

determine whether to approve or disapprove the proposed rule change.⁷

Section 19(b)(2) of the Act⁸ provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of the notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for comment in the **Federal Register** on April 28, 2023.⁹ The 180th day after publication of the Notice is October 25, 2023. The Commission is extending the time period for approving or disapproving the proposed rule change for an additional 60 days.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁰ designates December 24, 2023, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-CBOE-2023-018).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023-21782 Filed 10-2-23; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98568; File No. SR-BOX-2023-20]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Adopt Rules To Govern FLEX Equity Options and a New Order Type To Trade FLEX Equity Options on the BOX Trading Floor

September 27, 2023.

On September 1, 2023, BOX Exchange LLC (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt Rules 5055 and 7605 which, among other applicable rules, will govern the trading of flexible exchange equity options (“FLEX Equity Options”) on the BOX Trading Floor, and make related changes to Rules 100 (Definitions), 7620 (Accommodation Transactions), and 12140 (Imposition of Fines for Minor Rule Violations). The proposed rule change was published for comment in the **Federal Register** on September 19, 2023.³

Section 19(b)(2) of the Act⁴ provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 3, 2023. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁵ designates December 18, 2023, as the date by

which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-BOX-2023-20).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023-21793 Filed 10-2-23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98571; File No. SR-CBOE-2023-055]

Self-Regulatory Organizations; Cboe 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 27, 2023.

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 25, 2023, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) 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 Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend its Fees Schedule relating to the sale of Open-Close volume data. 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://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

⁶ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁷ See Securities Exchange Act Release No. 97950 (July 19, 2023), 88 FR 47930 (July 25, 2023).

⁸ 15 U.S.C. 78s(b)(2).

⁹ See Notice, supra Note 3.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 98380 (September 13, 2023), 88 FR 64482.

⁴ 15 U.S.C. 78s(b)(2).

⁵ *Id.*

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 Fees Schedule to offer a free trial for an ad-hoc request of up to six (6) historical months of Intraday Open-Close historical data to all Cboe Options Trading Permit Holders ("TPHs") and non-TPHs who have never subscribed to the Intraday Open-Close historical files or previously received a free trial, effective September 25, 2023.

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 Open-Close Data is proprietary Cboe Options trade data and does not 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 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.³ 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 also proprietary Cboe Options trade data and does not include trade data from any other exchange.

Cboe LiveVol, LLC ("LiveVol"), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., makes the Open-Close Data available for purchase to TPHs and non-TPHs on the LiveVol DataShop website (*datashop.cboe.com*). Customers may currently purchase Intraday Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (e.g., request for Intraday Open-Close Data for month of August 2023).

Open-Close Data is subject to direct competition from similar end-of-day and intraday options trading summaries offered by several other options exchanges.⁴ All of these exchanges offer essentially the same end-of-day and intraday options trading summary information.

Free Trial

The Exchange seeks to re-establish a free trial for historical ad hoc requests for Intraday Open-Close Data for new purchasers. Currently, ad hoc requests for historical Intraday Open-Close Data are available to all customers at the same price and in the same manner. The current charge for this historical Intraday Open-Close Data covering all of the Exchange's securities (Equities, Indexes & ETF's) is \$1,000 per month. The Exchange previously offered a free trial during the months of September, October, November and December 2022 for an ad-hoc request of three (3) historical months of Intraday Open-Close historical data to all Cboe Options Trading Permit Holders ("TPHs") and non-TPHs who have never before

with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current "snapshot" and all previous "snapshots."

⁴ These substitute products are: Nasdaq PHLX Options Trade Outline, Nasdaq Options Trade Outline, ISE Trade Profile, GEMX Trade Profile data; open-close data from C2 Options, BZX, and EDGX; and Open Close Reports from MIAAX Options, Pearl, and Emerald.

subscribed to the Intraday Open-Close historical files.⁵

The Exchange now proposes to reestablish a free trial and amend the Fees Schedule to provide a total up to six (6) historical months of Intraday Open-Close Data to any TPH or non-TPH that has not previously subscribed to this offering or previously received a free trial.⁶ As noted above, the Exchange previously offered a free trial period recently for the months of September through December 2022. The Exchange believes bringing back the proposed trial, on a general six-month basis, will again serve as an incentive for new users who have never purchased Intraday Open-Close historical data (or received such data via a previous free trial offer) to start purchasing Intraday Open-Close historical data. Particularly, the Exchange believes it will give potential subscribers the ability to use and test the data offering before signing up for additional months. The Exchange also notes another exchange offers a free trial for new subscribers of a similar data product.⁷ Lastly, the purchase of Intraday Open-Close historical data is discretionary and not compulsory.

