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

File No. * SR 2025 - * 128

Amendment No. (req. for Amendments *)

Filing by Cboe BZX Exchange, Inc.

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

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input checked="" type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input type="checkbox"/> 19b-4(f)(6)		
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Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

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

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

The Exchange proposes to amend its Fee Schedule.

Contact Information

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

First Name * Sarah Last Name * Williams

Title * Senior Counsel

E-mail * swilliams@cboe.com

Telephone * (224) 461-6793 Fax

Signature

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

Date 09/15/2025 (Title *)

By Laura G. Dickman (Name *) VP, Associate General Counsel

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

Laura Dickman Date: 2025.09.15
15:54:35 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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25-128 (BZX Sept Fees) 19b4 FINAL.

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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25-128 (BZX Sept Fees) Exhibit 1.doc

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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25-128 (BZX Sept Fees) Exhibit 5.doc

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 BZX Exchange, Inc. (the “Exchange” or “BZX”) proposes to amend its Fee Schedule to: amend the transaction fee for Customer orders in Penny Program securities that remove liquidity; append fee code PP to all Non-Customer orders (i.e., Firm, Broker Dealer (“BD”), Joint Back Office (“JBO”), Market Maker (“MM”), Away MM, and Professional orders) in Penny Program securities that remove liquidity and delete current fee code PD; amend the Customer Penny Add Volume Tier program, MM Penny Add Volume Tier program, and MM Non-Penny Add Volume Tier program; adopt a new Customer Penny Take Volume Tier program; and eliminate the MM, Away MM, and Professional Penny Take Volume Tier program, Away MM Penny Add Volume Tier program, Away MM Non-Penny Add Volume Tier program, Firm, BD, and JBO Non-Penny Add Volume Tier program, and Firm, BD, and JBO Penny Add Volume Tier program. 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 August 28, 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 Sarah Williams, (224) 461-6793, Cboe BZX Exchange, Inc., 433 West Van Buren Street, Chicago, Illinois 60607.

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

(a) Purpose

The Exchange proposes to amend its Fee Schedule.¹

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 18 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 16% of the market share.² Thus, in such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. In response to competitive pricing, the Exchange, like other options exchanges, offers rebates and assesses fees for certain order types executed on or routed through the Exchange.

The Exchange's Fee Schedule sets forth standard rebates and rates applied per contract. For example, the Exchange provides a rebate of \$0.29 per contract for MM

¹ The Exchange initially filed the proposed fee changes on September 2, 2025 (SR-CboeBZX-2025-124). On September 15, 2025, the Exchange withdrew that filing and submitted this filing.

² See Cboe Global Markets U.S. Options Monthly Market Volume Summary (August 27, 2025), available at https://markets.cboe.com/us/options/market_statistics/.

orders that add liquidity in Penny Securities, yielding fee code PM. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Fee Code Changes

The Exchange proposes to amend the transaction fee for Customer orders in Penny Program securities that remove liquidity. Currently, Customer orders in Penny Program securities that remove liquidity are assessed a standard transaction fee of \$0.45 and yield fee code PC. The Exchange now proposes to increase the fee for Customer orders in Penny Program securities that remove liquidity to \$0.48.³

Currently, fee code PP assesses a standard transaction fee of \$0.50 and is appended to MM/Away MM/Professional⁴ orders in Penny Program securities that remove liquidity. The Exchange proposes to append fee code PP to all Non-Customer orders (i.e., Firm, BD, JBO, MM, Away MM, and Professional orders) in Penny Program securities that remove liquidity; the fee code will continue to assess a standard transaction fee of \$0.50. Accordingly, the Exchange also proposes to delete fee code PD, which assesses a transaction fee of \$0.48 for Firm/BD/JBO orders in Penny Program securities

³ The Exchange proposes to amend fee code PC as set forth in the Fee Codes and Associated Fees table and in the Standard Rates table.

⁴ “Professional” applies to any order for the account of a Professional.

that remove liquidity,⁵ as under the proposed changes fee code PP will be appended to such orders.

Customer Penny Add Volume Tiers

The Exchange currently offers six Customer Penny Add Volume Tiers (“Customer Penny Add Tiers”) under footnote 1 of the Fee Schedule which provide rebates between \$0.35 and \$0.53 per contract for qualifying Customer orders which meet certain add liquidity thresholds and yield fee code PY.⁶ The Exchange proposes to update the Customer Penny Add Tiers by (1) amending the current rebate for Tiers 2 through 5 and the Customer Cross-Asset Add Tier, and (2) amending required criteria for Tiers 2 through 5 and the Customer Cross-Asset Add Tier.

The Exchange proposes to change the rebates for Tiers 2 through 5 and the Customer Cross-Asset Tier. Specifically, the Exchange proposes to amend the Tier 2 rebate from \$0.48 to \$0.47, the Tier 3 rebate from \$0.51 to \$0.49, the Tier 4 rebate from \$0.52 to \$0.50, the Tier 5 rebate from \$0.53 to \$0.52, and the Customer Cross-Asset Add Tier from \$0.52 to \$0.50.⁷ The rebate for Tier 1 remains unchanged.

The Exchange also proposes to amend the required criteria for Tiers 2 through 5, as well as the Customer Cross-Asset Add Tier. The required criteria for Tier 1 remains unchanged. Currently, to qualify for Tier 2, a Member must have an ADV⁸ \geq 0.40% of

⁵ The Exchange proposes to amend these fee codes as set forth in the Fee Codes and Associated Fees table and in the Standard Rates table. Further, the Exchange proposes to remove reference to fee code “PD” in footnote 5 of the Fee Schedule (Orders Submitted with a Designated Give Up).

⁶ Fee Code “PY” is appended to Customer Penny orders that add liquidity.

⁷ The Exchange proposes to amend these tier rebates as described in the table in Footnote 1 and amend the amounts of the rebates in the Standard Rates table.

⁸ “ADV” means average daily volume calculated as the number of contracts added or removed, combined, per day.

average OCV.⁹ The Exchange proposes to amend Tier 2 required criteria to state that a Member must have (1) an ADV $\geq 1.00\%$ of average OCV; or (2) an ADAV¹⁰ in Customer orders $\geq 0.30\%$ of average OCV. Currently, to qualify for Tier 3, a Member must have (1) an ADAV in Customer orders $\geq 0.50\%$ of average OCV; and (2) an ADAV in MM orders $\geq 2.75\%$ of average OCV. The Exchange proposes to amend Tier 3 required criteria to state that a Member must have (1) an ADAV in Customer orders $\geq 0.20\%$ of average OCV; and (2) an ADAV in MM orders $\geq 0.25\%$ of average OCV. Currently, to qualify for Tier 4, a Member must have an ADAV in Customer orders $\geq 1.30\%$ of average OCV. The Exchange proposes to amend Tier 4 to state that a Member must have an ADAV in Customer orders $\geq 1.00\%$ of average OCV. Currently, to qualify for Tier 5, a Member must have (1) an ADAV in Customer orders $\geq 2.00\%$ of average OCV; and (2) an ADAV in Customer Non-Penny orders $\geq 0.50\%$ of average OCV. The Exchange proposes to amend Tier 5 to state that a Member must have an ADAV in Customer orders $\geq 1.75\%$ of average OCV. Finally, currently, to qualify for the Customer Cross-Asset Add Tier, a Member must have (1) an ADAV in Customer orders $\geq 0.50\%$ of average OCV; and (2) on BZX Equities an ADAV $\geq 0.50\%$ of average TCV.¹¹ The

⁹ "OCC Customer Volume" or "OCV" means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation ("OCC") for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. Average OCV is the average daily OCV for the month (i.e., total OCV divided by the number of trading days in the month); for example, in a month with 20 trading days, if OCV is 1,040,000,000, the average OCV would be $1,040,000,000/20$, or 52,000,000.

¹⁰ "ADAV" means average daily added volume (in shares) calculated as the number of contracts added.

¹¹ "TCV" means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. Average TCV is the average daily TCV for the month (i.e., total TCV divided by the number of trading days in the month).

Exchange proposes to amend the Customer Cross-Asset Add Tier to state that a Member must have (1) an ADAV in Customer orders $\geq 0.50\%$ of average OCV; and (2) on BZX Equities an ADAV $\geq 0.35\%$ of average TCV, excluding sub-dollar securities.

MM Penny Add Volume Tiers

The Exchange currently offers six MM Penny Add Volume Tiers (“MM Penny Add Tiers”) under footnote 6 of the Fee Schedule, which provide rebates between \$0.31 and \$0.43 per contract for qualifying MM orders which meet certain add liquidity thresholds and yield fee code PM. The Exchange proposes to update the MM Penny Add Tiers by (1) eliminating MM Cross-Asset Tier 2, (2) amending required criteria for Tiers 2 through 4 and MM Cross-Asset Add Tier 1, (3) providing a separate rebate under the program for qualifying SPY orders, (4) amending the current rebate for Tiers 1 through 4 and MM Cross-Asset Add Tier 1, and (5) adopting a new Tier 5.

First, the Exchange proposes to eliminate MM Cross-Asset Tier 2¹² and amend the required criteria for Tiers 2 through 5, as well as MM Cross-Asset Add Tier 1.¹³ The required criteria for Tier 1 remain unchanged. Currently, to qualify for Tier 2, a Member must have an ADAV in MM orders $\geq 0.35\%$ of average OCV. The Exchange proposes to amend Tier 2 required criteria to state that a Member must have Member has an ADAV in MM orders $\geq 0.20\%$ of average OCV. Currently, to qualify for Tier 3, a Member must have an ADAV in MM orders $\geq 0.45\%$ of average OCV. The Exchange proposes to amend Tier 3 required criteria to state that a Member must have (1) an ADAV in MM

¹² The Exchange proposes to eliminate this tier as described in the table in Footnote 6 and eliminate the amount of the rebate in the Standard Rates table.

¹³ As part of the proposed changes, the Exchange proposes to rename “Market Maker Cross-Asset Add Tier 1” to “Market Maker Cross-Asset Add Tier.”

orders $\geq 0.15\%$ of average OCV; and (2) an ADRV¹⁴ in MM orders $\geq 0.75\%$ of average OCV. Currently, to qualify for Tier 4, a Member must have an ADAV in MM orders $\geq 0.65\%$ of average OCV. The Exchange proposes to amend Tier 4 to state that a Member must have an ADAV in MM orders $\geq 0.35\%$ of average OCV. Currently, to qualify for Market-Maker Cross-Asset Add Tier 1, a Member must have (1) an ADAV in MM orders in SPY, QQQ $\geq 0.20\%$ of average SPY, QQQ OCV; and (2) on BZX Equities have an ADAV $\geq 0.45\%$ of average TCV or an ADAV $\geq 45,000,000$; and (3) be the LMM on BZX Equities in at least 50 equity symbols. The Exchange proposes to amend MM Cross-Asset Add Tier 1 to state that a Member must have (1) an ADAV in MM orders $\geq 0.35\%$ of average OCV; and (2) on BZX Equities have an ADAV $\geq 0.40\%$ of average TCV, excluding sub-dollar securities.

Next, the Exchange proposes to amend the MM Penny Add Tiers to adopt separate rebates for qualifying MM orders in SPY which meet the add liquidity thresholds and yield fee code PM. Specifically, for qualifying MM orders in SPY which meet the applicable add liquidity thresholds and yield fee code PM, the Exchange proposes to adopt a per contract rebate of \$0.33 for Tier 1, \$0.36 for Tier 2, \$0.38 for Tier 3, \$0.42 for Tier 4 and \$0.43 for MM Cross-Asset Add Tier 1.¹⁵

The Exchange proposes to change the rebates for Tiers 1 through 4 and the MM Cross-Asset Tier 1, for qualifying MM orders (excluding SPY) which meet the add liquidity thresholds and yield fee code PM. Specifically, the Exchange proposes to amend the Tier 1 rebate from \$0.31 to \$0.32, the Tier 2 rebate from \$0.38 to \$0.35, the Tier 3

¹⁴ “ADRV” means average daily removed volume calculated as the number of contracts removed.

