broker Distributor given the development and maintenance the Hosting Small Retail Broker Distributor acquires to provide this data to the External Hosted Subscriber's end users.

Data Consolidation Fee Waiver

The Exchange believes it is reasonable to not charge the External Hosted Subscriber the Data Consolidation Fee for Cboe One Summary Data for the duration of the time that they are eligible for this program. As previously discussed, the waiver of fees for the External Hosted Subscriber is intended to make this data more available to

retail investors. The Exchange also believes it is appropriate and not unfairly discriminatory to limit this specific credit to the External Hosted Subscriber because, as described above, the Exchange believes by alleviating some of the barriers to entry, that Exchange Hosted Subscribers are able to bring this data and execution services to their retail investors. Of further note, the Exchange believes it is reasonable to maintain this cost for the Hosting Small Retail Broker Distributor as the Hosting Small Retail Broker Distributor is the party receiving this data from the Exchange where it is consolidated for the benefit of the Hosting Small Retail Broker Distributor.

Fixed Cost of Non-Professional Users

The Exchange believes it is reasonable to set a fixed cost for Non-Professional Users fees for External Hosted Subscribers by charging a flat, fixed cost instead of charging per user to allow for additional savings. Under this structure, the External Hosted Subscriber shall still be responsible by paying the standard per User fee of a Professional Users under the Applicable Feed. The Exchange does not believe this is unfairly discriminatory as the program is based around making the Applicable Feeds available for Non-Professional Users. The Exchange also notes that it has taken a similar approach here to the NYSE Per User Access Fee, which sets a fixed cost where the data is used only for display purposes.³⁰

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

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to

³⁰ See NYSE Proprietary Market Data Pricing Guide, April 1, 2025.

price these data products is constrained by: (i) Competition among exchanges that offer similar data products to their customers; and (ii) the existence of inexpensive real-time consolidated data disseminated by the SIPs. Top of book data is disseminated by both the SIPs and the sixteen equities exchanges. There are therefore a number of alternative products available to market participants and investors. In this competitive environment potential subscribers are free to choose which competing product to purchase to satisfy their need for market information. Often, the choice comes down to price, as broker-dealers or vendors look to purchase the cheapest top of book data product, or quality, as market participants seek to purchase data that represents significant market liquidity. In order to better compete for this segment of the market, the Exchange is proposing to reduce the cost of top of book data provided by Hosting Small Retail Broker Distributors to its External Hosted Subscribers, and in turn, their retail investors. The Exchange believes that this would facilitate greater access to such data, ultimately benefiting the retail investors that are provided access to such market data.

The Exchange also believes the proposed fee changes will better enable it to compete in the Asia Pacific region, which is an area of increasing interest and growth within the U.S. equities markets, generally. As the Asia Pacific investor base seeks access to the liquidity and efficient price discovery processes that exist in the U.S. equities markets, various broker-dealers have begun offering trading in this region, and exchanges have begun to contemplate 24-hour trading solutions designed to capture the increased demand from the Asia Pacific investor base.³¹ Naturally, U.S. equities market

³¹ See “Cboe Announces Plans to Launch 24x5 U.S. Equities Trading,” February 3, 2025, available at: <https://ir.cboe.com/news/news-details/2025/Cboe-Announces-Plans-to-Launch-24x5-U.S.-Equities-Trading-2025-NwujmKvsxb/default.aspx>, (“[Cboe] continue[s] to hear from market participants globally – particularly those in Asia Pacific markets like Hong Kong, Japan, Korea,

data will be in demand as Asia Pacific trading increases in the U.S. markets. Indeed, in formulating its current pricing, the Exchange has considered the growth in the Asia Pacific region and has sought to propose fees that would continue to appeal to the existing Small Retail Brokers in this region, and that would incentivize additional smaller retail broker-dealers in this region to subscribe to the Applicable Feeds as External Hosted Subscribers. In this regard, the Exchange believes its proposed fees will better enable it to compete in Asia Pacific, thereby offering competitively priced data products to more and more investors, at attractive price points.

The Exchange does not believe that this price reduction would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges and data vendors are free to lower their prices to better compete with the Exchange's offering. Indeed, as explained in the basis section of this proposed rule change, the Exchange's decision to (i) waive the Distribution Fee for the Hosting Small Retail Broker and the External Hosted Subscriber and (ii) waiving the Consolidation Fee (when applicable) for the External Hosted Subscriber and (iii) setting a fixed cost for the Non-Professional Users for the External Hosted Subscriber is itself a competitive response to different fee

Singapore and Australia – that they want greater access to U.S. equities trading and need trusted venues that can offer transparency, robust liquidity and efficient price discovery,” said Oliver Sung, Head of North American Equities at Cboe Global Markets. “As the world’s largest global exchange operator, Cboe is uniquely positioned to meet that demand. By leveraging our global infrastructure, leading-edge technology, and proven experience facilitating around-the-clock trading in global markets, we believe we can seamlessly support a 24x5 trading model for U.S. equities.”; see also “Nasdaq’s View: The Road to 24 Hour Trading,” June 16, 2025, available at: <https://www.nasdaq.com/newsroom/nasdaqs-view-road-24-hour-trading>; see also “The New York Stock Exchange Plans to Extend Weekday Trading on its NYSE Arca Equities Exchange to 22 Hours a Day,” October 25, 2024, available at: <https://ir.theice.com/press/news-details/2024/The-New-York-Stock-Exchange-Plans-to-Extend-Weekday-Trading-on-its-NYSE-Arca-Equities-Exchange-to-22-Hours-a-Day/default.aspx>; see also “Robinhood 24 Hour Market,” available at: <https://robinhood.com/us/en/support/articles/24hour-market/>.

