

# SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103760; File No. SR-CboeBZX-2025-116]

## Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Fees for the One-Minute Interval Intraday Open-Close Report

August 21, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 14, 2025, 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 adopt fees for the One-Minute Interval Intraday Open-Close Report. The text of the proposed rule change is 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/](http://markets.cboe.com/us/equities/regulation/rule_filings/BZX/)) and at the Exchange’s Office of the Secretary.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend its fee schedule to adopt fees for its One-Minute Interval Intraday Open-Close Report and establish the Qualifying Academic Discount Program for ad hoc purchases of historical One-Minute Interval Intraday Open-Close Report.<sup>3</sup> The Exchange recently adopted a new data product known as the One-Minute Interval Intraday Open-Close Report and the Exchange now proposes to adopt fees for this product.<sup>4</sup>

By way of background, the Exchange currently offers End-of-Day (“EOD”) and Intraday Open-Close Data (collectively, “Open-Close Data”). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts). The EOD Open-Close Data is proprietary Exchange trade data and does not

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<sup>3</sup> The Exchange initially filed the proposed fee changes on August 1, 2025 (SR-CboeBZX-2025-109). On August 14, 2025, the Exchange withdrew that filing and submitted this filing.

<sup>4</sup> See Securities Exchange Act Release No. 103322 (June 25, 2025), 90 FR 27887 (June 30, 2025) (SR-CboeBZX-2025-079).

include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange also offers Intraday Open-Close Data, which provides similar information to that of EOD Open-Close Data but is produced and updated every 10 minutes during the trading day. Data is captured in “snapshots” taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period.<sup>5</sup> The Intraday Open-Close Data provides a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts). The Intraday Open-Close Data is proprietary Exchange trade data and does not include trade data from any other exchange. All Open-Close Data products are completely voluntary products, in that the Exchange is not required by any rule or regulation to make this data available and that potential customers may purchase it on an ad-hoc basis only if they voluntarily choose to do so.

The Exchange recently adopted a new Intraday Open-Close Data that is the same as the existing Intraday Open-Close Data, except that is produced and updated every minute during the trading day (the “One-Minute Intraday Open-Close Data”). The One-Minute Intraday Open-Close Data is captured in “snapshots” taken every 1 minute throughout the trading day and would be available to subscribers within five minutes of the conclusion of each one-minute

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<sup>5</sup> For example, subscribers to the intraday product receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update represents the aggregate data captured from the current “snapshot” and all previous “snapshots.”

period.<sup>6</sup> Similar to the existing Intraday Open-Close Data, the One-Minute Intraday Open-Close Data provides a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts). The One-Minute Intraday Open-Close Data is proprietary Exchange trade data and does not include trade data from any other exchange.

The Exchange proposes to provide in its Fee Schedule that firms may purchase One-Minute Intraday Open-Close Data on a subscription basis or by ad hoc request for a specified month (historical file). The Exchange proposes to assess a monthly fee of \$6,000 (or \$72,000 per year) for subscribing to the data feed. The Exchange also proposes to assess a fee of \$2,500 per request per month for an ad-hoc request of historical One-Minute Intraday Open-Close Data covering all Exchange-listed securities. An ad-hoc request can be for any number of months beginning with March 2019 for which the data is available.<sup>7</sup>

Additionally, the Exchange proposes to adopt a fee for the external distribution of products derived from the One-Minute Intraday Open-Close Data. The Exchange currently assess a fee of \$5,000 per month to allow the unlimited external distribution of Derived Data

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<sup>6</sup> For example, subscribers to the one-minute intraday product would receive the first calculation of intraday data by approximately 9:34 a.m. ET, which represents data captured from 9:30 a.m. to 9:31 a.m. Subscribers will receive the next update at 9:35 a.m., representing the data previously provided together with data captured from 9:31 a.m. through 9:32 a.m., and so forth. Each update will represent the aggregate data captured from the current "snapshot" and all previous "snapshots." There may be variability in the time delivered during the day based on market activity; the Exchange expects to deliver this in intervals ranging from 2-5 minutes after the one-minute interval.