¹⁵ The Exchange also proposes to adopt two separate sections within the Standard Rates table for fee code PM (SPY) and fee code PM (excluding SPY), with applicable rebate amounts.

rebate from \$0.39 to \$0.38, the Tier 4 rebate from \$0.43 to \$0.41, and the MM Cross-Asset Add Tier rebate from \$0.38 to \$0.42.¹⁶

Finally, the Exchange proposes to amend the MM Penny Add Tiers to adopt Tier 5. To qualify for proposed MM Penny Add Tier 5, a Member must have an ADAV in MM orders $\geq 0.50\%$ of average OCV. The Exchange proposes to adopt a Tier 5 rebate of \$0.42 per contract for qualifying MM orders excluding SPY and \$0.45 per contract for qualifying MM orders in SPY.

MM Non-Penny Add Volume Tiers

The Exchange currently offers three MM Non-Penny Add Volume Tiers (“MM Non-Penny Add Tiers”) under footnote 7 of the Fee Schedule which provide rebates between \$0.45 and \$0.88 per contract for qualifying MM orders which meet certain add liquidity thresholds and yield fee code NM.¹⁷

First, the Exchange proposes to update the required criteria for MM Non-Penny Add Tier 1. Currently, to qualify for Tier 1, a Member must have an ADAV in MM orders $\geq 0.10\%$ of average OCV. The Exchange proposes to amend Tier 1 required criteria to state that a Member must have an ADAV in MM orders $\geq 0.20\%$ of average OCV.

The Exchange further proposes to update the MM Non-Penny Add Tiers by eliminating Tier 3, which provides for a rebate of \$0.88 per contract for qualifying MM

¹⁶ The Exchange also proposes to amend the amounts of the rebates for fee code PM (excluding SPY) in the Standard Rates table accordingly.

¹⁷ Fee Code “NM” is appended to MM Non-Penny orders that add liquidity.

orders where a Member (1) has an ADAV in MM orders $\geq 1.00\%$ of average OCV; and has an ADAV in MM Non-Penny orders of $\geq 0.10\%$ of average OCV.¹⁸

Firm, Broker Dealer, and Joint Back Office Penny Add Volume Tiers

The Exchange currently offers two Firm, BD, and JBO Penny Add Volume Tiers under footnote 2 of the Fee Schedule which provide rebates between \$0.38 and \$0.42 per contract for qualifying Customer orders which meet certain add liquidity thresholds and yield fee code PF.¹⁹ The Exchange proposes to delete the Firm, BD, and JBO Penny Add Volume Tiers currently set forth in footnote 2.²⁰

Customer Penny Take Volume Tier

The Exchange proposes to adopt a Customer Penny Take Volume Tier (“Customer Penny Take Tier”), applicable to qualifying Customer orders yielding fee code PC,²¹ to footnote 2 of the Fee Schedule. Under proposed Customer Penny Take Tier, the Exchange proposes to offer one tier, which provides a reduced fee of \$0.46 per contract for qualifying Customer orders yielding fee code PC where a Member has an ADV $\geq 1.00\%$ of average OCV.²²

¹⁸ The Exchange proposes to eliminate these tiers as described in the table in Footnote 7 and eliminate the amounts of the rebates in the Standard Rates table.

¹⁹ Fee code “PF” is appended to Firm/BD/JBO Penny orders that add liquidity.

²⁰ The Exchange proposes to eliminate these tiers as described in Footnote 2 and eliminate the rebates in the Standard Rates table. Further, the Exchange proposes to delete the reference to Footnote 2 appended to fee code PF within the Fee Codes and Associated Fees table.

²¹ Fee Code “PC” is appended to Customer Penny orders that remove liquidity.

²² The Exchange proposes to add the rebates for fee code PC in the Standard Rates table accordingly. Further, the Exchange proposes to append a reference to Footnote 2 to fee code PC within the Fee Codes and Associated Fees table.

MM, Away MM, and Professional Penny Take Volume Tiers

The Exchange currently offers three MM, Away MM, and Professional Penny Take Volume Tiers under footnote 3 of the Fee Schedule which provide reduced fees of between \$0.49 and \$0.47 per contract for qualifying MM, Away MM, and Professional orders which meet certain add/remove liquidity thresholds and yield fee code PP.²³ The Exchange proposes to delete the MM, Away MM, and Professional Penny Take Volume Tiers currently set forth in footnote 3.²⁴

Firm, Broker Dealer, and Joint Back Office Non-Penny Add Volume Tiers

The Exchange currently offers four Firm, BD, and JBO Non-Penny Add Volume Tiers under footnote 8 of the Fee Schedule which provide rebates of \$0.33 and \$0.82 per contract for qualifying Firm, BD, and JBO orders which meet certain add liquidity thresholds and yield fee code NF.²⁵ The Exchange proposes to eliminate these Away MM Penny Add Tiers.²⁶

Away MM Penny Add Volume Tier

The Exchange currently offers two Away MM Penny Add Volume Tiers (“Away MM Penny Add Tiers”) under footnote 10 of the Fee Schedule which provide rebates of \$0.38 and \$0.45 per contract (for Tiers 1 and 2 respectively) for qualifying Away MM

²³ Fee Code “PP” is appended to MM, Away MM and Professional Penny orders that remove liquidity.

²⁴ The Exchange proposes to eliminate these tiers as described in Footnote 3 and eliminate the amounts of the rebates in the Standard Rates table. Further, the Exchange proposes to delete the reference to Footnote 3 appended to fee code PP within the Fee Codes and Associated Fees table. The Exchange proposes to mark Footnote 3 as “Reserved.”

²⁵ Fee Code “NF” is appended to Firm/BD/JBO Non-Penny orders that add liquidity.

²⁶ The Exchange proposes to eliminate these tiers as described in Footnote 8 and eliminate the amounts of the rebates in the Standard Rates table. Further, the Exchange proposes to delete the reference to Footnote 8 appended to fee code NF within the Fee Codes and Associated Fees table. The Exchange proposes to mark Footnote 8 as “Reserved.”

orders which meet certain add liquidity thresholds and yield fee code PN.²⁷ The Exchange proposes to eliminate these Away MM Penny Add Tiers.²⁸

Away MM Non-Penny Add Volume Tier

The Exchange currently offers two Away MM Non-Penny Add Volume Tiers (“Away MM Non-Penny Add Tiers”) under footnote 11 of the Fee Schedule which provide rebates of \$0.40 and \$0.52 per contract (for Tiers 1 and 2 respectively) for qualifying Away MM orders which meet certain add liquidity thresholds and yield fee code NN.²⁹ The Exchange proposes to eliminate these Away MM Non-Penny Add Tiers.³⁰

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.³¹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³² requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles

²⁷ Fee Code “PN” is appended to Away MM Penny orders that add liquidity.

²⁸ The Exchange proposes to eliminate these tiers as described in Footnote 10 and eliminate the amounts of the rebates in the Standard Rates table. Further, the Exchange proposes to delete the reference to Footnote 10 appended to fee code PN within the Fee Codes and Associated Fees table. The Exchange proposes to mark Footnote 10 as “Reserved.”

²⁹ Fee Code “NN” is appended to Away MM Non-Penny orders that add liquidity.

³⁰ The Exchange proposes to eliminate these tiers as described in Footnote 11 and eliminate the amounts of the rebates in the Standard Rates table. Further, the Exchange proposes to delete the reference to Footnote 11 appended to fee code NN within the Fee Codes and Associated Fees table. The Exchange proposes to mark Footnote 11 as “Reserved.”

³¹ 15 U.S.C. 78f(b).

³² 15 U.S.C. 78f(b)(5).

of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³³ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,³⁴ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed changes to Exchange execution fees and rebates are intended to attract order flow to the Exchange by continuing to offer competitive pricing while also creating additional incentives to providing aggressively priced displayed liquidity, which the Exchange believes would enhance market quality to the benefit of all market participants.

Fee Code Changes

The Exchange believes its proposal to increase the standard transaction fee for Customer orders in Penny Program securities that remove liquidity from \$0.45 to \$0.48 per contract is reasonable because it is a modest increase and is still in line with (and in

³³ Id.

³⁴ 15 U.S.C. 78f(b)(4).

some instances lower than) fees assessed for similar transactions at other exchanges.³⁵

The Exchange believes the proposed change to the fee for Customer orders in Penny Program securities that remove liquidity is equitable and not unfairly discriminatory as it will apply to all Customer orders that remove liquidity in Penny classes (i.e., yield fee code PC). The Exchange also believes that it is equitable and not unfairly discriminatory to continue to assess lower fees to Customers as compared to other market participants because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts MMs. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The fees offered to Customers are intended to attract more Customer trading volume to the Exchange. Moreover, the options industry has a long history of providing preferential pricing to Customers, and the Exchange's current Fees Schedule currently does so in many places, as do the fees structures of many other exchanges.

The Exchange believes its proposal to append fee code PP to all Non-Customer orders in Penny Program securities that remove liquidity and to delete fee code PD is reasonable. As noted above, the standard transaction fee for fee code PP will continue to be \$0.50 per contract. The Exchange believes it is reasonable to assess \$0.50 per contract for Firm/BD/JBO orders (increased from \$0.48 per contract under current fee code PD) in

³⁵ See, e.g., NYSE Arca Options Fees and Charges, Trade-Related Charges for Standard Options, Transaction Fee for Electronic Executions – Per Contract, which provides for a standard transaction rate of \$0.49 per contract for Customer electronic executions in penny issues that take liquidity; see also The Nasdaq Stock Market, Options 7 Pricing Schedule, Section 2(1), which provides for fees of \$0.49 per contract for Customer orders in Penny Symbols that remove liquidity.

Penny Program securities that remove liquidity because it is a modest increase and is still in line with fees assessed for similar transactions at other exchanges.³⁶ The Exchange believes the proposed change is equitable and not unfairly discriminatory as it will apply to all Non-Customer orders, including Firm/BD/JBO orders, that remove liquidity in Penny classes (i.e., yield fee code PP).

Customer Penny Add Volume Tiers

The Exchange believes the proposal to update the Customer Penny Add Tiers by amending the current rebate for Tiers 2 through 5 and the Customer Cross-Asset Add Tier, and amending required criteria for Tiers 2 through 5 and the Customer Cross-Asset Add Tier is reasonable.

Specifically, the Exchange believes the proposed reduced rebates are reasonable because Members are still eligible to receive a rebate for meeting the corresponding criteria, albeit at a lower amount than before. The revised rebate structure features reduced rates that are counterbalanced by lower qualification thresholds. While, as proposed, the Customer Penny Add Tiers 2 through 5 and the Customer Cross-Asset Add Tier will provide lower rebates than that currently offered, the Exchange still believes that the changes are reasonable as the tiers, even as amended, will continue to incentivize Members to send additional Customer orders to the Exchange. Rebates that are designed to incentivize add activity may provide for deeper, more liquid markets and execution opportunities at improved prices, which ultimately offers additional cost savings,

³⁶ See, e.g., NYSE Arca Options Fees and Charges, Trade-Related Charges for Standard Options, Transaction Fee for Electronic Executions – Per Contract, which provides for a standard transaction rate of \$0.50 per contract for Firm and Broker Dealer electronic executions in penny issues that take liquidity; see also The Nasdaq Stock Market, Options 7 Pricing Schedule, Section 2(1), which provides for fees of \$0.50 per contract for Broker-Dealer and Firm orders in Penny Symbols that remove liquidity.

supports the quality of price discovery, promotes market transparency and improves market quality for all investors. Moreover, the Exchange is not required to maintain these tiers nor provide rebates. The Exchange believes the proposed changes to the rebates offered under these tiers still remain commensurate with the corresponding criteria under the respective tiers.

