

data that is currently publicly available via the SIP, the Cboe website or DataShop, or other vendors. Any differences in the proposed product to similar products offered by competing exchanges are intended to better understand the changing risk environment on a daily basis. The Exchange is proposing to introduce the Short Volume Report in order to keep pace with changes in the industry and evolving customer needs and believes this proposed rule change would contribute to robust competition among national securities exchanges. Further, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Short Volume Report will be available equally to all Members and non-Members that choose to subscribe to such report. As stated, the Short Volume Report is optional and Members and non-Members may choose to subscribe, or not, based on their view of the additional benefits and added value provided by utilizing the Short Volume Report. Given the above, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, 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-CboeBYX-2021-028 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-2021-028. 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-CboeBYX-2021-028 and should be submitted on or before May 19, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵¹

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94783; File No. SR-CboeEDGX-2021-049]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, To Introduce a New Data Product To Be Known as the Short Volume Report, Modify the Name of Rule 13.8 to "Data Products", and Add a Preamble to Rule 13.8

April 22, 2022.

On November 17, 2021, Cboe EDGX Exchange, Inc. ("Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)¹ of the Securities

Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ a proposed rule change to adopt Exchange Rule 13.8(h) to introduce a new data product to be known as the Short Volume Report, modify the name of Rule 13.8 to "Data Products", and add a preamble to Rule 13.8. The proposed rule change was published for comment in the **Federal Register** on December 7, 2021.⁴ On January 20, 2022, pursuant to Section 19(b)(2) of the Act,⁵ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁶ On March 7, 2022, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act⁷ to determine whether to approve or disapprove the proposed rule change.⁸

On March 30, 2022, the Exchange filed Amendment No. 1 to the proposed rule change, which superseded the proposed rule change as originally filed. Amendment No. 1 to the proposed rule change is described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to adopt Exchange Rule 13.8(h) to introduce a new data product to be known as the Short Volume Report, modify the name of Rule 13.8 to "Data Products", and add a preamble to Rule 13.8. 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/>

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 93696 (December 1, 2021), 86 FR 69306. The comment letters received on the proposed rule change are available on the Commission's website at: <https://www.sec.gov/comments/sr-cboeedgx-2021-049/sr-cboeedgx2021049.htm>.

⁵ 15 U.S.C. 78s(b)(2).

⁶ See Securities Exchange Act Release No. 94008, 87 FR 4069 (January 26, 2022). The Commission designated March 7, 2022, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

⁷ 15 U.S.C. 78s(b)(2)(B).

⁸ See Securities Exchange Act Release No. 94369, 87 FR 14056 (March 11, 2022).

⁵¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

options/regulation/rule_filings/edgx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

This Amendment No. 1 to SR-EDGX-2021-049 amends and replaces in its entirety the proposal as originally submitted on November 17, 2021. The Exchange submits this Amendment No. 1 in order to clarify certain points and add additional details to the proposal.

The Exchange proposes to adopt Rule 13.8(h) to provide for a new data product to be known as the Short Volume Report. The proposal introduces the Short Volume Report which will be available for purchase to EDGX Members ("Members")⁹ and non-Members. The Exchange notes that the proposed Short Volume Report generally consists of information similar to that included in various data products offered by the Nasdaq Stock Market LLC ("Nasdaq") and the New York Stock Exchange LLC ("NYSE"), and/or information that is currently available or determinable from other publicly available sources such as Cboe DataShop,¹⁰ the Cboe website,¹¹ or the CTA and UTP feeds made available by the Securities Information Processor ("SIP"), the only exception being the proposed transaction counts related to sell short and sell short exempt.

A description of each market data product offered by the Exchange is described in Exchange Rule 13.8. The Exchange proposes to amend Rule 13.8(h) to introduce and add a description of the Short Volume Report.

The Exchange proposes to describe the Short Volume Report as "an end-of-day report that summarizes certain equity trading activity on the Exchange, including trade count and volume by symbol for buy, sell long, sell short, and sell short exempt trades. The report also includes the total volume which represents the sum of all shares for buy, sell, sell short, and sell short exempt trades."¹² Specifically, the end-of-day report will include the following information: trade date,¹³ symbol,¹⁴ total volume,¹⁵ buy volume,¹⁶ buy trade count,¹⁷ sell long volume,¹⁸ sell long trade count,¹⁹ sell short volume,²⁰ sell short trade count,²¹ sell short exempt volume,²² and sell short exempt trade count.²³ As discussed in further detail below, the Exchange notes that, with the exception of short sale and short sale exempt transaction counts, all components of the proposed Short Volume Report are either data points similar to those provided by NYSE and Nasdaq,²⁴ and/or attainable from existing publicly available data sources such as the SIP, the Cboe website, or Cboe DataShop. The Exchange believes that the consolidation and presentation of data as proposed in the Short Volume

¹² Information provided in the report includes only trade data, and does not include order data.

¹³ Trade date refers to the date of trading activity.

¹⁴ Symbol refers to the Cboe formatted symbol in which the trading activity occurred. See https://cdn.cboe.com/resources/membership/US_Symbolology_Reference.pdf.

¹⁵ Total volume is the total share volume of all buy, sell long, sell short, and sell short exempt order executions and is equal to the sum of buy volume, sell long volume, sell short volume, and sell short exempt volume.

¹⁶ Buy volume is the total share volume of all buy order executions and is equal to the sum of sell long volume, sell short volume, and sell short exempt volume.