<sup>7</sup> For example, a firm that requests historical Intraday Open-Close Data for the months of June 2025 and July 2025, would be assessed a total of \$3,000.

from the Ten-Minute Interval Open-Close Data.<sup>8</sup> By way of background, “Derived Data” is pricing data or other data that (i) is created in whole or in part from Exchange Data, (ii) is not an index or financial product, and (iii) cannot be readily reverse-engineered to recreate Exchange Data or used to create other data that is a reasonable facsimile or substitute for Exchange Data. Derived Data may be created by Distributors for a number of different purposes, as determined by the Distributor. The Exchange now proposes to adopt a fee of \$7,500 per month to allow the unlimited external distribution of Derived Data from One-Minute Intraday Open-Close Data.<sup>9</sup>

Lastly, the Exchange proposes to implement a similar Qualifying Academic Discount that is in place for the existing Intraday Open-Close Data to apply to the One-Minute Intraday Open-Close Data.<sup>10</sup> The proposed Qualifying Academic Discount for the One-Minute Intraday Open-Close Data shall permit qualifying academic purchasers to purchase historical One-Minute Intraday Open-Close Data for \$2,500 per year for the first year (as opposed to the existing rate of \$1,500 per year for the first year for the existing Intraday Open-Close Data). Additional months after the first year may be purchased separately and will be assessed a prorated amount based on the yearly rate (i.e., \$208.33 per month for historical Intraday Open-Close). Particularly, the Exchange believes that academic institutions and researchers provide a valuable service for the Exchange in studying and promoting the options market. Though academic institutions and researchers have need for granular options data sets, they do not trade upon the data for which they subscribe. The Exchange believes the proposed reduced fee for qualifying academic

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<sup>8</sup> See Securities Exchange Act Release No. 34-94912 (May 13, 2022), 87 FR 30542 (May 19, 2022) (SR-C2-2022-011).

<sup>9</sup> The Exchange notes that this fee is in addition to the product fees for the One-Minute Intraday Open-Close Data.

<sup>10</sup> See Securities Exchange Act Release No. 92173 (June 14, 2021), 86 FR 33399 (June 24, 2021) (SR-C2-2021-010)

purchasers of historical One-Minute Intraday Open-Close Data will encourage and promote academic studies of its market data by academic institutions. In order to qualify for the academic pricing, an academic purchaser must be 1) an accredited academic institution or member of the faculty or staff of such an institution, 2) that will use the data in independent academic research, academic journals and other publications, teaching and classroom use, or for other bona fide educational purposes (i.e. academic use). Furthermore, use of the data must be limited to faculty and students of an accredited academic institution, and any commercial or profit-seeking usage is excluded. Academic pricing will not be provided to any purchaser whose research is funded by a securities industry participant. The Exchange notes that these same qualifications are in place for Qualifying Academic Discount for both the Short Trade Volume Report offered by the Exchange's affiliated equities exchanges and the existing EOD Open-Close Data and Intraday Open-Close Data, offered by the Exchange and its affiliated options exchanges.<sup>11</sup>

The Exchange notes that while the One-Minute Intraday Open-Close Data is priced higher than its existing pricing for the Intraday Open-Close Data this is to be expected, as a participant subscribing to the One-Minute Intraday Open-Close Data receives 10x the data points than a subscriber of Intraday Open-Close Data.<sup>12</sup>

## 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

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<sup>11</sup> See e.g., Securities Exchange Act Release No. 102967 (May 1, 2025), 90 FR 19343 (May 7, 2025) (SR-CboeBYX-2025-009) and see also Securities Exchange Act Release No. 92173 (June 14, 2021), 86 FR 33399 (June 24, 2021) (SR-C2-2021-010).

<sup>12</sup> The Exchange also notes that it has introduced clarifying edits to the existing Intraday Open-Close Data in its Fees Schedule to distinguish between the pricing for the ten-minute intraday data and the one-minute intraday data.

Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>13</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>14</sup> 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)<sup>15</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposal to make the One-Minute Intraday Open-Close Data available for purchase would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The proposal also promotes increased transparency through the dissemination of One-Minute Intraday Open-Close Data. The proposed rule change would benefit investors by making the One-Minute Intraday Open-Close Data available for purchase, which as noted above, may promote better informed trading. Particularly, information regarding opening and closing activity across different option series

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<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> Id.

may indicate investor sentiment, which can be helpful trading information. Subscribers to the data may be able to enhance their ability to analyze option trade and volume data on an intraday basis, and create and test trading models and analytical strategies. The Exchange believes One-Minute Intraday Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading. The Exchange believes that market participants may find it beneficial to receive additional data based on these shorter intervals as opposed to the existing 10-minute intervals provided in the Intraday Open-Close Data. While use cases are the same as the existing 10-minute intervals currently provided, the increased frequency provides more current information and, more data reporting intervals throughout the day to gain knowledge of the trading activity by origin. Of further note, the Exchange has created this proposed new report in response to customer feedback.