Further, the Exchange believes the proposed changes to the required criteria for Tiers 2 through 5 and the Customer Cross-Asset Add Tier are reasonable because they continue to provide opportunities for Members to receive higher rebates by providing for incrementally increasing volume-based criteria they can reach for. The proposed changes, in general, ease the requirement to achieve applicable tier threshold, which the Exchange believes will continue to serve as a reasonable means to encourage Members to increase their liquidity on the Exchange, particularly in connection with additional Customer order flow to the Exchange, to the benefit of investors.

The Exchange believes the proposed criteria remain commensurate with the corresponding enhanced rebates. The Exchange believes the revised criteria will continue to encourage Members to send additional Customer orders to the Exchange. Rebates that are designed to incentivize add volume order flow may increase transactions on the Exchange, which the Exchange believes incentivizes liquidity providers to submit additional liquidity and execution opportunities. As noted above, an overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality for all investors.

Finally, the Exchange believes the proposed changes to the Customer Penny Add Tiers are equitable and not unfairly discriminatory because they apply uniformly to all Members, who will have the opportunity to meet the tiers' criteria and receive the corresponding enhanced rebate for each tier if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed changes would definitely result in any Members qualifying for the proposed rebates. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on trading activity from the prior months, the Exchange anticipates that up to two Members could achieve Tier 2, up to two Members could achieve Tier 3, up to one Member could achieve Tier 4, up to 2 Members could achieve Tier 5, and up to one Member could achieve the Customer Cross-Asset Add Tier. Additionally, all Members are able to increase their Customer order flow to attempt to achieve these tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate.

The Exchange also believes that it is equitable and not unfairly discriminatory to apply the proposed changes to Customer order flow, as compared to other market participant order flow, because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts MMs. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The rebates offered to Customers are intended to attract more Customer trading volume to the Exchange.

MM Penny Add Volume Tiers

The Exchange believes its proposal to update the MM Penny Add Tiers by eliminating MM Cross-Asset Tier 2, providing a separate rebates under the program for qualifying SPY orders, amending required criteria for Tiers 2 through 4 and MM Cross-Asset Add Tier 1, amending the current rebate for Tiers 1 through 4 and MM Cross-Asset Add Tier 1, and adopting a new Tier 5 is reasonable, equitable, and not unfairly discriminatory.

The Exchange believes that it is reasonable and equitable to eliminate MM Cross-Asset Tier 2, because the Exchange is not required to maintain this tier or provide Members an opportunity to receive reduced fees or enhanced rebates. Two Members are currently satisfying the criteria under this tier, and the Exchange now wishes to consolidate this tiered pricing program and redirect resources and funding into other programs and tiers intended to incentivize increased order flow. Further, Members still have other opportunities to obtain reduced fees via the MM Penny Add Tiers 1 through 5 and the remaining MM Cross-Asset Tier, as amended.

The Exchange believes that eliminating MM Cross-Asset Tier 2 is equitable and not unfairly discriminatory because it applies uniformly to all Members, in that the tier will not be available for any Member. The Exchange also notes that the proposed change will not adversely impact any Member's ability to qualify for other rebate tiers. Further, the MM Penny Add Tiers 1 through 5 and the remaining MM Cross-Asset Tier, as amended, will continue to apply uniformly to all qualifying Members, in that all Members that submit the requisite order flow per each tier program have the opportunity to compete for and achieve the available tiers.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to adopt SPY-specific rebates for qualifying MM orders in SPY which meet the add liquidity thresholds and yield fee code PM. Specifically, the Exchange believes the proposed change is reasonable, as the Exchange already maintains product-specific pricing for other products, such as RUT.³⁷ Additionally, other exchanges similarly provide for SPY-specific pricing and rebate programs.³⁸ The Exchange believes the proposed amendment will also encourage market participants to increase Market-Maker SPY order flow to the Exchange, which benefits all market participants by providing additional trading opportunities. This, in turn, attracts increased large-order flow from liquidity providers which facilitates tighter spreads and potentially triggers a corresponding increase in order flow originating from other market participants. Additionally, the Exchange believes that it is equitable and not unfairly discriminatory to offer the proposed rebates to MMs as compared to other market participants, because MMs, unlike other market participants, take on a number of obligations, including quoting obligations, which other market participants do not have. Further, these rebates are intended to incentivize MMs to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants.

The Exchange believes its proposal to amend the current rebate for MM Penny Add Tiers 1 through 4 and MM Cross-Asset Add Tier 1, and amend required criteria for

³⁷ See BZX Options Exchange Fee Schedule, Fees Codes and Associated Fees.

³⁸ See e.g., MIAX Pearl Fee Schedule, Section 1 Transaction Rebates/Fees, which provides for a fee range of \$0.42 to \$0.46 per contract for priority customer SPY orders that remove liquidity, based on volume criteria; see also Nasdaq ISE Pricing Schedule, Section 3, Footnote 5, which provides for tiered rebates for market-maker SPY orders that add liquidity between \$0.10-\$0.26 per contract.

MM Penny Add Tiers 2 through 4 and MM Cross-Asset Add Tier 1 is reasonable, equitable, and not unfairly discriminatory. Specifically, the Exchange believes the proposed reduced rebates for Tiers 2, 3, and 4 are reasonable because Members are still eligible to receive a rebate for meeting the corresponding criteria, albeit at a lower amount than before. While, as proposed, the MM Penny Add Tiers 2, 3, and 4 will provide lower rebates than that currently offered, the Exchange still believes that the changes are reasonable as the tiers, even as amended, will continue to incentivize Members to send additional MM orders to the Exchange. Further, the Exchange notes that, in regards to Tiers 2 and 4, the reduced rebates are counterbalanced by lower qualification thresholds. Rebates that incentivize MM activity may provide for deeper, more liquid markets and execution opportunities at improved prices, which ultimately offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality for all investors. Moreover, the Exchange is not required to maintain these tiers nor provide rebates. The Exchange believes the proposed changes to the rebates offered under these tiers still remain commensurate with the corresponding criteria under the respective tiers.

The Exchange believes the increased rebate for MM Penny Add Tier 1 and MM Cross-Asset Add Tier 1 is reasonable, as such changes are designed to encourage Members to increase their liquidity on the Exchange and, in the case of MM Cross-Asset Add Tier 1, also their participation on BZX Equities to continue to achieve the rebate offered under MM Penny Add Tier 1 or MM Cross-Asset Tier 1. As noted above, increased MM activity facilitates tighter spreads and an increase in overall liquidity provider activity, both of which signal additional corresponding increase in order flow

from other market participants, contributing towards a robust, well-balanced market ecosystem. Indeed, increased overall order flow benefits investors across both the Exchange's options and equities platforms by continuing to deepen the Exchange's liquidity pool, potentially providing even greater execution incentives and opportunities, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Further, the Exchange believes the proposed changes to the required criteria for Tiers 2 through 5 and MM Cross-Asset Add Tier 1 are reasonable because they continue to provide opportunities for Members to receive higher rebates by providing for incrementally increasing volume-based criteria they can reach for. The proposed changes, in general, ease the requirement to achieve applicable tier threshold, which the Exchange believes will continue to serve as a reasonable means to encourage Members to increase their liquidity on the Exchange, particularly in connection with additional MM order flow to the Exchange, to the benefit of investors. The Exchange also believes the proposed change to add MM Penny Add Tier 5 is reasonable because it provides additional opportunities for Members to receive a rebate by providing alternative criteria for which they can reach.

The Exchange believes the proposed criteria remain commensurate with the corresponding enhanced rebates. The Exchange believes the revised criteria will continue to encourage Members to send additional MM orders to the Exchange. Greater add volume order flow may increase transactions on the Exchange, which the Exchange believes incentivizes liquidity providers to submit additional liquidity and execution

opportunities. An overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality for all investors.

Finally, the Exchange believes the proposed changes to the MM Penny Add Tiers are equitable and not unfairly discriminatory because they apply uniformly to all MMs, who will have the opportunity to meet the tiers' criteria and receive the corresponding enhanced rebate for each tier if such criteria is met. Further, the Exchange believes that it is equitable and not unfairly discriminatory to apply the proposed changes to MMs as compared to other market participants, because MMs, unlike other market participants, take on a number of obligations, including quoting obligations, which other market participants do not have. Further, these rebates are intended to incentivize MMs to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants.

Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed changes would definitely result in any Members qualifying for the proposed rebates. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on trading activity from the prior months, the Exchange anticipates that up to two Members could achieve Tier 2, up to two Members could achieve Tier 3, and up to one Member could achieve Tier 4. While the Exchange anticipates no Members will immediately achieve Tier 5 and the MM Cross-Asset Add Tier, the Exchange believes the proposed changes could incentivize MM to increase their order flow to attempt to

achieve these tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate.

MM Non-Penny Add Volume Tiers

The Exchange believes its proposal to update the required criteria for MM Non-Penny Add Volume Tier 1 is reasonable, equitable, and not unfairly discriminatory.

While the proposed criteria increases the requirement to achieve the Tier 1 rebate slightly, the Exchange still believes that the changes are reasonable as the tier, even as amended, will continue to incentivize Members to send additional MM orders to the Exchange. An overall increase in MM activity may provide for deeper, more liquid markets and execution opportunities at improved prices, which ultimately offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality for all investors. Moreover, the Exchange is not required to maintain these tiers nor provide rebates.

The Exchange believes that it is reasonable and equitable to eliminate MM Non-Penny Add Volume Tier 3, because the Exchange is not required to maintain these tiers or provide Members an opportunity to receive reduced fees or enhanced rebates. No Members are currently satisfying the criteria under this tier, and the Exchange wishes to consolidate this tiered pricing program and redirect resources and funding into other programs and tiers intended to incentivize increased order flow. Further, Members still have other opportunities to obtain reduced fees via the remaining MM Non-Penny Add Volume Tiers 1 (as amended) and 2.

The Exchange believes that eliminating MM Non-Penny Add Volume Tier 3 is equitable and not unfairly discriminatory because it applies uniformly to all MMs, in that,

such tiers will not be available for any MM. The Exchange also notes that the proposed change will not adversely impact any Member's pricing or their ability to qualify for other rebate tiers. Further, MM Non-Penny Add Volume Tiers 1 (as amended) and 2 will continue to apply uniformly to all qualifying Members, in that all Members that submit the requisite order flow per each tier program have the opportunity to compete for and achieve the available tiers. The Exchange also believes the proposed changes to MM Non-Penny Add Volume Tier 1 is equitable and not unfairly discriminatory because it applies uniformly to all MMs, who will have the opportunity to meet the tier's criteria and receive the corresponding enhanced rebate for the tier if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed changes would definitely result in any Members qualifying for the proposed rebate. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on trading activity from the prior months, the Exchange anticipates that up to three Members could qualify for this tier.

Customer Penny Take Volume Tier

The Exchange believes its proposal to adopt a Customer Penny Take Tier is reasonable, equitable, and not unfairly discriminatory. The Exchange believes the proposed Customer Penny Take Tier program is reasonable because it provides the opportunity for Members to receive a lesser fee by providing for increased volume-based criteria they can reach for, similar to programs at other options exchanges.³⁹ The

³⁹ See e.g., MIAX Pearl Fee Schedule, Section 1 Transaction Rebates/Fees, which provides for a fee range of \$0.48 to \$0.47 per contract for priority customer orders that remove liquidity, based on volume criteria.

