



## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- 102967; File No. SR-CboeBYX-2025-009]

### **Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Update its Fee Schedule to Provide a Discount on Fees Assessed to Qualifying Academic Purchasers for Purchases of Ad Hoc Historical U.S. Equity Short Volume and Trades Reports**

May 1, 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 April 23, 2025, Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) 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**

The Exchange proposes to update its Fee Schedule to provide a discount on fees assessed to qualifying academic purchasers for purchases ad hoc historical U.S. Equity Short Volume and Trades Reports. 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://markets.cboe.com/us/equities/regulation/rule\\_filings/BYX/](http://markets.cboe.com/us/equities/regulation/rule_filings/BYX/)), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

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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 update its Fee Schedule to provide a discount on fees assessed to qualifying academic purchasers for purchases ad hoc historical U.S. Equity Short Volume and Trades Reports (“Short Volume Reports”).

By way of background, the Short Volume Report is an end-of-day report that summarizes certain equity trading activity on the Exchange, including trade date,<sup>3</sup> total volume,<sup>4</sup> short volume,<sup>5</sup> and sell short exempt volume,<sup>6</sup> by symbol.<sup>7</sup> The Short Volume Report also includes an end-of-month report that provides a record of all short sale transactions for the month, including trade date and time (in microseconds),<sup>8</sup> trade size,<sup>9</sup>

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<sup>3</sup> “Trade date” is the date of trading activity in yyyy-mm-dd format.

<sup>4</sup> “Total volume” is the total number of shares transacted.

<sup>5</sup> “Short volume” is the total number of shares sold short.

<sup>6</sup> “Short exempt volume” is the total number of shares sold short classified as exempt.

<sup>7</sup> “Symbol” refers to the Cboe formatted symbol in which the trading activity occurred. See [https://cdn.cboe.com/resources/membership/US\\_Symbology\\_Reference.pdf](https://cdn.cboe.com/resources/membership/US_Symbology_Reference.pdf).

<sup>8</sup> “Trade date and time” is the date and time of trading activity in yyyy-mm-dd hh:mm:ss.000000 ET format.

<sup>9</sup> “Trade size” is the number of shares transacted.

trade price,<sup>10</sup> and type of short sale execution,<sup>11</sup> by symbol and exchange.<sup>12</sup> The Short Volume Report is a completely voluntary product, 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.

Cboe LiveVol, LLC (“LiveVol”), a wholly owned subsidiary of the Exchange’s parent company, Cboe Global Markets, Inc., makes the Short Volume Report available for purchase to Users on the LiveVol DataShop website (datashop.cboe.com). Both the end-of-day report and end-of-month report are included in the cost of the Short Volume Report and are available for purchase by both Members as well as non-Members on an annual or monthly<sup>13</sup> basis. The monthly fee is \$750 per Internal Distributor<sup>14</sup> and \$1,250 per External Distributor.<sup>15</sup> Additionally, the Exchange offers historical reports containing both the end-of-day volume and end-of-month trading activity. The fee per month of historical data is \$500. The Short Volume Report provided on a historical basis is only for display use redistribution (e.g., the data may be provided on the User’s platform). Therefore, Users of the historical data may not charge separately for data included in the Short Volume Report or incorporate such data into their product. The Exchange notes

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<sup>10</sup> “Trade price” is the price at which shares were transacted.

<sup>11</sup> “Short type” is a data field that will indicate whether the transaction was a short sale or short sale exempt transaction. A short sale transaction is a transaction in which a seller sells a security which the seller does not own, or the seller has borrowed for its own account (see 17 CFR 242.200). A short sale exempt transaction is a short sale transaction that is exempt from the short sale price test restrictions of Regulation SHO Rule 201 (see 17 CFR 242.201(c)).

<sup>12</sup> “Exchange” is the market identifier (Z = BZX, Y = BYX, X = EDGX, A = EDGA).

<sup>13</sup> The monthly fees for the Report are assessed on a rolling period based on the original subscription date. For example, if a User subscribes to the Report on October 24, 2023, the monthly fee will cover the period of October 24, 2023, through November 23, 2023. If the User cancels its subscription prior to November 23, 2023, and no refund is issued, the User will continue to receive both the end-of-day and end-of-month components of the Report for the subscription period.

<sup>14</sup> An Internal Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor's own entity. See Cboe BYX U.S. Equities Exchange Fee Schedule.

<sup>15</sup> An External Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity. See Cboe BYX U.S. Equities Exchange Fee Schedule.

that the Short Volume Report is subject to direct competition from other exchanges, as other exchanges offer similar products for a fee.<sup>16</sup>

The Exchange proposes to provide a pricing incentive program in which qualifying academic purchasers may purchase the historical reports for the greater fee of (i) a 50% discount off of their total purchase of historical Short Volume Reports or (ii) \$500. For example, if a qualifying academic purchaser purchases a month and a half of data, for a total cost of \$750 before the discount (for what would be a discounted price of \$375), they will be charged the greater fee of \$500.<sup>17</sup> The Exchange believes that academic institutions provide a valuable service for the Exchange in studying and promoting the equities market. Though academic institutions and researchers have a need for granular equities data sets, they do not trade upon the data for which they subscribe. The Exchange believes the proposed reduced fees for qualifying academic purchasers of historical Short Volume Reports 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, (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 the 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 will have the discretion to review and approve such qualifying academic purchasers who submit a brief application in

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<sup>16</sup> See the Nasdaq Fee Schedule, Equity 7, Section 152. See also, the TAQ Group Short Sales (Monthly File) and Short Volume product, offered by the New York Stock Exchange LLC (“NYSE”) and affiliated equity markets (the “NYSE Group”) at NYSE Exchange Proprietary Market Data | TAQ NYSE Group Short Sales.