The Exchange believes the proposed fees are reasonable as the proposed fees reflect modest increases in price relative to the additional data points being offered in this new One-Minute Intraday Open-Close Data. As discussed above, a participant who subscribes to the One-Minute Intraday Open-Close Data receives ten times the data points that they would receive in comparison to the Intraday Open-Close Data and are only seeing an increase of four times in the cost for ten times the amount of data. Similarly, a participant who purchases the historical One-Minute Intraday Open-Close Data for the month of August 2025 receives ten times the amount of data in contrast to a participant who purchases the historical Intraday Open-Close Data for the month of August 2025 with just over a 3x difference in the costs. Meaning, a participant receives ten times the data for just over three times the cost. Finally, a Distributor of the Intraday Open-Close Data for Derived Data is charged \$5,000 while a Distributor of the One Minute Intraday

Open-Close Data is charged \$7,500 – again this permits a Distributor to distribute Derived Data based on ten times the amount of underlying data points and to only pay an increased fee of 1.5 times the fee for the Intraday Open-Close Derived Data. In summary, for each fee for the One-Minute Intraday Open-Close Data, a participant is able to receive a greater increase in the amount of data points it receives relative to the increase in the fee they would pay to receive this additional data.

Of further note, other exchanges also offer similar data product.<sup>16</sup> Specifically, NASDAQ OMX PHLX (“PHLX”) and the NASDAQ Stock Market LLC (“NASDAQ”) offer the PHLX Options Trade Outline (“PHOTO”) and NASDAQ Options Trade Outline (“NOTO”), respectively. PHOTO and NOTO provide similar information as that included in the proposed One-Minute Intraday Open-Close Data. Similar to the One-Minute Intraday Open-Close Data, both the PHOTO and NOTO intraday products include periodic, cumulative data for a particular trading session for a particular option series. Both reports include information regarding the aggregate number of trades to open a position, aggregate number of trades to close a position, and the origin of the trades based on the specific categories of market participants (i.e., customers, broker-dealers, market makers, etc.).<sup>17</sup> The primary distinction between these reports is that the One-Minute Interval Intraday Open-Close Report is provided in one minute intervals as opposed to ten minute intervals.

The Exchange notes that while the pricing of these similar reports is lower<sup>18</sup> than the

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<sup>16</sup> See Securities Exchange Act Release No. 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR-Phlx-2010-121); See also Securities Exchange Act Release No. 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR-NASDAQ-2011-144)..

<sup>17</sup> Id.

<sup>18</sup> See Price List – U.S. Derivatives Data for Nasdaq PHLX, LLC (“PHLX”), The Nasdaq Stock Market, LLC (“Nasdaq”), Nasdaq ISE, LLC (“ISE”), and Nasdaq GEMX, LLC (“GEMX”), available at <http://www.nasdaqtrader.com/Trader.aspx?id=DPPPriceListOptions#web>. Particularly, PHLX offers “Nasdaq PHLX Options Trade Outline (PHOTO)” and assesses \$3,000 per month for an intra-day

proposed fees, similar to above, a participant receives a greater increase in the amount of data relative to the increased fee of a competitor offering.<sup>19</sup>

Furthermore, proposing fees that are excessively higher than established fees for similar data products, such as the Intraday Open-Close Data, would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. Like the Exchange's the Intraday Open-Close Data and similar data products offered at other exchanges, the One-Minute Intraday Open-Close Data provides insight into trading on a specific market and may likewise aid in assessing investor sentiment. Similarly, market participants may be able to analyze option trade and volume data, and create and test trading models and analytical strategies using only the Intraday Open-Close Data. As such, if a market participant views the Intraday Open-Close Data as a more attractive offering for its specific business needs, then such market participant can merely choose to purchase the Exchange's the Intraday Open-Close Data.