Exchange believes the Customer Penny Take Tier program will serve as a reasonable means to encourage Members to increase their remove order volume on the Exchange, particularly in connection with additional Customer Order flow to the Exchange in order to benefit from the reduced transaction fee. The Exchange also notes that any overall increased liquidity that may result from the proposed tier incentives benefits all investors by offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Finally, the Exchange believes the proposed change to adopt a Customer Penny Take Tier program is equitable and not unfairly discriminatory because it applies uniformly to all Members, who will have the opportunity to meet the tier criteria and receive the corresponding enhanced rebate if such criteria is met. The Exchange also believes that it is equitable and not unfairly discriminatory to apply the proposed program to Customer order flow, as compared to other market participant order flow, because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts MMs. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The rebates offered to Customers under the proposed program are intended to attract more Customer trading volume to the Exchange.

Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed changes would definitely result in any Members qualifying for the proposed rebate. While the Exchange has no way of

predicting with certainty how the proposed changes will impact Member activity, based on trading activity from the prior months, the Exchange anticipates that up to four Members could achieve the tier criteria.

Firm, BD, and JBO Penny Add Volume Tiers; MM, Away MM, and Professional Penny Take Volume Tiers; Firm, BD, and JBO Non-Penny Add Volume Tiers; Away MM Penny Add Volume Tiers; and the Away MM Non-Penny Add Volume Tiers

The Exchange believes that it is reasonable and equitable to eliminate the Firm, BD, and JBO Penny Add Volume Tiers under footnote 2 of the Fee Schedule; the MM, Away MM, and Professional Penny Take Volume Tiers under footnote 3 of the Fee Schedule; the Firm, BD, and JBO Non-Penny Add Volume Tiers under footnote 8 of the Fee Schedule; the Away MM Penny Add Volume Tiers under footnote 10 of the Fee Schedule; and the Away MM Non-Penny Add Volume Tiers under footnote 11 of the Fee Schedule. The Exchange is not required to maintain these tiers or provide Members an opportunity to receive reduced fees or enhanced rebates. No Members are currently satisfying the criteria under the Firm, BD, and JBO Penny Add Volume Tiers; only one Member currently satisfies the criteria under the MM, Away MM, and Professional Penny Take Volume Tiers; three Members are currently satisfying the criteria under the Firm, BD, and JBO Non-Penny Add Volume Tiers; no Members are currently satisfying the criteria under the Away MM Penny Add Volume Tiers; and only one Member currently satisfies the criteria under the Away MM Non-Penny Add Volume Tiers. The Exchange wishes to consolidate its pricing program and redirect resources and funding into other programs and tiers intended to incentivize increased order flow.

The Exchange believes that eliminating the Firm, BD, and JBO Penny Add Volume Tiers; the MM, Away MM, and Professional Penny Take Volume Tiers; the

Firm, BD, and JBO Non-Penny Add Volume Tiers; the Away MM Penny Add Volume Tiers; and the Away MM Non-Penny Add Volume Tiers is equitable and not unfairly discriminatory because it applies uniformly to all Members, in that, such tiers will not be available for any Member. The Exchange also notes that the proposed change will not adversely impact any Member's ability to qualify for other rebate tiers.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed changes will impose any burden on intramarket competition. Particularly, the proposed change applies to all participants, as applicable. Specifically, the proposed change to amend the transaction fee for Customer orders in Penny Program securities that remove liquidity will apply to all Members equally, in that the new rate of \$0.48 per contract will automatically apply to all orders that yield fee code PC. Similarly, under the proposed change, fee code PP will be appended to all Non-Customer orders (i.e., Firm, BD, JBO, MM, Away MM, and Professional orders) in Penny Program securities that remove liquidity automatically and uniformly. As discussed above, while different fees are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances as discussed above. For example, preferential pricing to Customers is a long-standing options industry practice which serves to enhance Customer order flow, thereby attracting MMs to facilitate tighter spreads and trading opportunities to the benefit of all market participants.

Further, the proposed amendments to the MM Penny Add Volume Tiers and MM Non-Penny Add Volume Tiers apply uniformly to all MMs, in that all MMs have the opportunity to meet each of the respective program's tier's criteria and receive the corresponding enhanced rebate for the tier if such criteria are met. To the extent appointed MMs receive a benefit that other market participants do not, these Members in their role as MMs on the Exchange have different obligations and are held to different standards. For example, Market-Makers play a crucial role in providing active and liquid markets in their appointed products, thereby providing a robust market which benefits all market participants.

Similarly, the proposed amendments to the Customer Penny Add Volume Tiers and the new Customer Penny Take Volume Tier program apply uniformly to all Members, who will have the opportunity to meet each of the respective program's tier's criteria and receive the corresponding enhanced rebate for the tier if such criteria is met. As discussed above, Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts MMs. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The rebates offered to Customers under the programs are intended to attract more Customer trading volume to the Exchange.

For each of the incentive programs, all Members are able to increase their applicable order flow to attempt to achieve each of the program's respective tiers. Should

a Member not meet the criteria under a program, the Member will merely not receive that corresponding enhanced rebate.

Finally, the proposal to eliminate the MM, Away MM, and Professional Penny Take Volume Tier program, Away MM Penny Add Volume Tier program, Away MM Non-Penny Add Volume Tier program, Firm, BD, and JBO Non-Penny Add Volume Tier program, and Firm, BD, and JBO Penny Add Volume Tier program applies uniformly to all participants as applicable, in that, such tiers will not be available to any participants.

The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 17 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 16% of the market share.⁴⁰ Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS,

⁴⁰ See Cboe Global Markets U.S. Options Monthly Market Volume Summary (August 27, 2025), available at https://markets.cboe.com/us/options/market_statistics/.

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.”⁴¹ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ ... As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”⁴² Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

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

Item 6. Extension of Time Period for Commission Action

Not applicable.

⁴¹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

⁴² *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

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 Act⁴³ and Rule 19b-4(f)(2)⁴⁴ thereunder.

(b) The Exchange designates that the proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, which renders the proposed rule change effective upon filing with the Securities and Exchange Commission (the “Commission”). At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

(c) Not applicable.

(d) Not applicable.

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

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

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

Not applicable.

⁴³ 15 U.S.C. 78s(b)(3)(A).

⁴⁴ 17 CFR 240.19b-4(f)(2).

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

Not applicable.

Item 11. Exhibits

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

Exhibit 5. Proposed rule text.

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. SR-CboeBZX-2025-128]

[Insert date]

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on [insert date], Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) proposes to amend its Fee Schedule to: amend the transaction fee for Customer orders in Penny Program securities that remove liquidity; append fee code PP to all Non-Customer orders (i.e., Firm, Broker Dealer (“BD”), Joint Back Office (“JBO”), Market Maker (“MM”), Away MM, and Professional orders) in Penny Program securities that remove liquidity and delete current fee code PD; amend the Customer Penny Add Volume Tier program, MM Penny Add Volume Tier program, and MM Non-Penny Add Volume Tier program; adopt a new Customer Penny Take Volume Tier program; and eliminate the MM, Away MM, and

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Professional Penny Take Volume Tier program, Away MM Penny Add Volume Tier program, Away MM Non-Penny Add Volume Tier program, Firm, BD, and JBO Non-Penny Add Volume Tier program, and Firm, BD, and JBO Penny Add Volume Tier program. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

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 first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 18 options venues to which market participants may direct their order flow. Based on publicly available information, no single options

exchange has more than 16% of the market share.³ Thus, in such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. In response to competitive pricing, the Exchange, like other options exchanges, offers rebates and assesses fees for certain order types executed on or routed through the Exchange.

The Exchange's Fee Schedule sets forth standard rebates and rates applied per contract. For example, the Exchange provides a rebate of \$0.29 per contract for MM orders that add liquidity in Penny Securities, yielding fee code PM. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Fee Code Changes

The Exchange proposes to amend the transaction fee for Customer orders in Penny Program securities that remove liquidity. Currently, Customer orders in Penny

³ See Cboe Global Markets U.S. Options Monthly Market Volume Summary (August 27, 2025), available at https://markets.cboe.com/us/options/market_statistics/.

Program securities that remove liquidity are assessed a standard transaction fee of \$0.45 and yield fee code PC. The Exchange now proposes to increase the fee for Customer orders in Penny Program securities that remove liquidity to \$0.48.⁴

Currently, fee code PP assesses a standard transaction fee of \$0.50 and is appended to MM/Away MM/Professional⁵ orders in Penny Program securities that remove liquidity. The Exchange proposes to append fee code PP to all Non-Customer orders (i.e., Firm, BD, JBO, MM, Away MM, and Professional orders) in Penny Program securities that remove liquidity; the fee code will continue to assess a standard transaction fee of \$0.50. Accordingly, the Exchange also proposes to delete fee code PD, which assesses a transaction fee of \$0.48 for Firm/BD/JBO orders in Penny Program securities that remove liquidity,⁶ as under the proposed changes fee code PP will be appended to such orders.

Customer Penny Add Volume Tiers

The Exchange currently offers six Customer Penny Add Volume Tiers (“Customer Penny Add Tiers”) under footnote 1 of the Fee Schedule which provide rebates between \$0.35 and \$0.53 per contract for qualifying Customer orders which meet certain add liquidity thresholds and yield fee code PY.⁷ The Exchange proposes to update the Customer Penny Add Tiers by (1) amending the current rebate for Tiers 2 through 5

⁴ The Exchange proposes to amend fee code PC as set forth in the Fee Codes and Associated Fees table and in the Standard Rates table.

⁵ “Professional” applies to any order for the account of a Professional.

⁶ The Exchange proposes to amend these fee codes as set forth in the Fee Codes and Associated Fees table and in the Standard Rates table. Further, the Exchange proposes to remove reference to fee code “PD” in footnote 5 of the Fee Schedule (Orders Submitted with a Designated Give Up).

⁷ Fee Code “PY” is appended to Customer Penny orders that add liquidity.

and the Customer Cross-Asset Add Tier, and (2) amending required criteria for Tiers 2 through 5 and the Customer Cross-Asset Add Tier.

The Exchange proposes to change the rebates for Tiers 2 through 5 and the Customer Cross-Asset Tier. Specifically, the Exchange proposes to amend the Tier 2 rebate from \$0.48 to \$0.47, the Tier 3 rebate from \$0.51 to \$0.49, the Tier 4 rebate from \$0.52 to \$0.50, the Tier 5 rebate from \$0.53 to \$0.52, and the Customer Cross-Asset Add Tier from \$0.52 to \$0.50.⁸ The rebate for Tier 1 remains unchanged.

The Exchange also proposes to amend the required criteria for Tiers 2 through 5, as well as the Customer Cross-Asset Add Tier. The required criteria for Tier 1 remains unchanged. Currently, to qualify for Tier 2, a Member must have an ADV⁹ \geq 0.40% of average OCV.¹⁰ The Exchange proposes to amend Tier 2 required criteria to state that a Member must have (1) an ADV \geq 1.00% of average OCV; or (2) an ADAV¹¹ in Customer orders \geq 0.30% of average OCV. Currently, to qualify for Tier 3, a Member must have (1) an ADAV in Customer orders \geq 0.50% of average OCV; and (2) an ADAV in MM orders \geq 2.75% of average OCV. The Exchange proposes to amend Tier 3 required criteria to state that a Member must have (1) an ADAV in Customer orders \geq

⁸ The Exchange proposes to amend these tier rebates as described in the table in Footnote 1 and amend the amounts of the rebates in the Standard Rates table.

