

potential subscribers the ability to use and test the Intraday Open-Close historical data prior to purchasing additional months and will therefore encourage and promote new users to purchase the Intraday Open-Close historical data. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all Members and non-Members who have not previously purchased Intraday Open-Close historical data. Also as noted above, another exchange offers a free trial to new users for a similar data product¹³ and the Exchange itself recently offered a similar free trial.¹⁴ Lastly, the purchase of this data product is discretionary and not compulsory.

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 operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

As discussed above, Open-Close Data is subject to direct competition from several other options exchanges that offer substitutes to Open-Close. Moreover, purchase of Open-Close is optional. It is designed to help investors understand underlying market trends to improve the quality of investment decisions, but is not necessary to execute a trade.

The proposed rule change is grounded in the Exchange's efforts to compete more effectively. The Exchange is proposing to provide a free trial for market participants to test investment strategies and trading models, and develop market sentiment indicators. This change will not cause any unnecessary or inappropriate burden on intermarket competition, but rather will promote competition by encouraging new market participants to investigate the product. Other exchanges are, of course, free to match this change or undertake other competitive responses, enhancing overall competition. Indeed, as discussed, another exchange

currently offers a similar free-trial period for similar data.¹⁵

The proposed rule change will not cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed rule change will apply to all Members and non-Members who have never made an ad-hoc request to purchase Intraday Open-Close historical data. Moreover, purchase of Intraday Open-Close historical files is discretionary and not compulsory.

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 Act¹⁶ and paragraph (f) of Rule 19b-4¹⁷ 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:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2022-047 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-2022-047. 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 (<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, DC 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-2022-047 and should be submitted on or before October 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

J. Matthew DeLesDernier,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-815, OMB Control No. 3235-0769]

**Submission for OMB Review;
Comment Request; Extension: Rule 139b**

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

¹³ See Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

¹⁴ See Securities Exchange Act Release No. 34-94911 (May 13, 2022), 87 FR 30520 (May 19, 2022) (SR-CboeBZX-2022-030).

¹⁵ See Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f).

¹⁸ 17 CFR 200.30-3(a)(12).

Notice is hereby given that the Securities and Exchange Commission (the “Commission”) has, in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3501 *et seq.*) (“PRA”), has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information, “Rule 139b Disclosure of Standardized Performance,” in connection with the Rule 139b (17 CFR 230.139b) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (“Securities Act”) that was adopted by the Commission on November 30, 2018, as discussed below.¹

As directed by the Fair Access to Investment Research Act of 2017 (Pub. L. 115–66, 131 Stat. 1196 (2017) (the “FAIR Act”), the Commission adopted rule 139b under the Securities Act to extend the safe harbor under rule 139 to a “covered investment fund research report.” Specifically, rule 139b provides a safe harbor to a broker-dealer who publishes or distributes, in the regular course of its business, research reports concerning one or more “covered investment fund(s)” while participating in the distribution of a covered investment fund’s securities.

In the Adopting Release, the Commission adopted the provision that rule 139b include a standardized performance requirement. The Commission believes that standardized performance presentation is an appropriate requirement because investors tend to consider fund performance a significant factor in evaluating or comparing investment companies, and the requirement addresses potential investor confusion if a communication were not easily recognizable as research as opposed to an advertising prospectus or supplemental sales literature. Rule 139b requires that research reports about open-end funds that include performance information must present it in accordance with paragraphs (d), (e), and (g) of rule 482. Rule 139b also requires that research reports about closed-end funds that include performance information must present it in accordance with instructions to item 4.1(g) of Form N–2. Performance measures calculated by broker-dealers are not required to be kept confidential and there is no mandatory retention period. The Commission anticipates that compliance with these performance measures for each fund discussed in a research report, and for which the

performance measures apply, would increase compliance costs for broker-dealers seeking to publish or distribute a covered investment fund research report.

It is difficult to provide estimates of the burdens and costs for those broker-dealers that will include performance information in a rule 139b research report. As discussed in the Adopting Release, this is difficult to estimate because current data collected does not reflect the affiliate exclusion, does not include the entire universe of covered investment funds, and it is uncertain what percentage of communications currently filed as rule 482 advertising prospectuses (or rule 34b–1 supplemental sales materials) will instead be published in reliance of rule 139b, as covered investment fund research reports.² For purposes of the PRA, we estimate that 10% of the rule 482 and rule 34b–1 communications currently filed by broker-dealers with FINRA (approximately 48,341) could be considered as rule 139b covered investment fund research reports. We estimate that broker-dealers will publish annually 4,834 (10% of 48,341) covered investment fund research reports. Moreover, we assume for purposes of the PRA that all estimated rule 139b research reports will include fund performance information. We further estimate that 1,169 broker-dealers would likely be respondents to the collection of information with a frequency of 4.1 responses per year.³ Additionally, we estimate that each research report will require 3 hours of ongoing internal burden hours by a broker-dealers’ personnel to comply with the rule 139b collection of information requirements, which for each broker-dealer is estimated to be 12.3 internal burden hours.⁴ In sum, we estimate that rule 139b’s requirements will impose a total annual internal hour burden of 14,379 hours on broker-dealers.⁵ We do not think there is an external cost burden associated with this collection of information.

This collection of information requirement would not be mandatory

² See Adopting Release, *supra* note 1, n. 413 and accompanying paragraph.

³ Based on information provided by FINRA, for the period January 1, 2021 through December 31, 2021, there were an aggregate of 48,341 filings that were coded as either Rule 482 or Rule 34b–1 filings. Furthermore, the Commission estimates that for the period January 1, 2021 through December 31, 2021, there were 4,834 covered investment fund research reports/1,169 broker-dealers = 4.1 annual responses per broker-dealer.

⁴ 4.1 annual responses per broker-dealer * 3 internal burden hours = 12.3 annual internal burden hours per broker-dealer.

⁵ 12.3 annual burden hours * 1,169 broker-dealers.

for broker-dealers seeking to rely upon rule 139b, but would be necessary for those broker-dealers that would like to provide performance information in their covered investment fund research reports. Responses to the information collections will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by October 17, 2022 to (i) MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: PRA_Mailbox@sec.gov.

Dated: September 12, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20019 Filed 9–15–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95737; File No. SR–C2–2022–016]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Relating to the Sale of Open-Close Volume Data

September 12, 2022.

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 September 1, 2022, Cboe C2 Exchange, Inc. (the “Exchange” or “C2”) 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

¹ See Release No. 33–10580 (Nov. 30, 2018) [83 FR 64180 (Dec. 13, 2018)] (“Adopting Release”). Rule 139b became effective on January 14, 2019.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.