

Item 1. Text of the Proposed Rule Change

(a) Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) proposes to update its Fee Schedule. 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 November 27, 2024.

(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 Allyson Van Marter, (312) 786-7098, Cboe BYX Exchange, Inc., 433 West Van Buren Street, Chicago, Illinois 60607.

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

(a) Purpose

The Exchange proposes to amend the Market Data section of its Fee Schedule to adopt a new fee waiver for Uncontrolled External Distributors.¹ Particularly, the Exchange proposes to: (i) adopt a waiver of External Distribution fees for Uncontrolled External Distributors of the Summary Depth Feed and Top Feed, and (ii) adopt a fee waiver of External Distribution fees and Data Consolidation fees for Uncontrolled External Distributors of the Cboe One Summary Feed and Cboe One Premium Feed.²

¹ The Exchange initially adopted this fee waiver on December 2, 2024 (SR-CboeBYX-2024-046). On December 16, 2024, the Exchange withdrew that filing and submitted SR-CboeBYX-2024-048. On February 13, 2025, the Exchange withdrew that filing and submitted this filing.

² For clarity, the Exchange also proposes to modify the applicable sections of its Fee Schedule for these data feeds to use numbered footnotes in lieu of asterisks.

BYX Top and Summary Depth Data

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

In addition to BYX Top Data Feed, the Exchange offers BYX Summary Depth Data Feed, 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. The BYX Summary Depth Data Feed also contains the individual last sale information, Market Status, Trading Status, and Trade Break messages.³ The BYX Summary Depth Data Feed benefits investors by facilitating their prompt access to real-time market depth information contained in BYX Summary Depth Data. The Exchange's Affiliates also offer similar depth-of-book data feeds. Particularly, each of the Exchange's Affiliates offer depth-of-book quotations up to five (5) price levels based on their own quotation

³ See Exchange Rule 11.22(k)

and trading activity that is substantially similar to the information provided by the Exchange through the BYX Summary Depth.

The Exchange proposes to make the following fee changes relating to both BYX Top and BYX Summary Depth.

BYX Top Data Feed and BYX Summary Depth Data Feed New Uncontrolled External Distributor External Distribution Fee Waiver

Currently, the Exchange assesses all External Distributors of BYX Top Data Feed an External Distribution fee of \$250 per month and External Distributors of BYX Summary Depth Data Feed an External Distribution fee of \$2,500 per month.⁴ The Exchange proposes to adopt a fee waiver which will provide that new Uncontrolled External Distributors of the BYX Top and/or Summary Depth feeds will not be charged the External Distributor fees until such time they enlist one or more Users⁵ to receive the BYX Top Feed or Summary Depth Feed (the “New Uncontrolled External Distributor BYX Top and Depth Fee Waiver”).⁶ “Uncontrolled External Distributors” distribute data externally to a User that is

⁴ External Distribution Fees for both BYX Top and Summary Depth are subject to the New External Distributor Credit and eligible for a free trial. See BYX Equities Exchange Fees Schedule, Market Data Fees.

⁵ The Exchange defines a “User” of an Exchange Market Data Product as a natural person, a proprietorship, corporation, partnership or entity, or device (computer or other automated service), that is entitled to receive Exchange data. See BYX Equities Exchange Fees Schedule, Market Data Fees.

⁶ The proposed waivers of the External Distribution fees for each of BYX Top and BYX Summary Depth will be applied separately. For example, when an Uncontrolled External Distributor that is receiving a fee waiver for both BYX Top and BYX Summary Depth enlists a first User for BYX Top, the Uncontrolled External Distributor will no longer eligible to receive the waiver for BYX Top, but will still receive the waiver for BYX Summary Depth until and unless it enlists a new subscriber for BYX Summary Depth. Additionally Uncontrolled External Distributors will receive at least the one month New External Distributor Credit for BYX Top and the New External Distributor credit of at least three months for BYX Summary Depth. For example, if an Uncontrolled Distributor enlists a new subscriber of BYX Summary Depth during its second month taking BYX Summary Depth, the Uncontrolled External Distributor will still receive a credit for the remainder of the second month, as well as the third month under the existing New External Distributor Credit program.