⁹ "ADV" means average daily volume calculated as the number of contracts added or removed, combined, per day.

¹⁰ "OCC Customer Volume" or "OCV" means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation ("OCC") for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. Average OCV is the average daily OCV for the month (i.e., total OCV divided by the number of trading days in the month); for example, in a month with 20 trading days, if OCV is 1,040,000,000, the average OCV would be 1,040,000,000/20, or 52,000,000.

¹¹ "ADAV" means average daily added volume (in shares) calculated as the number of contracts added.

0.20% of average OCV; and (2) an ADAV in MM orders \geq 0.25% of average OCV.

Currently, to qualify for Tier 4, a Member must have an ADAV in Customer orders \geq 1.30% of average OCV. The Exchange proposes to amend Tier 4 to state that a Member must have an ADAV in Customer orders \geq 1.00% of average OCV. Currently, to qualify for Tier 5, a Member must have (1) an ADAV in Customer orders \geq 2.00% of average OCV; and (2) an ADAV in Customer Non-Penny orders \geq 0.50% of average OCV. The Exchange proposes to amend Tier 5 to state that a Member must have an ADAV in Customer orders \geq 1.75% of average OCV. Finally, currently, to qualify for the Customer Cross-Asset Add Tier, a Member must have (1) an ADAV in Customer orders \geq 0.50% of average OCV; and (2) on BZX Equities an ADAV \geq 0.50% of average TCV.¹² The Exchange proposes to amend the Customer Cross-Asset Add Tier to state that a Member must have (1) an ADAV in Customer orders \geq 0.50% of average OCV; and (2) on BZX Equities an ADAV \geq 0.35% of average TCV, excluding sub-dollar securities.

MM Penny Add Volume Tiers

The Exchange currently offers six MM Penny Add Volume Tiers (“MM Penny Add Tiers”) under footnote 6 of the Fee Schedule, which provide rebates between \$0.31 and \$0.43 per contract for qualifying MM orders which meet certain add liquidity thresholds and yield fee code PM. The Exchange proposes to update the MM Penny Add Tiers by (1) eliminating MM Cross-Asset Tier 2, (2) amending required criteria for Tiers 2 through 4 and MM Cross-Asset Add Tier 1, (3) providing a separate rebate under the

¹² "TCV" means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. Average TCV is the average daily TCV for the month (i.e., total TCV divided by the number of trading days in the month).

program for qualifying SPY orders, (4) amending the current rebate for Tiers 1 through 4 and MM Cross-Asset Add Tier 1, and (5) adopting a new Tier 5.

First, the Exchange proposes to eliminate MM Cross-Asset Tier 2¹³ and amend the required criteria for Tiers 2 through 5, as well as MM Cross-Asset Add Tier 1.¹⁴ The required criteria for Tier 1 remain unchanged. Currently, to qualify for Tier 2, a Member must have an ADAV in MM orders $\geq 0.35\%$ of average OCV. The Exchange proposes to amend Tier 2 required criteria to state that a Member must have Member has an ADAV in MM orders $\geq 0.20\%$ of average OCV. Currently, to qualify for Tier 3, a Member must have an ADAV in MM orders $\geq 0.45\%$ of average OCV. The Exchange proposes to amend Tier 3 required criteria to state that a Member must have (1) an ADAV in MM orders $\geq 0.15\%$ of average OCV; and (2) an ADRV¹⁵ in MM orders $\geq 0.75\%$ of average OCV. Currently, to qualify for Tier 4, a Member must have an ADAV in MM orders $\geq 0.65\%$ of average OCV. The Exchange proposes to amend Tier 4 to state that a Member must have an ADAV in MM orders $\geq 0.35\%$ of average OCV. Currently, to qualify for Market-Maker Cross-Asset Add Tier 1, a Member must have (1) an ADAV in MM orders in SPY, QQQ $\geq 0.20\%$ of average SPY, QQQ OCV; and (2) on BZX Equities have an ADAV $\geq 0.45\%$ of average TCV or an ADAV $\geq 45,000,000$; and (3) be the LMM on BZX Equities in at least 50 equity symbols. The Exchange proposes to amend MM Cross-Asset Add Tier 1 to state that a Member must have (1) an ADAV in MM

¹³ The Exchange proposes to eliminate this tier as described in the table in Footnote 6 and eliminate the amount of the rebate in the Standard Rates table.

¹⁴ As part of the proposed changes, the Exchange proposes to rename “Market Maker Cross-Asset Add Tier 1” to “Market Maker Cross-Asset Add Tier.”

¹⁵ “ADRV” means average daily removed volume calculated as the number of contracts removed.

orders $\geq 0.35\%$ of average OCV; and (2) on BZX Equities have an ADAV $\geq 0.40\%$ of average TCV, excluding sub-dollar securities.

Next, the Exchange proposes to amend the MM Penny Add Tiers to adopt separate rebates for qualifying MM orders in SPY which meet the add liquidity thresholds and yield fee code PM. Specifically, for qualifying MM orders in SPY which meet the applicable add liquidity thresholds and yield fee code PM, the Exchange proposes to adopt a per contract rebate of \$0.33 for Tier 1, \$0.36 for Tier 2, \$0.38 for Tier 3, \$0.42 for Tier 4 and \$0.43 for MM Cross-Asset Add Tier 1.¹⁶

The Exchange proposes to change the rebates for Tiers 1 through 4 and the MM Cross-Asset Tier 1, for qualifying MM orders (excluding SPY) which meet the add liquidity thresholds and yield fee code PM. Specifically, the Exchange proposes to amend the Tier 1 rebate from \$0.31 to \$0.32, the Tier 2 rebate from \$0.38 to \$0.35, the Tier 3 rebate from \$0.39 to \$0.38, the Tier 4 rebate from \$0.43 to \$0.41, and the MM Cross-Asset Add Tier rebate from \$0.38 to \$0.42.¹⁷

Finally, the Exchange proposes to amend the MM Penny Add Tiers to adopt Tier 5. To qualify for proposed MM Penny Add Tier 5, a Member must have an ADAV in MM orders $\geq 0.50\%$ of average OCV. The Exchange proposes to adopt a Tier 5 rebate of \$0.42 per contract for qualifying MM orders excluding SPY and \$0.45 per contract for qualifying MM orders in SPY.

MM Non-Penny Add Volume Tiers

¹⁶ The Exchange also proposes to adopt two separate sections within the Standard Rates table for fee code PM (SPY) and fee code PM (excluding SPY), with applicable rebate amounts.

¹⁷ The Exchange also proposes to amend the amounts of the rebates for fee code PM (excluding SPY) in the Standard Rates table accordingly.

The Exchange currently offers three MM Non-Penny Add Volume Tiers (“MM Non-Penny Add Tiers”) under footnote 7 of the Fee Schedule which provide rebates between \$0.45 and \$0.88 per contract for qualifying MM orders which meet certain add liquidity thresholds and yield fee code NM.¹⁸

First, the Exchange proposes to update the required criteria for MM Non-Penny Add Tier 1. Currently, to qualify for Tier 1, a Member must have an ADAV in MM orders $\geq 0.10\%$ of average OCV. The Exchange proposes to amend Tier 1 required criteria to state that a Member must have an ADAV in MM orders $\geq 0.20\%$ of average OCV.

The Exchange further proposes to update the MM Non-Penny Add Tiers by eliminating Tier 3, which provides for a rebate of \$0.88 per contract for qualifying MM orders where a Member (1) has an ADAV in MM orders $\geq 1.00\%$ of average OCV; and has an ADAV in MM Non-Penny orders of $\geq 0.10\%$ of average OCV.¹⁹

Firm, Broker Dealer, and Joint Back Office Penny Add Volume Tiers

The Exchange currently offers two Firm, BD, and JBO Penny Add Volume Tiers under footnote 2 of the Fee Schedule which provide rebates between \$0.38 and \$0.42 per contract for qualifying Customer orders which meet certain add liquidity thresholds and yield fee code PF.²⁰ The Exchange proposes to delete the Firm, BD, and JBO Penny Add Volume Tiers currently set forth in footnote 2.²¹

¹⁸ Fee Code “NM” is appended to MM Non-Penny orders that add liquidity.

¹⁹ The Exchange proposes to eliminate these tiers as described in the table in Footnote 7 and eliminate the amounts of the rebates in the Standard Rates table.

²⁰ Fee code “PF” is appended to Firm/BD/JBO Penny orders that add liquidity.

²¹ The Exchange proposes to eliminate these tiers as described in Footnote 2 and eliminate the rebates in the Standard Rates table. Further, the Exchange proposes to delete the reference to Footnote 2 appended to fee code PF within the Fee Codes and Associated Fees table.

Customer Penny Take Volume Tier

The Exchange proposes to adopt a Customer Penny Take Volume Tier (“Customer Penny Take Tier”), applicable to qualifying Customer orders yielding fee code PC,²² to footnote 2 of the Fee Schedule. Under proposed Customer Penny Take Tier, the Exchange proposes to offer one tier, which provides a reduced fee of \$0.46 per contract for qualifying Customer orders yielding fee code PC where a Member has an $ADV \geq 1.00\%$ of average OCV.²³

MM, Away MM, and Professional Penny Take Volume Tiers

The Exchange currently offers three MM, Away MM, and Professional Penny Take Volume Tiers under footnote 3 of the Fee Schedule which provide reduced fees of between \$0.49 and \$0.47 per contract for qualifying MM, Away MM, and Professional orders which meet certain add/remove liquidity thresholds and yield fee code PP.²⁴ The Exchange proposes to delete the MM, Away MM, and Professional Penny Take Volume Tiers currently set forth in footnote 3.²⁵

Firm, Broker Dealer, and Joint Back Office Non-Penny Add Volume Tiers

The Exchange currently offers four Firm, BD, and JBO Non-Penny Add Volume Tiers under footnote 8 of the Fee Schedule which provide rebates of \$0.33 and \$0.82 per

²² Fee Code “PC” is appended to Customer Penny orders that remove liquidity.

²³ The Exchange proposes to add the rebates for fee code PC in the Standard Rates table accordingly. Further, the Exchange proposes to append a reference to Footnote 2 to fee code PC within the Fee Codes and Associated Fees table.

²⁴ Fee Code “PP” is appended to MM, Away MM and Professional Penny orders that remove liquidity.

²⁵ The Exchange proposes to eliminate these tiers as described in Footnote 3 and eliminate the amounts of the rebates in the Standard Rates table. Further, the Exchange proposes to delete the reference to Footnote 3 appended to fee code PP within the Fee Codes and Associated Fees table. The Exchange proposes to mark Footnote 3 as “Reserved.”

contract for qualifying Firm, BD, and JBO orders which meet certain add liquidity thresholds and yield fee code NF.²⁶ The Exchange proposes to eliminate these Away MM Penny Add Tiers.²⁷

Away MM Penny Add Volume Tier

The Exchange currently offers two Away MM Penny Add Volume Tiers (“Away MM Penny Add Tiers”) under footnote 10 of the Fee Schedule which provide rebates of \$0.38 and \$0.45 per contract (for Tiers 1 and 2 respectively) for qualifying Away MM orders which meet certain add liquidity thresholds and yield fee code PN.²⁸ The Exchange proposes to eliminate these Away MM Penny Add Tiers.²⁹

Away MM Non-Penny Add Volume Tier

The Exchange currently offers two Away MM Non-Penny Add Volume Tiers (“Away MM Non-Penny Add Tiers”) under footnote 11 of the Fee Schedule which provide rebates of \$0.40 and \$0.52 per contract (for Tiers 1 and 2 respectively) for qualifying Away MM orders which meet certain add liquidity thresholds and yield fee code NN.³⁰ The Exchange proposes to eliminate these Away MM Non-Penny Add Tiers.³¹

²⁶ Fee Code “NF” is appended to Firm/BD/JBO Non-Penny orders that add liquidity.