structures available on competing markets. The Exchange therefore believes that the proposed rule change is pro-competitive as it seeks to offer pricing incentives to customers to better position the Exchange as it competes to attract additional market data subscribers. The Exchange also believes that the proposed reduction in fees the Hosting Small Retail Broker and the External Hosted Subscriber would not cause any unnecessary or inappropriate burden on intramarket competition. Although the proposed fee discount would be largely limited to small retail broker subscribers, larger broker-dealers and vendors can already purchase top of book data from the Exchange at prices that represent a significant cost savings when compared to competitor products that combine higher subscriber fees with lower fees for distribution. In light of the benefits already provided to this group of subscribers, the Exchange believes that additional discounts to small retail brokers would increase rather than decrease competition among broker-dealers that participate on the Exchange. Furthermore, as discussed earlier in this proposed rule change, the Exchange believes that offering pricing benefits to brokers that represent retail investors facilitates the Commission's mission of protecting ordinary investors, and is therefore consistent with the Act.

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

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

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act³² and paragraph (f) of Rule 19b-4³³ 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBYX-2025-027 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.

³² 15 U.S.C. 78s(b)(3)(A).

³³ 17 CFR 240.19b-4(f).

All submissions should refer to file number SR-CboeBYX-2025-027. 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 filing 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-CboeBYX-2025-027 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.³⁴

Sherry R. Haywood,

Assistant Secretary.

³⁴

17 CFR 200.30-3(a)(12).

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

* * * * *

Cboe U.S. Equities Fee Schedules**BYX Equities****Effective August 28[5], 2025**

* * * * *

Market Data Fees:**Definitions**

- A Distributor of an Exchange Market Data product is any entity that receives the Exchange Market Data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party.
- An Internal Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor's own entity.
- An External Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.
- An External Hosted Subscriber of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product from an External Distributor through a hosted display solution where the External Hosted Subscriber's Users are hosted by the External Distributor and data is distributed for display use only to one or more Users outside the External Hosted Subscriber's own entity.

* * * * *

BYX Top:**Internal Distribution**

Distribution Fee	\$500/month
Professional User Fee	\$0/month
Non-Professional User Fee	\$0/month

External Distribution

Distribution Fee ^{5,7}	\$250/month ^{1,6}
Professional User Fee ²	\$1.00/month
Non-Professional User Fee ^{2,7}	\$0.025/month
Enterprise Fee ³	\$10,000/month
Digital Media Enterprise Fee ⁴	\$2,500/month

Subscribers to BYX Top may also receive, upon request and at no additional charge, access to the BYX Last Sale (as described in Rule 11.22(g)).

* * * * *

⁵ Small Retail Broker Distribution Program. The Distribution Fee for BYX Top is \$250/month for External Distributors that meet the following criteria:

- Distributor is a broker-dealer distributing BYX Top Data to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship.
- At least 90% of the Distributor's total subscriber population must consist of Non-Professional subscribers, inclusive of any subscribers not receiving BYX Top Data.
- Distributor distributes BYX Top Data to no more than [5,000]10,000 Non-Professional Data Users.

⁶ New Uncontrolled External Distributor Fee Waiver. New Uncontrolled External Distributors of the BYX Top Feed will not be charged an External Distributor Fee for BYX Top Depth until such time they enlist one or more Users to receive the BYX Top Feed. To be eligible for the fee waiver, a new Uncontrolled External Distributor must not have received the BYX Top Feed within the last 18 months.

⁷ Small Retail Broker Hosted Solution Program: If an External Distributor meets the eligibility requirements below and it distributes BYX Top Data to an External Hosted Subscriber that also meets the criteria as set forth below, the \$250/month Distribution Fee is waived once the first External Hosted Subscriber is subscribed. This waiver shall be applied so long as the External Distributor maintains at least one External Hosted Subscriber.

Additionally, if an External Hosted Subscriber meets the below criteria, they shall also receive a waiver of the \$250/month Distribution Fee and, in lieu of paying the Non-Professional User fee of \$0.025/month for each user, the External Distributor shall be billed a fixed monthly cost of \$100. The External Distributor shall be billed separately for the External Hosted Subscriber's Professional User Fee monthly costs. Once an External Hosted Subscriber has more than 10,000 Non-Professional Data Users, it is no longer eligible to be considered an External Hosted Subscriber.

If an eligible External Distributor joins this program mid-month, its fees shall be prorated for the month based on the initial date of the subscription; however, the External Hosted Subscriber's fees shall not be prorated.