not an affiliate of the Uncontrolled Distributor and is unable to control the entitlements of and display of information to such User (i.e., a data feed subscriber).⁷ To be eligible for the New Uncontrolled External Distributor BYX Top and Depth Fee Waiver, a new Uncontrolled External Distributor must not have received the data feed(s) for which it seeks a waiver (BYX Top and/or Depth) within the last 18 months.⁸ As discussed further below, the Exchange seeks to adopt the proposed New Uncontrolled External Distributor BYX Top and Depth Fee Waiver to incentivize vendors to adopt the BYX Top and Summary Depth feeds proactively without having to wait for customer demand to start development and integration of data feeds. The Exchange notes that both the Exchange and its Affiliates currently offer similar credits to External Distributors (which both Uncontrolled and Controlled External Distributors are eligible for) for the purposes of allowing them time to enlist new users to receive certain data feeds. For example, the Exchange and its Affiliates currently offer a one (1) month New External Distributor Credit applicable to External Distributors of top-of-book data feeds.⁹ As explained further below, the Exchange proposes to introduce this waiver to account for the longer development process Uncontrolled Distributors undergo. They also offer a three (3) month new External Credit applicable to External Distributors of summary depth-of-book feeds.¹⁰

⁷ See Cboe Global Markets North American Data Policies. The Exchange proposes to codify the definition of an “Uncontrolled External Distributor” in the Definitions section of the Market Data Fees schedule in the Exchange’s Fees Schedule for transparency and clarity.

⁸ The Exchange notes that its affiliate exchange, EDGA, has a similar 18 month requirement for participants to be considered eligible for the New Member Program. See EDGA Equities Exchange Fees Schedule, New Member Program.

⁹ With the exception that EDGA does not offer this credit as the monthly cost is \$0. See e.g., EDGA Equities Exchange Fees Schedule, Market Data Fees and EDGX Equities Exchange Fees Schedule, Market Data Fees.

¹⁰ See e.g., EDGX Equities Exchange Fees Schedule, Market Data Fees.

Cboe One Summary and Premium

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 BYX and its Affiliates and contains optional functionality which enables recipients to receive aggregated two-sided quotations from BYX and its Affiliates for up to five (5) price levels.¹¹ The Cboe One Premium Data Feed is created using the data from the Exchange and its Affiliates’ Summary Depth data feeds. In contrast, Cboe One Summary is a data feed that disseminates, on a real-time basis, the aggregate BBO of all displayed orders for securities traded on BYX and its affiliated equities exchanges and also contains individual last sale information for the BYX and its affiliated equities exchanges.¹² The Cboe One Summary Data Feed is created using the data from the Exchange and its Affiliates’ Top data feeds. Currently, the Exchange offers the New External Distributor Credit which provide that new External Distributors of the Cboe One Premium Feed and Cboe One Summary Feed will not be charged an External Distributor Fee for their first three (3) months and one (1) month, respectively, in order to allow them to enlist new Users to

¹¹ 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., EDGX, EDGA, and BZX). See Exchange Rule 11.22(i). 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 BYX Summary Depth, BYX Summary Depth, EDGA Summary Depth, and BZX Summary Depth external distribution fees.

¹² 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. 74284 (February 18, 2015), 80 FR 9792 (February 24, 2015) (SR-BYX-2015-09).

receive the respective feed.¹³ The Exchange proposes to make the following fee change relating to both the Cboe One Summary Data Feed and the Cboe One Premium Data Feed.

Cboe One Summary and Premium New Uncontrolled External Distributor External Distribution and Data Consolidation Fee Waivers

Currently, the Exchange assesses all External Distributors of Cboe One Summary an External Distribution fee of \$5,000 per month and External Distributors of Cboe One Premium an External Distribution fee of \$12,500 per month.¹⁴ The Exchange proposes to adopt fee waivers which will provide that new Uncontrolled External Distributors of the Cboe One Summary and Cboe One Premium feeds will not be charged either the (i) External Distribution fees nor (ii) Data Consolidation fee until such time they enlist one or more Users to receive the Cboe One Summary or Cboe One Premium Feeds (the “New Uncontrolled External Distributor Cboe One Summary and Cboe One Premium Fee Waiver”).¹⁵ To be eligible for either fee waiver for the applicable feed(s) (Cboe One Summary and/or Cboe One Premium), the new Uncontrolled Data Distributor must not have

¹³ See BYX Fee Schedule.

¹⁴ External Distribution Fees for both Cboe One Summary and Cboe One Premium are subject to the New External Distribution Credit and eligible for a free trial. See BYX Equities Exchange Fees Schedule.