²⁷ The Exchange proposes to eliminate these tiers as described in Footnote 8 and eliminate the amounts of the rebates in the Standard Rates table. Further, the Exchange proposes to delete the reference to Footnote 8 appended to fee code NF within the Fee Codes and Associated Fees table. The Exchange proposes to mark Footnote 8 as “Reserved.”

²⁸ Fee Code “PN” is appended to Away MM Penny orders that add liquidity.

²⁹ The Exchange proposes to eliminate these tiers as described in Footnote 10 and eliminate the amounts of the rebates in the Standard Rates table. Further, the Exchange proposes to delete the reference to Footnote 10 appended to fee code PN within the Fee Codes and Associated Fees table. The Exchange proposes to mark Footnote 10 as “Reserved.”

³⁰ Fee Code “NN” is appended to Away MM Non-Penny orders that add liquidity.

³¹ The Exchange proposes to eliminate these tiers as described in Footnote 11 and eliminate the amounts of the rebates in the Standard Rates table. Further, the Exchange proposes to delete the reference to Footnote 11 appended to fee code NN within the Fee Codes and Associated Fees

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.³² Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³³ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³⁴ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,³⁵ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

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

table. The Exchange proposes to mark Footnote 11 as “Reserved.”

³² 15 U.S.C. 78f(b).

³³ 15 U.S.C. 78f(b)(5).

³⁴ Id.

³⁵ 15 U.S.C. 78f(b)(4).

fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed changes to Exchange execution fees and rebates are intended to attract order flow to the Exchange by continuing to offer competitive pricing while also creating additional incentives to providing aggressively priced displayed liquidity, which the Exchange believes would enhance market quality to the benefit of all market participants.

Fee Code Changes

The Exchange believes its proposal to increase the standard transaction fee for Customer orders in Penny Program securities that remove liquidity from \$0.45 to \$0.48 per contract is reasonable because it is a modest increase and is still in line with (and in some instances lower than) fees assessed for similar transactions at other exchanges.³⁶ The Exchange believes the proposed change to the fee for Customer orders in Penny Program securities that remove liquidity is equitable and not unfairly discriminatory as it will apply to all Customer orders that remove liquidity in Penny classes (i.e., yield fee code PC). The Exchange also believes that it is equitable and not unfairly discriminatory to continue to assess lower fees to Customers as compared to other market participants because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts MMs. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The fees offered to Customers are

³⁶ See, e.g., NYSE Arca Options Fees and Charges, Trade-Related Charges for Standard Options, Transaction Fee for Electronic Executions – Per Contract, which provides for a standard transaction rate of \$0.49 per contract for Customer electronic executions in penny issues that take liquidity; see also The Nasdaq Stock Market, Options 7 Pricing Schedule, Section 2(1), which provides for fees of \$0.49 per contract for Customer orders in Penny Symbols that remove liquidity.

intended to attract more Customer trading volume to the Exchange. Moreover, the options industry has a long history of providing preferential pricing to Customers, and the Exchange's current Fees Schedule currently does so in many places, as do the fees structures of many other exchanges.

The Exchange believes its proposal to append fee code PP to all Non-Customer orders in Penny Program securities that remove liquidity and to delete fee code PD is reasonable. As noted above, the standard transaction fee for fee code PP will continue to be \$0.50 per contract. The Exchange believes it is reasonable to assess \$0.50 per contract for Firm/BD/JBO orders (increased from \$0.48 per contract under current fee code PD) in Penny Program securities that remove liquidity because it is a modest increase and is still in line with fees assessed for similar transactions at other exchanges.³⁷ The Exchange believes the proposed change is equitable and not unfairly discriminatory as it will apply to all Non-Customer orders, including Firm/BD/JBO orders, that remove liquidity in Penny classes (i.e., yield fee code PP).

Customer Penny Add Volume Tiers

The Exchange believes the proposal to update the Customer Penny Add Tiers by amending the current rebate for Tiers 2 through 5 and the Customer Cross-Asset Add Tier, and amending required criteria for Tiers 2 through 5 and the Customer Cross-Asset Add Tier is reasonable.

³⁷ See, e.g., NYSE Arca Options Fees and Charges, Trade-Related Charges for Standard Options, Transaction Fee for Electronic Executions – Per Contract, which provides for a standard transaction rate of \$0.50 per contract for Firm and Broker Dealer electronic executions in penny issues that take liquidity; see also The Nasdaq Stock Market, Options 7 Pricing Schedule, Section 2(1), which provides for fees of \$0.50 per contract for Broker-Dealer and Firm orders in Penny Symbols that remove liquidity.

Specifically, the Exchange believes the proposed reduced rebates are reasonable because Members are still eligible to receive a rebate for meeting the corresponding criteria, albeit at a lower amount than before. The revised rebate structure features reduced rates that are counterbalanced by lower qualification thresholds. While, as proposed, the Customer Penny Add Tiers 2 through 5 and the Customer Cross-Asset Add Tier will provide lower rebates than that currently offered, the Exchange still believes that the changes are reasonable as the tiers, even as amended, will continue to incentivize Members to send additional Customer orders to the Exchange. Rebates that are designed to incentivize add activity may provide for deeper, more liquid markets and execution opportunities at improved prices, which ultimately offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality for all investors. Moreover, the Exchange is not required to maintain these tiers nor provide rebates. The Exchange believes the proposed changes to the rebates offered under these tiers still remain commensurate with the corresponding criteria under the respective tiers.

Further, the Exchange believes the proposed changes to the required criteria for Tiers 2 through 5 and the Customer Cross-Asset Add Tier are reasonable because they continue to provide opportunities for Members to receive higher rebates by providing for incrementally increasing volume-based criteria they can reach for. The proposed changes, in general, ease the requirement to achieve applicable tier threshold, which the Exchange believes will continue to serve as a reasonable means to encourage Members to increase their liquidity on the Exchange, particularly in connection with additional Customer order flow to the Exchange, to the benefit of investors.

The Exchange believes the proposed criteria remain commensurate with the corresponding enhanced rebates. The Exchange believes the revised criteria will continue to encourage Members to send additional Customer orders to the Exchange. Rebates that are designed to incentivize add volume order flow may increase transactions on the Exchange, which the Exchange believes incentivizes liquidity providers to submit additional liquidity and execution opportunities. As noted above, an overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality for all investors.

Finally, the Exchange believes the proposed changes to the Customer Penny Add Tiers are equitable and not unfairly discriminatory because they apply uniformly to all Members, who will have the opportunity to meet the tiers' criteria and receive the corresponding enhanced rebate for each tier if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed changes would definitely result in any Members qualifying for the proposed rebates. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on trading activity from the prior months, the Exchange anticipates that up to two Members could achieve Tier 2, up to two Members could achieve Tier 3, up to one Member could achieve Tier 4, up to 2 Members could achieve Tier 5, and up to one Member could achieve the Customer Cross-Asset Add Tier. Additionally, all Members are able to increase their Customer order flow to attempt to achieve these tiers. Should a Member

not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate.

The Exchange also believes that it is equitable and not unfairly discriminatory to apply the proposed changes to Customer order flow, as compared to other market participant order flow, because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts MMs. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The rebates offered to Customers are intended to attract more Customer trading volume to the Exchange.

MM Penny Add Volume Tiers

The Exchange believes its proposal to update the MM Penny Add Tiers by eliminating MM Cross-Asset Tier 2, providing a separate rebates under the program for qualifying SPY orders, amending required criteria for Tiers 2 through 4 and MM Cross-Asset Add Tier 1, amending the current rebate for Tiers 1 through 4 and MM Cross-Asset Add Tier 1, and adopting a new Tier 5 is reasonable, equitable, and not unfairly discriminatory.

The Exchange believes that it is reasonable and equitable to eliminate MM Cross-Asset Tier 2, because the Exchange is not required to maintain this tier or provide Members an opportunity to receive reduced fees or enhanced rebates. Two Members are currently satisfying the criteria under this tier, and the Exchange now wishes to consolidate this tiered pricing program and redirect resources and funding into other programs and tiers intended to incentivize increased order flow. Further, Members still

have other opportunities to obtain reduced fees via the MM Penny Add Tiers 1 through 5 and the remaining MM Cross-Asset Tier, as amended.

The Exchange believes that eliminating MM Cross-Asset Tier 2 is equitable and not unfairly discriminatory because it applies uniformly to all Members, in that the tier will not be available for any Member. The Exchange also notes that the proposed change will not adversely impact any Member's ability to qualify for other rebate tiers. Further, the MM Penny Add Tiers 1 through 5 and the remaining MM Cross-Asset Tier, as amended, will continue to apply uniformly to all qualifying Members, in that all Members that submit the requisite order flow per each tier program have the opportunity to compete for and achieve the available tiers.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to adopt SPY-specific rebates for qualifying MM orders in SPY which meet the add liquidity thresholds and yield fee code PM. Specifically, the Exchange believes the proposed change is reasonable, as the Exchange already maintains product-specific pricing for other products, such as RUT.³⁸ Additionally, other exchanges similarly provide for SPY-specific pricing and rebate programs.³⁹ The Exchange believes the proposed amendment will also encourage market participants to increase Market-Maker SPY order flow to the Exchange, which benefits all market participants by providing additional trading opportunities. This, in turn, attracts increased large-order flow from liquidity providers which facilitates tighter spreads and potentially triggers a

³⁸ See BZX Options Exchange Fee Schedule, Fees Codes and Associated Fees.

³⁹ See e.g., MIAX Pearl Fee Schedule, Section 1 Transaction Rebates/Fees, which provides for a fee range of \$0.42 to \$0.46 per contract for priority customer SPY orders that remove liquidity, based on volume criteria; see also Nasdaq ISE Pricing Schedule, Section 3, Footnote 5, which provides for tiered rebates for market-maker SPY orders that add liquidity between \$0.10-\$0.26 per contract.

corresponding increase in order flow originating from other market participants.

Additionally, the Exchange believes that it is equitable and not unfairly discriminatory to offer the proposed rebates to MMs as compared to other market participants, because MMs, unlike other market participants, take on a number of obligations, including quoting obligations, which other market participants do not have. Further, these rebates are intended to incentivize MMs to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants.

The Exchange believes its proposal to amend the current rebate for MM Penny Add Tiers 1 through 4 and MM Cross-Asset Add Tier 1, and amend required criteria for MM Penny Add Tiers 2 through 4 and MM Cross-Asset Add Tier 1 is reasonable, equitable, and not unfairly discriminatory. Specifically, the Exchange believes the proposed reduced rebates for Tiers 2, 3, and 4 are reasonable because Members are still eligible to receive a rebate for meeting the corresponding criteria, albeit at a lower amount than before. While, as proposed, the MM Penny Add Tiers 2, 3, and 4 will provide lower rebates than that currently offered, the Exchange still believes that the changes are reasonable as the tiers, even as amended, will continue to incentivize Members to send additional MM orders to the Exchange. Further, the Exchange notes that, in regards to Tiers 2 and 4, the reduced rebates are counterbalanced by lower qualification thresholds. Rebates that incentivize MM activity may provide for deeper, more liquid markets and execution opportunities at improved prices, which ultimately offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality for all investors. Moreover, the Exchange is not required to maintain these tiers nor provide rebates. The Exchange believes the

proposed changes to the rebates offered under these tiers still remain commensurate with the corresponding criteria under the respective tiers.

