UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of

CBOE BZX EXCHANGE, INC., CBOE EXCHANGE,
INC., CBOE C2 EXCHANGE, INC., and CBOE EDGX
EXCHANGE, INC.

Admin. Proc. File No. 3-21779

CBOE BZX EXCHANGE, INC., CBOE EXCHANGE, INC., CBOE C2 EXCHANGE, INC., AND CBOE EDGX EXCHANGE, INC.'S MOTION FOR EXPEDITED CONSIDERATION

More than a year and a half ago, on September 29, 2023, Cboe filed a petition seeking the Commission's review under Rule 608(d)[1] to set aside the OPRA Management Committee's erroneous interpretation of the governing OPRA Plan. As Cboe has explained, OPRA's interpretation has no basis in the text and is deeply contrary to the public interest. Indeed, OPRA's interpretation results in needless and inefficient overregulation: it bars Cboe and others from offering proprietary options data products, which provide high-quality and cost-effective data, to market participants unless they also purchase OPRA's real-time, full streaming consolidated options data feed—a product many market participants may not need and may not be able to afford.[2] A proper interpretation of the OPRA Plan would help to lessen unnecessary restrictions on beneficial, innovative data products, empowering investors to choose the market products that fit their needs and helping to drive further innovation by promoting competition between market data providers.[3]

1 17 C.F.R. § 242.608(d).

2 *See* Cboe Opening Br. at 1, 21-23.

3 *See* Cboe Opening Br. at 12-13, 21-23; Cboe Reply Br. at 4-6.

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But Cboe's petition has become mired in delay at the Commission. Cboe has explained the procedural history of this appeal before, and it will not repeat that description here.[4] The key points are that this appeal has been fully briefed since April 26, 2024, without decision, despite Trading & Markets urging the Commission to take up Cboe's appeal.[5]

Now that the Commission has new leadership, Cboe files this motion asking for prompt Commission resolution of the appeal. Cboe appreciates that the Commission does not have unlimited resources. But, here, there remains a concrete, live dispute about the proper interpretation of a National Market System Plan, and only this Commission can resolve the dispute. What is more, as Cboe has previously explained, expeditious resolution of the petition would correct OPRA's deeply flawed Plan interpretation and strongly advance the public interest. Indeed, prompt resolution of this appeal would be in full accord with this Administration's commitment to eliminating unnecessary, burdensome regulatory controls.

In multiple ways, the Administration has committed to streamlining government processes in the name of efficiency,[6] and to rolling back costly overregulation.[7] The new Chairman of the Commission has emphasized the need for "efficient, effective, and well-

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[4] *See* Cboe Br. Regarding Disposition of Cboe's Proposed Amendment. Despite the Commission ordering supplemental briefing in the wake of the Commission's decision on Cboe's plan amendment, OPRA failed to file a supplemental brief in December 2024. Since that time, there has no been no docket activity with respect to Cboe's petition.

[5] Division Amicus Br. at 3.

[6] *See Statement by President-elect Donald J. Trump Announcing That Elon Musk and Vivek Ramaswamy Will Lead the Department of Government Efficiency ("DOGE")*, The American Presidency Project (Nov. 12, 2024), https://www.presidency.ucsb.edu/documents/statement-president-elect-donald-j-trump-announcing-that-elon-musk-and-vivek-ramaswamy.

[7] *See Fact Sheet: President Donald J. Trump Launches Massive 10-1 Deregulation Initiative* (Jan. 31, 2025), https://www.whitehouse.gov/fact-sheets/2025/01/fact-sheet-president-donald-j-trump-launches-massive-10-to-1-deregulation-initiative/.

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designed regulation" and "greater transparency at the agency" to establish "clear rules of the road that encourage investment in our economy to the benefit of all Americans."[8] Timely action on Cboe's petition would advance those laudable objectives. The combination of OPRA's erroneous and restrictive interpretation and delayed decisionmaking on the petition have now frustrated the ability of investors to access innovative market data products for more than a year and a half. Investors should have the ability to choose data products that best meet their needs. Only this Commission can correct OPRA's contrary conclusion and error.

Cboe thus respectfully requests that the Commission expeditiously decide Cboe's appeal and set aside OPRA's Plan interpretation.

Dated: April 22, 2025

Respectfully Submitted,

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[8] *Opening Statement of Paul Atkins, Nomination Hearing Before the Senate Banking Committee* at 1-3, 119th Cong. (2025), https://www.banking.senate.gov/imo/media/doc/atkins_testimony_3-27-25.pdf.

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Counsel for Applicants

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CERTIFICATE OF SERVICE

I, Kelly P. Dunbar, certify that on this day of April 22, 2025, I caused a copy of the foregoing to be filed through the SEC's eFAP system and served by electronic mail on:

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17 C.F.R. § 201.151(e) Certificate

I, Kelly P. Dunbar, pursuant to 17 C.F.R. § 201.151(e)(3), certify that this Motion For Expedited Consideration, Administrative Proceeding No. 3-21779, does not contain sensitive personal information as defined in 17 C.F.R. § 201.151(e).

/s/ *Kelly P. Dunbar*
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Dated: April 22, 2025