¹⁵ The proposed waivers of the External Distribution fees for each of Cboe One Summary and Cboe One Premium will be applied separately. For example, when an Uncontrolled External Distributor that is receiving a fee waiver for both Cboe One Summary and Cboe One Premium enlists a first User for Cboe One Summary, the Uncontrolled External Distributor will no longer eligible to receive the waiver for Cboe One Summary, but will still receive the waiver for Cboe One Premium until and unless it enlists a new subscriber for Cboe One Premium. Additionally Uncontrolled External Distributors will receive at least the one month New External Distributor Credit for Cboe One Summary and the New External Distributor credit of at least three months for Cboe One Premium. For example, if an Uncontrolled Distributor enlists a new subscriber of Cboe One Premium during its second month taking Cboe One Premium, the Uncontrolled External Distributor will still receive a credit for the remainder of the second month, as well as the third month under the existing New External Distributor Credit program.

received the applicable data feed(s) for which it seeks a waiver in the last 18 months.¹⁶ For clarity, similar to the New Uncontrolled External Distributor BYX Top and Depth Fee Waiver, while the Uncontrolled External Distributor receives the New Uncontrolled External Distributor Cboe One Summary and Cboe One Premium Fee Waiver, the Uncontrolled External Distributor will not have any customers receiving this data. As described herein, once the New Uncontrolled External Distributor enlists its first User, it is no longer eligible to receive the New Uncontrolled External Distributor Cboe One Summary and Cboe One Premium Fee Waiver.

To start, the Exchange's proposal to waive the External Distributor fee for New Uncontrolled External Distributors until a User is enlisted, will prevent the combined cost of subscribing to BYX, EDGA, EDGX, and BZX Summary Depth feeds for new Uncontrolled External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed. Similarly, the proposed External Distributor fee waiver for Cboe One Summary will prevent the combined cost of subscribing to BYX, EDGA, EDGX, and BZX Top feeds for new Uncontrolled External Distributors to be greater than those currently charged to subscribe to the Cboe One Summary feed.

Next, the Exchange proposes to waive the Data Consolidation fee for New Uncontrolled External Distributors until its first User enlists for the Cboe One feeds. The Exchange currently charges Distributors of the Cboe One Feeds a separate Data Consolidation Fee of \$1,000 per month, which reflects the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed.¹⁷

¹⁶ See supra note 8.

¹⁷ See Cboe BYX Fee Schedule. If a vendor distributes the Cboe One Options Feed to another firm, who then re-distributes the Cboe One Options Feed, both entities would be subject to the Data

As stated above, the Exchange creates the Cboe One feeds from data derived from the Cboe Equities Exchanges. Distributors (including vendors) could similarly create a competing product to the Cboe One feeds based on these individual data feeds offered by the Exchanges and could charge its clients a fee that it believes reflects the value of the aggregation and consolidation function.

The Exchange proposes to adopt this fee waiver to similarly prevent new Uncontrolled External Distributors of the Cboe One Summary or Cboe One Premium feeds from being charged a Data Consolidation Fee until such time they enlist one or more Users to receive the Cboe One Premium or Cboe One Summary feeds.

(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.¹⁸

Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁹ 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

Consolidation Fee. A vendor will only be assessed a single Data Consolidated Fee, even if it distributes Cboe One Options Feed to more than one entity.

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes this proposal is consistent with Section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.²⁰ 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.²¹

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

²⁰ 15 U.S.C. 78f(b)(8).

²¹ 15 U.S.C. 78k-1.

The Exchange proposes that the proposed waivers applicable to BYX Top & Depth and Cboe One Feeds (together, the “New Uncontrolled External Distributor Fee Waivers”) only apply to Uncontrolled External Distributors for two reasons. The first is to account for Uncontrolled External Distributors needing to develop to the data feed itself. By way of background, the other category of External Data Distributors are Controlled Distributors.²² Controlled Distributors both (i) provides data to a User and (ii) controls the entitlements of and display of information to such User.²³ Therefore, a key distinction between Uncontrolled Distributors and Controlled Distributors is that Uncontrolled Distributors distribute a data feed and Controlled Distributors enable visible data for one of its Users. Moreover, in order for Uncontrolled External Distributors to distribute any one data feed, they need time for software development to integrate the data feed itself into its platform and program all of the different messages, fields and flags.²⁴ Uncontrolled External Distributors may also create their own offerings after integrating an exchange’s data feed(s) by aggregating it with additional information or data feeds from other sources to then offer to their downstream clients.²⁵ Additionally, once the data feed is setup on the Uncontrolled External Distributors end, there are typically long lead times for Uncontrolled External Distributors to onboard new

²² Controlled Distributors may be Internal or External Distributors. See supra note 7. “Controlled External Distributors” provide data to an unaffiliated User (i.e., externally distribute) and unlike Uncontrolled External Distributors, they control the entitlement of and display of info to such User.