The Exchange believes the increased rebate for MM Penny Add Tier 1 and MM Cross-Asset Add Tier 1 is reasonable, as such changes are designed to encourage Members to increase their liquidity on the Exchange and, in the case of MM Cross-Asset Add Tier 1, also their participation on BZX Equities to continue to achieve the rebate offered under MM Penny Add Tier 1 or MM Cross-Asset Tier 1. As noted above, increased MM activity facilitates tighter spreads and an increase in overall liquidity provider activity, both of which signal additional corresponding increase in order flow from other market participants, contributing towards a robust, well-balanced market ecosystem. Indeed, increased overall order flow benefits investors across both the Exchange's options and equities platforms by continuing to deepen the Exchange's liquidity pool, potentially providing even greater execution incentives and opportunities, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Further, the Exchange believes the proposed changes to the required criteria for Tiers 2 through 5 and MM Cross-Asset Add Tier 1 are reasonable because they continue to provide opportunities for Members to receive higher rebates by providing for incrementally increasing volume-based criteria they can reach for. The proposed changes, in general, ease the requirement to achieve applicable tier threshold, which the Exchange believes will continue to serve as a reasonable means to encourage Members to increase their liquidity on the Exchange, particularly in connection with additional MM order flow

to the Exchange, to the benefit of investors. The Exchange also believes the proposed change to add MM Penny Add Tier 5 is reasonable because it provides additional opportunities for Members to receive a rebate by providing alternative criteria for which they can reach.

The Exchange believes the proposed criteria remain commensurate with the corresponding enhanced rebates. The Exchange believes the revised criteria will continue to encourage Members to send additional MM orders to the Exchange. Greater add volume order flow may increase transactions on the Exchange, which the Exchange believes incentivizes liquidity providers to submit additional liquidity and execution opportunities. An overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality for all investors.

Finally, the Exchange believes the proposed changes to the MM Penny Add Tiers are equitable and not unfairly discriminatory because they apply uniformly to all MMs, who will have the opportunity to meet the tiers' criteria and receive the corresponding enhanced rebate for each tier if such criteria is met. Further, the Exchange believes that it is equitable and not unfairly discriminatory to apply the proposed changes to MMs as compared to other market participants, because MMs, unlike other market participants, take on a number of obligations, including quoting obligations, which other market participants do not have. Further, these rebates are intended to incentivize MMs to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants.

Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed changes would definitely result in any Members qualifying for the proposed rebates. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on trading activity from the prior months, the Exchange anticipates that up to two Members could achieve Tier 2, up to two Members could achieve Tier 3, and up to one Member could achieve Tier 4. While the Exchange anticipates no Members will immediately achieve Tier 5 and the MM Cross-Asset Add Tier, the Exchange believes the proposed changes could incentivize MM to increase their order flow to attempt to achieve these tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate.

MM Non-Penny Add Volume Tiers

The Exchange believes its proposal to update the required criteria for MM Non-Penny Add Volume Tier 1 is reasonable, equitable, and not unfairly discriminatory. While the proposed criteria increases the requirement to achieve the Tier 1 rebate slightly, the Exchange still believes that the changes are reasonable as the tier, even as amended, will continue to incentivize Members to send additional MM orders to the Exchange. An overall increase in MM activity may provide for deeper, more liquid markets and execution opportunities at improved prices, which ultimately offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality for all investors. Moreover, the Exchange is not required to maintain these tiers nor provide rebates.

The Exchange believes that it is reasonable and equitable to eliminate MM Non-Penny Add Volume Tier 3, because the Exchange is not required to maintain these tiers or provide Members an opportunity to receive reduced fees or enhanced rebates. No Members are currently satisfying the criteria under this tier, and the Exchange wishes to consolidate this tiered pricing program and redirect resources and funding into other programs and tiers intended to incentivize increased order flow. Further, Members still have other opportunities to obtain reduced fees via the remaining MM Non-Penny Add Volume Tiers 1 (as amended) and 2.

The Exchange believes that eliminating MM Non-Penny Add Volume Tier 3 is equitable and not unfairly discriminatory because it applies uniformly to all MMs, in that, such tiers will not be available for any MM. The Exchange also notes that the proposed change will not adversely impact any Member's pricing or their ability to qualify for other rebate tiers. Further, MM Non-Penny Add Volume Tiers 1 (as amended) and 2 will continue to apply uniformly to all qualifying Members, in that all Members that submit the requisite order flow per each tier program have the opportunity to compete for and achieve the available tiers. The Exchange also believes the proposed changes to MM Non-Penny Add Volume Tier 1 is equitable and not unfairly discriminatory because it applies uniformly to all MMs, who will have the opportunity to meet the tier's criteria and receive the corresponding enhanced rebate for the tier if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed changes would definitely result in any Members qualifying for the proposed rebate. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on trading

activity from the prior months, the Exchange anticipates that up to three Members could qualify for this tier.

Customer Penny Take Volume Tier

The Exchange believes its proposal to adopt a Customer Penny Take Tier is reasonable, equitable, and not unfairly discriminatory. The Exchange believes the proposed Customer Penny Take Tier program is reasonable because it provides the opportunity for Members to receive a lesser fee by providing for increased volume-based criteria they can reach for, similar to programs at other options exchanges.⁴⁰ The Exchange believes the Customer Penny Take Tier program will serve as a reasonable means to encourage Members to increase their remove order volume on the Exchange, particularly in connection with additional Customer Order flow to the Exchange in order to benefit from the reduced transaction fee. The Exchange also notes that any overall increased liquidity that may result from the proposed tier incentives benefits all investors by offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Finally, the Exchange believes the proposed change to adopt a Customer Penny Take Tier program is equitable and not unfairly discriminatory because it applies uniformly to all Members, who will have the opportunity to meet the tier criteria and receive the corresponding enhanced rebate if such criteria is met. The Exchange also believes that it is equitable and not unfairly discriminatory to apply the proposed program to

⁴⁰ See e.g., MIAX Pearl Fee Schedule, Section 1 Transaction Rebates/Fees, which provides for a fee range of \$0.48 to \$0.47 per contract for priority customer orders that remove liquidity, based on volume criteria.

Customer order flow, as compared to other market participant order flow, because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants.

Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts MMs. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The rebates offered to Customers under the proposed program are intended to attract more Customer trading volume to the Exchange.

Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed changes would definitely result in any Members qualifying for the proposed rebate. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on trading activity from the prior months, the Exchange anticipates that up to four Members could achieve the tier criteria.

Firm, BD, and JBO Penny Add Volume Tiers; MM, Away MM, and Professional Penny Take Volume Tiers; Firm, BD, and JBO Non-Penny Add Volume Tiers; Away MM Penny Add Volume Tiers; and the Away MM Non-Penny Add Volume Tiers

The Exchange believes that it is reasonable and equitable to eliminate the Firm, BD, and JBO Penny Add Volume Tiers under footnote 2 of the Fee Schedule; the MM, Away MM, and Professional Penny Take Volume Tiers under footnote 3 of the Fee Schedule; the Firm, BD, and JBO Non-Penny Add Volume Tiers under footnote 8 of the Fee Schedule; the Away MM Penny Add Volume Tiers under footnote 10 of the Fee Schedule; and the Away MM Non-Penny Add Volume Tiers under footnote 11 of the Fee Schedule. The Exchange is not required to maintain these tiers or provide Members an opportunity to receive reduced fees or enhanced rebates. No Members are currently

satisfying the criteria under the Firm, BD, and JBO Penny Add Volume Tiers; only one Member currently satisfies the criteria under the MM, Away MM, and Professional Penny Take Volume Tiers; three Members are currently satisfying the criteria under the Firm, BD, and JBO Non-Penny Add Volume Tiers; no Members are currently satisfying the criteria under the Away MM Penny Add Volume Tiers; and only one Member currently satisfies the criteria under the Away MM Non-Penny Add Volume Tiers. The Exchange wishes to consolidate its pricing program and redirect resources and funding into other programs and tiers intended to incentivize increased order flow.

The Exchange believes that eliminating the Firm, BD, and JBO Penny Add Volume Tiers; the MM, Away MM, and Professional Penny Take Volume Tiers; the Firm, BD, and JBO Non-Penny Add Volume Tiers; the Away MM Penny Add Volume Tiers; and the Away MM Non-Penny Add Volume Tiers is equitable and not unfairly discriminatory because it applies uniformly to all Members, in that, such tiers will not be available for any Member. The Exchange also notes that the proposed change will not adversely impact any Member's ability to qualify for other rebate tiers.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed changes will impose any burden on intramarket competition. Particularly, the proposed change applies to all participants, as applicable. Specifically, the proposed change to amend the transaction fee for Customer orders in Penny Program securities that remove liquidity will apply to all Members equally, in that the new rate of \$0.48 per contract will automatically apply to all orders that yield fee code PC. Similarly, the under the proposed change, fee code PP will

be appended to all Non-Customer orders (i.e., Firm, BD, JBO, MM, Away MM, and Professional orders) in Penny Program securities that remove liquidity automatically and uniformly. As discussed above, while different fees are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances as discussed above. For example, preferential pricing to Customers is a long-standing options industry practice which serves to enhance Customer order flow, thereby attracting MMs to facilitate tighter spreads and trading opportunities to the benefit of all market participants.

Further, the proposed amendments to the MM Penny Add Volume Tiers and MM Non-Penny Add Volume Tiers apply uniformly to all MMs, in that all MMs have the opportunity to meet each of the respective program's tier's criteria and receive the corresponding enhanced rebate for the tier if such criteria are met. To the extent appointed MMs receive a benefit that other market participants do not, these Members in their role as MMs on the Exchange have different obligations and are held to different standards. For example, Market-Makers play a crucial role in providing active and liquid markets in their appointed products, thereby providing a robust market which benefits all market participants.

Similarly, the proposed amendments to the Customer Penny Add Volume Tiers and the new Customer Penny Take Volume Tier program apply uniformly to all Members, who will have the opportunity to meet each of the respective program's tier's criteria and receive the corresponding enhanced rebate for the tier if such criteria is met. As discussed above, Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market

participants by providing more trading opportunities, which attracts MMs. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The rebates offered to Customers under the programs are intended to attract more Customer trading volume to the Exchange.

For each of the incentive programs, all Members are able to increase their applicable order flow to attempt to achieve each of the program's respective tiers. Should a Member not meet the criteria under a program, the Member will merely not receive that corresponding enhanced rebate.

Finally, the proposal to eliminate the MM, Away MM, and Professional Penny Take Volume Tier program, Away MM Penny Add Volume Tier program, Away MM Non-Penny Add Volume Tier program, Firm, BD, and JBO Non-Penny Add Volume Tier program, and Firm, BD, and JBO Penny Add Volume Tier program applies uniformly to all participants as applicable, in that, such tiers will not be available to any participants.

The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 17 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more

than 16% of the market share.⁴¹ Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”⁴² The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ ... As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”⁴³ Accordingly, the Exchange does not

⁴¹ See Cboe Global Markets U.S. Options Monthly Market Volume Summary (August 27, 2025), available at https://markets.cboe.com/us/options/market_statistics/.

⁴² See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

⁴³ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁴⁴ and paragraph (f) of Rule 19b-4⁴⁵ 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:

⁴⁴ 15 U.S.C. 78s(b)(3)(A).

⁴⁵ 17 CFR 240.19b-4(f).

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2025-128 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeBZX-2025-128. 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-CboeBZX-2025-128 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.⁴⁶

⁴⁶ 17 CFR 200.30-3(a)(12).

Sherry R. Haywood,

Assistant Secretary.

EXHIBIT 5

(additions are underlined; deletions are [bracketed])

* * * * *

Rules of Cboe BZX Exchange, Inc.

