

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-93994; File No. SR-CboeBZX-2022-001)

January 18, 2022

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fees Applicable to Various Market Data Products

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 January 4, 2022, Cboe BZX Exchange, Inc. (“Exchange” or “BZX”) filed with the Securities and Exchange Commission (“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. (“BZX” or the “Exchange”) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to amend the fees applicable to various market data products. The text of the proposed rule change is provided in Exhibit 5.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend the Market Data section applicable to its equities trading platform ("BZX Equities"). Particularly, the Exchange proposes to (i) adopt a New External Distributor Credit applicable to Cboe One Premium, and (ii) extend the New External Distributor Credit applicable to BZX Summary Depth Feed from one (1) month to three (3) months.

By way of background, Cboe One Premium is a data feed that disseminates, on a real-time basis, the aggregate best bid and offer ("BBO") of all displayed orders for securities traded on BZX and its affiliated exchanges (i.e., Cboe BYX Exchange, Inc. ("BYX"), Cboe EDGX Exchange, Inc. ("EDGX"), and Cboe EDGA Exchange, Inc. ("EDGA")) and contains optional functionality which enables recipients to receive aggregated two-sided quotations from BZX and its affiliated equities exchanges for up to five (5) price levels.³ Currently, the Exchange charges an external distribution fee of \$12,500 per month to External Distributors⁴ of Cboe One Premium. The Exchange now

³ The Cboe Aggregated Market ("Cboe One") Feed is a data feed that contains the aggregate best bid and offer of all displayed orders for securities traded on the Exchange and its affiliated exchanges (i.e., BYX, EDGX, and EDGA). See Exchange Rule 11.22(j). The Cboe One Feed contains optional functionality which enables recipients to receive aggregated two-sided quotations from the Cboe Equities Exchanges for up to five (5) price levels ("Cboe One Premium Feed"). The Cboe One Premium external distribution fee is equal to the aggregate BZX Summary Depth, BYX Summary Depth, EDGX Summary Depth, and EDGA Summary Depth external distribution fees.

⁴ An External Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party

proposes to adopt a New External Distributor Credit which provide that new External Distributors of the Cboe One Premium Feed will not be charged an External Distributor Fee for their first three (3) months in order to allow them to enlist new Users to receive the Cboe One Summary[sic] Feed. The Exchange believes the proposal will incentivize External Distributors to enlist new users to receive Cboe One Premium. To ensure consistency across the Cboe Equity Exchanges, EDGA, EDGX, and BYX will be filing companion proposals to reflect this proposal in their respective fee schedules.

The Exchange notes that it offers similar credits for other market data products. For example, the Exchange currently offers a one (1) month New External Distributor Credit applicable to Cboe One Summary⁵, which is a data feed that disseminates, on a real-time basis, the aggregate BBO of all displayed orders for securities traded on BZX and its affiliated equities exchanges and also contains individual last sale information for the BZX and its affiliated equities exchanges.⁶ It also offers a New External Distributor Credit of one (1) month for subscribers of BZX Summary Depth, which is a data feed that offers aggregated two-sided quotations for all displayed orders entered into the System for up to five (5) price levels. BZX Summary Depth also contains the individual last sale information, Market Status, Trading Status, and Trade Break messages.⁷ As noted above, the External Distribution fees for Cboe One Summary is equivalent to the aggregate BZX Summary Depth, BYX Summary Depth, EDGA

or one or more Users outside the Distributor's own entity.

⁵ See Exchange Rule 11.22(j).

⁶ The Exchange notes that when it first adopted the New External Distributor Credit for Cboe One Summary, it similarly applied for a new External Distributor's first three (3) months. See Securities Exchange Act Release No. 74285 (February 18, 2015), 80 FR 9828 (February 24, 2015) (SR-BATS-2015-11).

⁷ See Exchange Rule 11.22(a)[sic].

Summary Depth, and EDGX Summary Depth External Distribution fees. In order to alleviate any competitive issues that may arise with a vendor seeking to offer a product similar to the Cboe One Premium Feed based on the underlying data feeds, the Exchange proposes to also extend the current New External Distributor Credit for BZX Summary Depth from one (1) month to three (3) months and the Exchange's affiliates BYX, EDGA and EDGX are also submitting similar proposals to increase the length of their respective Summary Depth New External Distributor Credits from one (1) month to three (3) months. The respective proposals to extend these credits to three months ensures the proposed New External Distributor Credit for Cboe One Premium will continue to not cause the combined cost of subscribing to BZX, BYX, EDGA, and EDGX Summary Depth feeds for new External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,⁸ in general, and furthers the objectives of Section 6(b)(4),⁹ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. In addition, the Exchange believes that the proposed rule change is consistent with Section 11(A) of the Act as it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.¹⁰

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ 15 U.S.C. 78k-1.

Finally, the proposed rule change is also consistent with Rule 603 of Regulation NMS,¹¹ which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory.

The Exchange believes that adopting a New External Distributor Credit for Cboe One Premium is equitable and reasonable. As discussed above, a similar New External Distributor Fee Credit was initially adopted at the time the Exchange began to offer the Cboe One Summary to subscribers. It was intended to incentivize new Distributors to enlist Users to subscribe to Cboe One Summary in an effort to broaden the product's distribution. Now, the Exchange proposes to adopt a similar credit for Cboe One Premium subscribers for their first three (3) months to similarly incentivize new Distributors to enlist Users to subscribe to Cboe One Premium in an effort to broaden the product's distribution. While this incentive is not available to Internal Distributors of Cboe One Premium, the Exchange believes it is appropriate as Internal Distributors have no subscribers outside of their own firm. The Exchange believes extending the New External Distributor Credit for BZX Summary Depth from one (1) month to three (3) months is also equitable and reasonable, as it (along with simultaneous corresponding proposals by the Exchange's affiliates) ensures the proposed New External Distributor Credit for Cboe One Premium will continue to not cause the combined cost of subscribing to BZX, BYX, EDGA, and EDGX Summary Depth feeds for new External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed.

¹¹ See 17 CFR 242.603.

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

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price these data products is constrained by competition among exchanges that offer similar data products to their customers. The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed credits would apply to all External Distributors Cboe One Premium and BZX Depth on an equal and non-discriminatory basis. Further, the Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the proposed amendments are designed to enhance competition by providing an incentive to new Distributors to enlist new subscribers.

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 Act¹² and paragraph (f) of Rule 19b-4¹³ 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

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f).

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

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2022-001 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-2022-001. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m.

and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-CboeBZX-2022-001 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

J. Matthew DeLesDernier
Assistant Secretary

¹⁴ 17 CFR 200.30-3(a)(12).