²³ Id.

²⁴ Uncontrolled Distributors are responsible for the development and maintenance of a feed in accordance with the Exchange provided spec. See e.g., [Cboe Titanium Cboe One Equities Feed Specification](#).

²⁵ For example, an Uncontrolled Distributor may add in reference data or include corporate action data.

downstream data feed customers. The lead times, or sales cycles, are vastly different for Uncontrolled versus Controlled Distributors, as Uncontrolled Distributors are attempting to locate Users who need to receive a real-time market data feed for downstream ingestion on their side (whether this be for trading, analysis, or application development).

In contrast, Controlled Distributors are only entitling individual Users to view the data on a pre-existing Display application. This means, that from the perspective of the Users who receive data from a Controlled Distributor, there is no further buildout on their side – the Controlled Distributor entitles them (sometimes with even just a few clicks for view access) and nothing further is needed from either the Controlled Distributor or the User. Conversely, unlike Users of Controlled Distributors, subscribers of Uncontrolled External Distributors that need to receive a real-time market data feed for ingestion need to integrate this data feed into its own system and thus may require further buildout on their side. Uncontrolled Distributors also carry additional risk as compared to Controlled Distributors. For example, they run the risk of incurring costs to develop a feed per a subscriber request, who may later determine it no longer has a need to ingest that data feed prior to actually subscribing to the data. In this scenario, the Uncontrolled Distributor would be left with no with no current customers, and possibly no prospective customers, for the work it has done and no way to recoup its costs incurred for an unknown period of time. The proposed waiver therefore helps to reduce potential cost barriers for Uncontrolled External Distributors that may be associated with a higher level of uncertainty. The Exchange believes it's therefore reasonable to not subject Uncontrolled External Distributors to any fees until such time they are able to obtain their first subscriber.

As previously discussed, there is an existing program that new Controlled (and Uncontrolled) External Distributors are eligible for, and the External Distribution Fee is waived for its first three months. It is unlikely that a new Controlled External Distributor would not yet have a User signed up after this three-month time frame whereas for an Uncontrolled Distributor to both set up and find its first data feed subscriber, it can easily take more than three months, because, as discussed above, there is both (i) generally a smaller customer pool of those seeking to receive data from an Uncontrolled Distributor and (ii) a longer buildout time typically required for recipients of data from Uncontrolled Distributors. The Exchange believes it is therefore reasonable, equitable and not unfairly discriminatory for this discount to only apply to Uncontrolled External Distributors as there is more uncertainty with the viability of both developing a data feed and finding subscribers that have a need to ingest this data feed into its own systems after the Uncontrolled External Distributor distributes it. Moreover, the Exchange believes the proposal to adopt a separate Uncontrolled External Distributor waiver will further encourage such distributors to develop and expand their data offerings to include the Exchange's data.

The Exchange has also taken into consideration its affiliated relationship with its Affiliates in its design of the proposed waivers²⁶ to ensure that vendors would be able to offer similar products to its Cboe One Summary and Cboe One Premium Feeds on the same terms as the Exchange from a cost perspective. While the Cboe Equities Exchanges are the exclusive distributors of the individual data feeds from which certain data

²⁶ The Exchange notes that its Affiliates will also be proposing to adopt these same credits with the exception of the EDGA Top Data Feed as the External Distribution monthly cost is \$0 for that particular data feed. See EDGA Equities Fees Schedule, Market Data Fees.

elements may be taken to create the Cboe One feeds, they are not the exclusive distributors of the aggregated and consolidated information that comprises the Cboe One feeds. Any entity that receives, or elects to receive, the individual data feeds would be able to, if it so chooses, to create a data feed with the same information included in either of the Cboe One feeds and sell and distribute it to its clients so that it could be received by those clients as quickly as the Cboe One feeds would be received by those same clients. Such entities would also not be assessed any greater fees by the Exchange than the Exchange assess for the Cboe One feeds (i.e., those who elect to distribute and consolidate the individual data fees and those who elect to distribute the Cboe One feeds will all be eligible for the proposed fee waivers offered by the Exchange).