The Exchange also believes the proposed fees are reasonable as they would support the introduction of a new market data product that is designed to aid investors by providing further insight into trading on the Exchange. The Exchange believes One-Minute Intraday Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading. The Exchange believes that market participants may find it beneficial to receive additional data

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subscription and \$1,000 per month for historical reports; Nasdaq offers the "Nasdaq Options Trade Outline (NOTO)" and assesses \$2,000 per month for an intra-day subscription and \$500 per month for historical reports; ISE offers the "Nasdaq ISE Open/Close Trade Profile" and assesses \$2,500 per month for an intra-day subscription and \$1,000 per month for historical reports; and GEMX offers the "Nasdaq GEMX Open/Close Trade Profile" and assesses \$1,500 per month for an intra-day subscription and \$750 per month for historical reports.

<sup>19</sup> For example, if a firm subscribes to the PHOTO report and the One-Minute Interval Intraday Open-Close Report, a firm receives ten times the amount of data provided in the Exchange's One-Minute Interval Intraday Open-Close Report for only double the cost.

based on these shorter intervals as opposed to the existing 10-minute intervals provided in the Intraday Open-Close Data. While use cases are the same as the existing 10-minute intervals currently provided, the increased frequency provides more current information and, more data reporting intervals throughout the day to gain knowledge of the trading activity by origin. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all users who choose to purchase such data. The Exchange's proposed fees would not differentiate between subscribers that purchase One-Minute Intraday Open-Close Data and would allow any interested market participant to purchase such data based on their business needs.

Lastly, the Exchange believes that the discount for qualifying academic purchasers for the historical One-Minute Intraday Open-Close Data is reasonable because academic institutions are not able to monetize access to the data as they do not trade on the data set. The Exchange believes the proposed discount will allow for more academic institutions to purchase the historical One-Minute Intraday Open-Close Data, and, as a result, promote research and studies of the options industry to the benefit of all market participants. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all academic institutions that submit an application and meet the accredited academic institution and academic use criteria. As stated above, qualified academic purchasers will subscribe to the data set for educational use and purposes and are not permitted to use the data for commercial or monetizing purposes, nor can they qualify if they are funded by an industry participant. As a result, the Exchange believes the proposed discount is equitable and not unfairly discriminatory because it maintains equal treatment for all industry participants or other subscribers that use the data for vocational, commercial or other for-profit purposes.

As noted above, the Exchange anticipates a wide variety of market participants to purchase One-Minute Intraday Open-Close Data, including but not limited to individual customers, buy-side investors and investment banks. The Exchange reiterates that the decision as to whether or not to purchase the One-Minute Intraday Open-Close Data is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the One-Minute Intraday Open-Close Data, and the Exchange is not required to make the One-Minute Intraday Open-Close Data available to all investors. Rather, the Exchange is voluntarily making One-Minute Intraday Open-Close Data available, as requested by customers, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

**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. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to make available a data product for purchase that is similar to those offered by other competitor options exchanges but contains finer data reporting intervals.<sup>20</sup>

The Exchange also does not believe the proposed fees would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own comparable reports that includes additional data points with lower prices to better compete with the Exchange's offerings. The Exchange operates in a highly competitive environment, and its ability to price the reports is constrained by competition among exchanges who choose to

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<sup>20</sup> See supra note 16.

adopt similar products. The Exchange must consider this in its pricing discipline in order to compete for subscribers of the Exchange's market data via the reports. For example, proposing fees that are excessively higher than fees for potentially similar data products would simply serve to reduce demand for the Exchange's reports, which as discussed, market participants are under no obligation to utilize. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fees apply uniformly to any purchaser in that the Exchange does not differentiate between the different market participants that may purchase the report. The proposed fees are set at a reasonable level that would allow any interested market participant to purchase such data based on their business needs.

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 Act<sup>21</sup> and paragraph (f) of Rule 19b-4<sup>22</sup> 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,

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<sup>21</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>22</sup> 17 CFR 240.19b-4(f).

for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

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

##### Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-CboeBZX-2025-116 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-2025-116. 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-2025-116 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.<sup>23</sup>

**Vanessa A. Countryman,**

*Secretary.*

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<sup>23</sup> 17 CFR 200.30-3(a)(12).