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 Exchange and, in particular, the requirements of Section 6(b) of the Act.⁸ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁹ 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,

⁵ See Securities Exchange Act Release No. 34–95736 (September 12, 2022), 87 FR 57005 (September 16, 2022) (SR–CBOE–2022–044).

⁶ For example, if a TPH or non-TPH that has never made an ad-hoc request for a specified month of Intraday Open-Close historical data wishes to purchase Intraday Open-Close Data for the months of January, February, March, April, May and June 2023 during the month of September 2023, the historical files for those months would be provided free of charge. If a new user wishes to purchase Intraday Open-Close historical data for the months of January, February, March, April, May, June, and July 2023 during the month of September 2023, then the data for January, February, March, April, May, and June 2023 would be provided free of charge, and the new user would be charged \$1,000 for the July 2023 historical file.

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

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

³ For example, subscribers to the intraday product will 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 will receive the next update at 9:52 a.m., representing the data previously provided together

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)¹⁰ 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 the proposed fee change will further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Open-Close Data is designed to help investors understand underlying market trends to improve the quality of investment decisions. Indeed, subscribers to the data may be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes 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 and as noted above, is entirely optional. Moreover, several other exchanges offer a similar data product which offer same type of data content through end-of-day or intraday reports.¹¹

The Exchange also operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 15% of the market share.¹² The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that

current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹³ Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange’s data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt a fee waiver to attract future purchasers of historical Intraday Open-Close Data.

The Exchange believes that the proposed free trial for any TPH or non-TPH who has not previously purchased Intraday Open-Close historical data or received a free trial is reasonable because such users would not be subject to fees for up to 6 months’ worth of Intraday Open-Close historical data. The Exchange believes the proposed free trial is also reasonable as it will give 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 TPHs and non-TPHs who have not previously purchased Intraday Open-Close historical data or previously received a free trial. Also as noted above, another exchange offers a free trial to new users for a similar data product¹⁴ and the Exchange itself recently offered a similar free trial.¹⁵ 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.¹⁶

The proposed rule change will not cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed rule change will apply to all TPHs and non-TPHs 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 Act¹⁷ and paragraph (f) of Rule 19b-4¹⁸ 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

¹⁰ *Id.*

¹¹ See *supra* note 4.

¹² See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (September 12, 2023), available at https://markets.cboe.com/us/options/market_statistics/.

¹³ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

¹⁴ See *supra* note 7.

¹⁵ See *supra* note 5.

¹⁶ See *supra* note 7.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f).

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. Please include file number SR-CBOE-2023-055 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-CBOE-2023-055. 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 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 a.m. and 3 p.m. Copies of the filing also 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-CBOE-2023-055 and should be

submitted on or before October 24, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023-21795 Filed 10-2-23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98573; File No. SR-ICEEU-2023-021]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1, Relating to Amendments to Its Operational Risk and Resilience Policy

September 27, 2023.

On August 15, 2023, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-ICEEU-2023-021 pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Exchange Act")¹ and Rule 19b-4² thereunder to amend its Operational Risk and Resilience Policy to make certain updates and enhancements.³ On August 24, 2023, ICE Clear Europe filed Amendment No. 1 to the proposed rule change to make certain changes to the Exhibits 5.⁴ The proposed rule change, as modified by Amendment No. 1 (hereafter "the Proposed Rule Change"), was published for public comment in the *Federal Register* on September 5, 2023.⁵ The Commission has not received comments regarding the proposal described in the Proposed Rule change.

Section 19(b)(2) of the Exchange Act⁶ provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such

¹⁹ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Notice of Filing *infra* note 5, 88 FR 60001.

⁴ Amendment No. 1 corrects the presentation of changes in Exhibit 5 by reflecting the deletion of the prior "Oversight of the Policy" section as part of the updated governance and oversight provisions. This amendment was filed with the Commission on August 24, 2023.

⁵ Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to Amendments to Its Operational Risk and Resilience Policy, Exchange Act Release No. 98237 (August 29, 2023); 88 FR 60727 (September 5, 2023) (SR-ICEEU-2023-021) ("Notice").

⁶ 15 U.S.C. 78s(b)(2).

longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the Notice of Filing is October 20, 2023. The Commission is extending this 45-day time period.

In order to provide the Commission with sufficient time to consider the Proposed Rule Change, the Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Exchange Act,⁷ designates December 4, 2023, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove proposed rule change SR-ICEEU-2023-021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023-21780 Filed 10-2-23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98562; File No. SR-CboeBZX-2023-072]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the Franklin Bitcoin ETF Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

September 27, 2023.

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 26, 2023, 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

⁷ *Id.*

⁸ 17 CFR 200.30-3(a)(31).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.