New External Distributor Credit

The Exchange believes it is reasonable to not charge Uncontrolled External Distributors of an Applicable Feed(s) until such time they enlist one or more Users to receive the applicable feed as such Distributors will not be subject to the External Distribution Fees for the applicable product(s) during this period.²⁷ Additionally, the Exchange and its Affiliates offer a similar credit now that all External Distributors, including Controlled External Distributors, may receive.²⁸ The proposed credit is intended to incentivize new Uncontrolled External Distributors to enlist Users to subscribe to the Applicable Feeds in an effort to broaden the products' distribution to data feed Users. While this incentive is not available to Internal Distributors of these products,

²⁷ As noted above, Distributors may still receive this credit for any of the applicable feeds of which there are no Users (i.e., the Uncontrolled Distributor may still receive this credit for Cboe One Summary if there is a User subscribed for BYX Top).

²⁸ See e.g., EDGX Equities Exchange Fees Schedule, Market Data Fees.

the Exchange believes it is appropriate as Internal Distributors have no Users outside of their own firm. Furthermore, External Distributors are subject to higher risks of launch as the data is provided outside their own firm. In contrast, Internal Distributors who only subscribe to a specific Exchange offered market data product when there is a need as they themselves are using the information, External Distributors do not use the data themselves, but as noted, take the risk of onboarding the data to sell as a service to downstream customers.²⁹ For these reasons, the Exchange believes it is appropriate, equitable and not unfairly discriminatory to provide additional incentives to External Distributors so they have sufficient time to test the data within their own systems prior to going live externally. As discussed above, the Exchange also believes it is appropriate to limit this specific credit to Uncontrolled External Distributors given the longer development times associated with both the integration of the data feed and onboarding Users.

Data Consolidation Fee.

The Exchange believes it is reasonable to not charge Uncontrolled External Distributors of Cboe One Summary and Cboe One Premium a Data Consolidation Fee until such time they enlist one or more Users to receive the applicable feed as such Distributors will not be subject to the Data Consolidation Fee for the applicable product(s) during this period. For the avoidance of doubt, once an Uncontrolled External Distributor enlists its first User, this waiver will no longer be applicable – at no time will

²⁹ The Exchange notes that in addition to the existing New External Distributor Credit offered by it and its affiliates, other exchanges have offered similar waivers for external redistribution. See BYX Equities Exchange Fees Schedule, Market Data Fees and Securities Exchange Act Release No. 90407 (November 12, 2020), 85 FR 73570 (November 18, 2020 (SR-NYSE-2020-91).

an Uncontrolled External Distributor receive this waiver while it has customers receiving the applicable data feed. As previously discussed, the Exchange believes the proposed Data Consolidation Fee Waiver for Uncontrolled External Distributors is not designed to permit unfair discrimination against Controlled External Distributors because of the longer lead times in the development Uncontrolled External Distributors experience. Further, as previously discussed, the Exchange believes only applying this to a subset of External Distributors and not any Internal Distributors is equitable and not unfairly discriminatory given the additional risk External Distributors assume when building out a product for which they have no existing use cases. Therefore, the Exchange believes the proposed application of the Data Consolidation Fee Waiver is reasonable and would not permit unfair discrimination.

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 proposed rule changes are grounded in the Exchange's efforts to compete more effectively and to assist in mitigating business costs (i.e., the costs associated with the development of data feeds and seeking Users to onboard for such data feeds) for Uncontrolled External Distributors. Further, as previously discussed, the Exchange believes the proposed Data Consolidation Fee Waiver for Uncontrolled External Distributors is not designed to permit unfair discrimination against Controlled External Distributors because of the longer lead times in the development Uncontrolled External Distributors experience. As a result, the Exchange believes this proposed rule change

permits fair competition among national securities exchanges. Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intermarket competition, as the proposed incentive program applies uniformly to all Uncontrolled External Distributors.

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

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

Item 6. Extension of Time Period for Commission Action

Not applicable.

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

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

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

³⁰ 15 U.S.C. 78s(b)(3)(A).

³¹ 17 CFR 240.19b-4(f)(2).

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

(c) Not applicable.

(d) Not applicable.

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

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

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

Not applicable.

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

Not applicable.

Item 11. Exhibits

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

Exhibit 5. Proposed rule text.