* * * * *

Cboe U.S. Options Fees Schedules

BZX Options

Effective September 2~~15~~, 2025

* * * * *

Standard Rates:

	Penny Program Securities				Non-Penny Program Securities			
	Add		Remove		Add		Remove	
	Code	Rates	Code	Rates	Code	Rates	Code	Rates
Customer	PY	(\$0.25) (\$0.35) (\$0.4 8 <u>7</u>) (\$0. 51 <u>49</u>) (\$0.5 2 <u>0</u>) (\$0.5 3 <u>2</u>)	PC	\$0.4 5 <u>8</u> <u>\$0.46</u>	NY	(\$1.05)	NC	\$0.85
Professional	PA	(\$0.25) (\$0.42)	[PP] <u>PP</u>	[\$0.50] <u>\$0.50</u> [\$0.49]	NA	(\$0.65)	NP	\$1.15

		(\$0.44) (\$0.46) (\$0.48)			[\$0.48] [\$0.47]			
Firm/BD/JBO	PF	(\$0.26) [\$(\$0.38)] [\$(\$0.42)]	[PD]		[\$0.48]	NF	(\$0.30) [\$(\$0.33)] [\$(\$0.53)] [\$(\$0.82)]	
Market Maker	PM (Excluding SPY)	(\$0.29) (\$0.3[1]2) (\$0.3[8]5) (\$0.3[9]8) (\$0.4[3]1) (\$0.42)	[PP]		[\$0.50] [\$0.49] [\$0.48] [\$0.47]	NM	(\$0.40) (\$0.45) (\$0.54) [\$(\$0.88)]	
	PM (SPY)	(\$0.29) (\$0.33) (\$0.36) (\$0.38) (\$0.42) (\$0.43) (\$0.45)						
Away Market Maker	PN	(\$0.26) [\$(\$0.38)] [\$(\$0.45)]	[PP]		[\$0.50] [\$0.49] [\$0.48] [\$0.47]	NN	(\$0.30) [\$(\$0.40)] [\$(\$0.52)]	

Fee Codes and Associated Fees:

Fee Code	Description	Fee/(Rebate)

NF ^{5[.8]}	Adds liquidity (Firm/BD/JBO), Non-Penny	(0.30)
NN ^{5[.11]}	Adds liquidity (Away MM), Non-Penny	(0.30)

PC ^{2.5}	Removes liquidity (Customer) Penny Program	0.4[5]8
[PD] ⁵	[Removes liquidity (Firm/BD/JBO), Penny Program]	[0.48]
PF ^{[2.].5}	Adds liquidity (Firm/BD/JBO), Penny Program	(0.26)

PN ^{5[.10]}	Adds liquidity (Away MM), Penny Program	(0.26)
PP ^[3]	Removes liquidity ([MM/AwayMM/Professional]Non-Customer), Penny Program	0.50

Footnotes:

¹ Customer Penny Add Volume Tiers

Applicable to fee code PY.

Tier	Rebate Per Contract to Add	Required Criteria
Tier 1	(\$0.35)	Member has an ADAV in Customer orders $\geq 0.05\%$ of average OCV
Tier 2	(\$0.4[8]7)	(1) Member has an ADV $\geq [0.40]1.00\%$ of average OCV; <u>or</u> (2) <u>Member has an ADAV in Customer orders $\geq 0.30\%$ of average OCV</u>
Tier 3	(\$0.[51]49)	(1) Member has an ADAV in Customer orders $\geq 0.2[5]0\%$ of average OCV; and (2) Member has an ADAV in Market Maker orders $\geq [2.75]0.25\%$ of average OCV
Tier 4	(\$0.5[2]0)	Member has an ADAV in Customer orders $\geq 1.[3]00\%$ of average OCV
Tier 5	(\$0.5[3]2)	[(1)] Member has an ADAV in Customer orders $\geq [2.00]1.75\%$ of average OCV[; and (2) Member has an ADAV in Customer Non-Penny orders $\geq 0.50\%$ of average OCV]
Customer Cross-Asset Add Tier	(\$0.5[2]0)	(1) Member has an ADAV in Customer orders $\geq 0.50\%$ of average OCV; and (2) Member has on BZX Equities an ADAV $\geq 0.35[0]\%$ of average TCV, <u>excluding sub-dollar securities</u>

² [Firm, Broker Dealer, and Joint Back Office Penny Add Volume Tiers]

[Applicable to fee code PF.]

[Tier]	[Rebate Per Contract to Add]	[Required Criteria]
[Tier 1]	[\$0.38]	<p>[(1) Member has an ADAV in Firm/BD/JBO orders \geq 15,000 contracts; and</p> <p>(2) Member has an ADAV in Customer orders \geq 0.20% of average OCV]</p>
[Tier 2]	[\$0.42]	<p>[(1) Member has an ADAV in Firm/BD/JBO orders \geq 30,000 contracts; and</p> <p>(2) Member has an ADAV in Customer orders \geq 0.20% of average OCV]</p>

Customer Penny Take Volume Tier

Applicable to fee code PC.

<u>Tier</u>	<u>Fee Per Contract to Remove</u>	<u>Required Criteria</u>
<u>Tier 1</u>	<u>\$0.46</u>	<u>Member has an ADV \geq 1.00% of average OCV</u>

³ [Market Maker, Away Market Maker, and Professional Penny Take Volume Tiers]Reserved

[Applicable to fee code PP.]

[Tier]	[Fee Per Contract to Remove]	[Required Criteria]
[Tier 1]	[\$0.49]	<p>[(1) Member has an ADAV in Customer orders \geq 1.00% of average OCV; and</p> <p>(2) Member has an ADRV in Market Maker/Away MM</p>

		orders \geq 1.00% of average OCV]
[Tier 2]	[\$0.48]	<p>[(1) Member has an ADAV in Customer orders \geq 1.30% of average OCV; and</p> <p>(2) Member has an ADRV in Market Maker/Away MM orders \geq 1.00% of average OCV]</p>
[Tier 3]	[\$0.47]	<p>[(1) Member has an ADAV in Customer orders \geq 2.00% of average OCV;</p> <p>(2) Member has an ADAV in Customer Non-Penny orders \geq 0.40% of average OCV; and</p> <p>(3) Member has an ADRV in Market Maker/Away MM orders \geq 2.00% of average OCV]</p>

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⁵ Orders Submitted with a Designated Give Up

Applicable to fee codes NA, NF, NN, NY, PA, PC, [PD,]PF, PN and PY.

When a Designated Give Up, as defined in Rule 21.12(b)(1), is specified on an order, applicable rebates for orders routed to and executed on the Exchange are provided to the Member who routed the order to the Exchange.

⁶ Market Maker Penny Add Volume Tiers

Applicable to fee code PM.

Tier	Rebate Per Contract to Add (excluding SPY)	Rebate Per Contract to Add (SPY)	Required Criteria
Tier 1	(\$0.3[1]2)	(\$0.33)	Member has an ADAV in Market Maker orders \geq

			0.15% of average OCV
Tier 2	(\$0.3[8]5)	<u>(\$0.36)</u>	Member has an ADAV in Market Maker orders \geq 0.[35]20% of average OCV
Tier 3	(\$0.3[9]8)	<u>(\$0.38)</u>	(1) Member has an ADAV in Market Maker orders \geq 0.[45]15% of average OCV; <u>and</u> (2) Member has an <u>ADRV in Market Maker orders \geq 0.75% of average OCV</u>
Tier 4	(\$0.4[3]1)	<u>(\$0.42)</u>	Member has an ADAV in Market Maker orders \geq [0.65]0.35% of average OCV
<u>Tier 5</u>	<u>(\$0.42)</u>	<u>(\$0.45)</u>	<u>Member has an ADAV in Market Maker orders \geq 0.50% of average OCV</u>
Market Maker Cross-Asset Add Tier [1]	(\$0.[38]42)	<u>(\$0.43)</u>	(1) Member has an ADAV in Market Maker orders [in SPY, QQQ] \geq 0.[20]35% of average [SPY, QQQ] OCV; <u>and</u> (2) Member has on BZX Equities an ADAV \geq 0.4[5]0% of average TCV, <u>excluding sub-dollar securities</u> [or an

			<p>ADAV \geq 45,000,000; and</p> <p>(3) Member is the LMM on BZX Equities in at least 50 equity symbols]</p>
[Market Maker Cross-Asset Add Tier 2]	[\$0.39]		<p>[(1) Member has an ADAV in Market Maker orders in SPY, QQQ \geq 0.25% of average SPY, QQQ OCV;</p> <p>(2) Member has on BZX Equities an ADAV \geq 0.50% of average TCV or an ADAV \geq 47,500,000; and</p> <p>(3) Member is the LMM on BZX Equities in at least 50 equity symbols]</p>

⁷ Market Maker Non-Penny Add Volume Tiers

Applicable to fee code NM.

Tier	Rebate Per Contract to Add	Required Criteria
Tier 1	(\$0.45)	Member has an ADAV in Market Maker orders \geq 0.[1]20% of average OCV
Tier 2	(\$0.54)	Member has an ADAV in Market Maker orders \geq 0.35% of average OCV

[Tier 3]	[\$0.88]	<p>[(1) Member has an ADAV in Market Maker orders \geq 1.00% of average OCV; and</p> <p>(2) Member has an ADAV in Market Maker Non-Penny orders of \geq 0.10% of average OCV]</p>
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⁸**[Firm, Broker Dealer, and Joint Back Office Non-Penny Add Volume Tiers]Reserved**

[Applicable to fee code NF.]

[Tier]	[Rebate Per Contract to Add]	[Required Criteria]
[Tier 1]	[\$0.33]	[Member has an ADV \geq 1.00% of average OCV]
[Tier 2]	[\$0.53]	<p>[(1) Member has an ADV \geq 3.00% of average OCV; and</p> <p>(2) Member has a Market Maker ADAV \geq 2.50% of average OCV]</p>
[Tier 3]	[\$0.53]	<p>[(1) Member has an ADV \geq 2.30% of average OCV;</p> <p>(2) Member has an ADAV in Away MM/Firm/BD/JBO orders \geq 1.45% of average OCV; and</p> <p>(3) Member has an ADAV in Non-Customer Non-Penny orders \geq 0.20% of average OCV]</p>
[Tier 4]	[\$0.82]	<p>[(1) Member has an ADV \geq 2.30% of average OCV;</p> <p>(2) Member has an ADAV in Away MM/Firm/BD/JBO orders \geq 1.65% of average OCV; and</p>

		(3) Member has an ADAV in Non-Customer Non-Penny orders $\geq 0.20\%$ of average OCV]
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¹⁰ **[Away Market Maker Penny Add Volume Tier]Reserved**

[Applicable to fee code PN.]

[Tier]	[Rebate Per Contract to Add]	[Required Criteria]
[Tier 1]	[\$0.38]	[Member has an ADAV in Non-Customer Non-Market Maker orders of $\geq 0.50\%$ of average OCV]
[Tier 2]	[\$0.45]	<p>[(1) Member has an ADAV in Away MM/Firm/BD/JBO orders $\geq 1.05\%$ of average OCV;</p> <p>(2) Member has an ADV $\geq 1.95\%$ of average OCV; and</p> <p>(3) Member has an ADAV in Non-Customer Non-Penny orders $\geq 0.20\%$ of average OCV]</p>

¹¹ **[Away Market Maker Non-Penny Add Volume Tiers]Reserved**

[Applicable to fee code NN.]

[Tier]	[Rebate Per Contract to Add]	[Required Criteria]
[Tier 1]	[\$0.40]	[Member has an ADAV in Non-Customer orders $\geq 0.10\%$ of average OCV]

[Tier 2]	[(\$0.52)]	[Member has an ADAV in Non-Customer orders \geq 0.35% of average OCV]
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