Eligibility Requirements for External Hosted Subscriber and External Distributor:

- Distributor is a broker-dealer distributing BYX Top Data to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship.
- At least 90% of the Distributor's total subscriber population must consist of Non-Professional subscribers, inclusive of any subscribers not receiving BYX Top Data.
- Distributor distributes BYX Top Data to no more than 10,000 Non-Professional Data Users.

* * * * *

Cboe One FeedSM:

Internal Distribution

	Cboe One Summary	Cboe One Premium
Distribution Fee	\$1,500/month	\$15,000/month
Professional User Fee	\$10.00/month	\$0/month
Non-Professional User Fee	\$0.25/month	\$0/month
Enterprise Fee ³	\$50,000/month	\$100,000/month

External Distribution^{4,7}

	Cboe One Summary ^{6,8}	Cboe One Premium
Distribution Fee	\$5,000/month ^{1,7}	\$12,500/month ^{1,7}

Professional User Fee ²	\$10/month	\$15/month
Non-Professional User Fee ²	\$0.25/month	\$0.50/month
Enterprise Fee ³	\$50,000/month	\$100,000/month
Digital Media Enterprise Fee ⁵	\$15,000/month	\$25,000/month

1 New External Distributor Credit. New External Distributors of the Cboe One Summary Feed will not be charged an External Distributor Fee for their first one (1) month in order to allow them to enlist new Users to receive the Cboe One Summary Feed. New External Distributors of the Cboe One Premium Feed will not be charged an External Distributor Fee for their first three (3) months in order to allow them to enlist new Users to receive the Cboe One Premium Feed.

2 Each External Distributor will be eligible to receive a credit against its monthly Distributor Fee for the Cboe One Feed equal to the amount of its monthly User Fees up to a maximum of the Distributor Fee for the Cboe One Feed.

3 As an alternative to User fees, a recipient firm may purchase a monthly Enterprise license to receive the Cboe One Feed from a Distributor for distribution to an unlimited number of Professional and Non-Professional Users. A recipient firm must pay a separate Enterprise Fee for each Distributor that controls the display of the Cboe One Feed if it wishes such User to be covered by the Enterprise Fee.

4 Data Consolidation Fee. \$1,000/month

5 As an alternative to User fees, a recipient firm may purchase a monthly Digital Media Enterprise license to receive the Cboe One Feed from an External Distributor for distribution to an unlimited number of Users for viewing via television, websites, and mobile devices for informational and non-trading purposes only.

6 Small Retail Broker Distribution Program. External Distributors of the Cboe One Summary Feed that meet the following criteria will be charged a Distribution Fee of \$3,500/month and a Data Consolidation Fee of \$350/month:

- Distributor is a broker-dealer distributing Cboe One Summary to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship.
- At least 90% of the Distributor's total subscriber population must consist of Non-Professional subscribers, inclusive of any subscribers not receiving Cboe One Summary Data.
- Distributor distributes Cboe One Summary Data to no more than 10,000[5,000] Non-Professional Data Users.

7 New Uncontrolled External Distributor Fee Waiver. New Uncontrolled External Distributors of the of the Cboe One Summary Feed or Cboe One Premium Feed will not be charged the (i) External Distribution Fee nor (ii) the Data Consolidation Fee, until such time they enlist one or more Users to receive the Cboe One Summary Feed or Cboe One Premium Feed as applicable. The fee waiver will apply to Cboe One Summary Feed and Cboe One Premium Feed separately. To be eligible for the fee waiver for the applicable feed(s) (Cboe One Summary and/or Cboe One Premium), the new Uncontrolled External Distributor must not have received the applicable data feed(s) for which it seeks a waiver within the last 18 months.

8 Small Retail Broker Hosted Solution Program: If an External Distributor meets the eligibility requirements below and it distributes Cboe One Summary Feed to an External Hosted Subscriber that also meets the criteria as set forth below, the \$3,500/month Distribution Fee is waived once the first External Hosted Subscriber is subscribed. This waiver shall be applied so long as the External Distributor maintains at least one External Hosted Subscriber.

Additionally, if an External Hosted Subscriber meets the below criteria, they shall also receive a waiver of the \$3,500/month Distribution Fee and the \$350/month Data Consolidation Fee and, in lieu of paying the Non-Professional User fee of \$0.25/month for each user, the External Distributor shall be billed a fixed monthly cost of \$850. The External Distributor shall be billed separately for the External Hosted Subscriber's Professional User Fee monthly costs. Once an External Hosted Subscriber has more than 10,000 Non-Professional Data Users, it is no longer eligible to be considered an External Hosted Subscriber.

If an eligible External Distributor joins this program mid-month, its fees shall be prorated for the month based on the initial date of the subscription; however, the External Hosted Subscriber's fees shall not be prorated.

Eligibility Requirements for External Hosted Subscriber and External Distributor:

- Distributor is a broker-dealer distributing Cboe One Summary to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship.
- At least 90% of the Distributor's total subscriber population must consist of Non-Professional subscribers, inclusive of any subscribers not receiving Cboe One Summary Data.
- Distributor distributes Cboe One Summary Data to no more than 10,000 Non-Professional Data Users.