<sup>17</sup> The Exchange proposes to amend its fee schedule to include this example for clarity as well.

accordance with existing LiveVol subscriber policies and request additional information when it deems necessary.

The Exchange notes that other exchanges currently offer academic discounts for similar data feeds.<sup>18</sup> The Exchange recognizes the high value of academic research and educational instruction and publications, and believes that the proposed academic discount for historical Short Volume Reports will encourage the promotion academic research of the equities industry, which will serve to benefit all market participants while also opening up a new potential user base among students. Finally, the Exchange notes that academic purchases for historical Short Volume Reports are educational in use and purpose, and not vocational.

## 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.<sup>19</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>20</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,

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<sup>18</sup> See Securities Exchange Act Release No. 67955 (October 1, 2012) 77 FR 61037 (October 5, 2012) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Reduced Fees for Historical ISE Open/Close Trade Profile Intraday Market Data Offering) (SR-ISE-2012-76); Securities and Exchange Act Release 34-60654 (September 11, 2009) 74 FR 47848 (September 17, 2009) (Notice of Filing of Proposed Rule Change Relating to Historical ISE Open/Close Trade Profile Fees) (SR-ISE-2009-64); Securities Exchange Act Release No. 53770 (May 8, 2006) 71 FR 27762 (May 12, 2006) (Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Establish an Annual Administrative Fee for Market Data Distributors That Are Recipients of Nasdaq Proprietary Data Products) (SR-NASD-2006-030); Securities Exchange Act Release No. 85817 (April 25, 2019) 84 FR 21863 (May 5, 2019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Adopt Reduced Subscription Fees for Academics for the Sale of Historical Cboe Open-Close Volume Data) (SR-CBOE-2019-026).

<sup>19</sup> 15 U.S.C. 78f(b).

<sup>20</sup> 15 U.S.C. 78f(b)(5).

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>21</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>22</sup> which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

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 proposed fee changes will further broaden the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The Exchange believes the dissemination of historical short volume data via historical Short Volume Reports benefits investors through increased transparency and may promote better informed trading, as well as research and studies of the equities industry. Nevertheless, the Exchange notes that 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 the same type of data content through similar reports.<sup>23</sup>

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<sup>21</sup> Id.

<sup>22</sup> 15 U.S.C. 78f(b)(4).

<sup>23</sup> See supra note 17 [sic].

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered equities exchanges that trade equities. Based on publicly available information, no single equities exchange has more than 14% of the equity market share.<sup>24</sup> 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.”<sup>25</sup> Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supercompetitive fees. In the event that a market participant views one exchange’s data product as more attractive than the competition, that market participant can, and often does, switch between similar products. The proposed fees are a result of the competitive environment of the U.S. equities industry as the Exchange seeks to adopt fees to attract purchasers of historical Short Volume Reports.

The Exchange believes that the discount for qualifying academic purchasers for the historical Short Volume Reports 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 Short Volume Reports, and, as a result, promote research and studies of the equities 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

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<sup>24</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (April 21, 2025), available at [https://www.cboe.com/us/equities/market\\_statistics/](https://www.cboe.com/us/equities/market_statistics/).

<sup>25</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

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.

#### 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, including the adoption of similar discounts to those fees, the Exchange believes that the degree to which fee changes (including discounts and rebates) in this market may impose any burden on competition is extremely limited. As discussed above, the Exchange's historical Short Volume Reports offering is subject to direct competition from several other options exchanges that offer similar data products. Moreover, purchase of historical Short Volume Reports 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 Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change will apply to all qualifying academic purchasers uniformly. While the proposed fee reduction applies only to qualifying academic purchasers, academic institutions' research and publications as a

result of access to historical market data benefits all market participants. The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as other options exchanges currently offer similar historical data to academic institutions at a discounted price.<sup>26</sup> Offering a discount for qualifying academic institutions that purchase the Exchange's historical Short Volume Reports may make that data more attractive to such academic institutions and further increase competition with exchanges that offer similar historical data products.

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>27</sup> and paragraph (f) of Rule 19b-4<sup>28</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, 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.

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<sup>26</sup> See *supra* note 19 [sic].

<sup>27</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>28</sup> 17 CFR 240.19b-4(f).

#### **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-CboeBYX-2025-009 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-CboeBYX-2025-009. 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-CboeBYX-2025-009 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>29</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2025-07909 Filed: 5/6/2025 8:45 am; Publication Date: 5/7/2025]

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<sup>29</sup> 17 CFR 200.30-3(a)(12).