¹⁷ Buy trade count is the total trade count of all buy order executions and is equal to the sum of sell long trade count, sell short trade count, and sell short exempt trade count.

¹⁸ Sell long volume is the total share volume of all sell long order executions.

¹⁹ Sell long trade count is the total trade count of all sell long order executions.

²⁰ Sell short volume is the total share volume of all sell short order executions and will not include sell short exempt volume.

²¹ Sell short trade count is the total trade count of all sell short order executions and will not include short sale exempt trades.

²² Sell short exempt volume is the total share volume of all sell short exempt order executions.

²³ Sell short exempt trade count is the total trade count of all sell short exempt order executions.

²⁴ The Exchange notes that Nasdaq's comparable product, the Daily Short Sale Volume file, reflects aggregate information across their affiliated equity exchanges. The Exchange is not proposing an aggregated Short Volume Report across its affiliated equity exchanges, and the proposal includes only volume and trade counts executed on EDGX. As such, the volumes calculated on Nasdaq reports will differ from that in the proposed Short Volume Report.

Report will benefit market participants because such report will allow market participants to better discern whether daily sell activity is long or short, or sell short exempt. Such insight may aid participants in better understanding the changing risk environment on a daily basis.

The Short Volume Report will be available for purchase²⁵ on a monthly subscription basis and both Members and non-Member subscribers will receive a daily end-of-day file that will be delivered after the conclusion of the Post-Closing Session.²⁶ Additionally, historical Short Volume Reports dating as far back as January 2, 2015 will be available for purchase on an ad hoc basis in monthly increments. The subscription files and historical files will include the same data points. Lastly, the Exchange notes the proposed product 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 subscribers may subscribe to it only if they voluntarily choose to do so.

Based on the above proposal, the Exchange also proposes to amend the name of Rule 13.8 from "EDGX Book Feeds" to "Data Products". Such an amendment would accurately describe the Rule as the proposed product is not a book feed, but rather a data product. Further, the existing data feeds identified in Rule 13.8 are also data products. The Exchange also proposes to add the following preamble to Rule 13.8: "The Exchange offers the following data products free of charge, unless otherwise noted in the Exchange's fee schedule". The proposed language conforms to rule text provided in Cboe BZX Exchange, Inc. ("BZX") and Cboe BYX Exchange, Inc. ("BYX") Rules 11.22.

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.²⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁸ 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

²⁵ The Exchange intends to submit a separate rule filing to adopt fees for the Short Volume Report product.

²⁶ See Exchange Rule 1.5(r).

²⁷ 15 U.S.C. 78f(b).

²⁸ 15 U.S.C. 78f(b)(5).

⁹ See Exchange Rule 1.5(n).

¹⁰ See Equity and ETF Trades Data | Subscription (cboe.com).

¹¹ See Cboe EDGX U.S. Equities Exchange Short Sale Reports.

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)²⁹ 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. In this regard, the Exchange believes that the proposed Short Volume Report would further broaden the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The proposal also promotes increased transparency of short sale data, which benefits investors by fostering better informed trading.

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. In this regard, the Exchange believes that the proposed Short Volume Report would further broaden the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The proposal also promotes increased transparency of short sale data, which benefits investors by fostering better informed trading.

As noted above, aside from the proposed sell short and sell short exempt transaction counts, the proposed Short Volume Report consists of information similar to that included in various data products offered Nasdaq and NYSE, and/or information that is available or determinable from other publicly available sources such as Cboe DataShop,³⁰ the Cboe website,³¹ or the

SIP. The Exchange notes that short sale information that is available free of charge on the Cboe website will continue to be publicly available upon approval of the proposal.

Trade Date and Symbol

The proposed data points for trade date and symbol are generally available from numerous data sources, such as the Nasdaq Daily Short Sale Volume files. The Nasdaq Daily Short Sale Volume files “reflect the aggregate number of shares executed on the Nasdaq market during regular trading hours on a daily basis. At the security level, Nasdaq will show the volume for executed short sale trades, as well as the total trading volume for the Nasdaq market.”³² Specifically, the Nasdaq Daily Short Sale Volume files provide the date, which is defined as the trade date of a transaction, and the symbol, which is defined as the trading symbol, for trading activity on Nasdaq.³³ As proposed, the Exchange seeks to provide trade date and symbol information consistent with how the Nasdaq Daily Short Volume files capture these data points.

Total Volume

As noted above, the proposed total volume data point is equal to the sum of all buy, sell, sell short, and sell short exempt trades. The Exchange notes that the proposed total volume data point can be derived from the SIP, as well through information made available through reports on Cboe DataShop³⁴ or other vendors.

Additionally, the proposed total volume data point is similar in nature to that offered in the NYSE Daily Short Volume file and Nasdaq Daily Short Sale file. The NYSE Daily Short Volume file provides a daily summary report of short sale volume for every equity symbol traded on NYSE, NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc., and NYSE Chicago, Inc. (collectively, the “NYSE affiliated exchanges”) during the day.³⁵ NYSE describes total volume as “the total share volume of all order executions.”³⁶ Similarly, the Nasdaq Daily Short Sale Volume file provides total volume, which is described as the “[a]ggregate reported share volume of executed short

sale trades during regular trading hours.”³⁷ As noted above, the proposed Short Volume Report will include total volume comprised of the total share volume of all buy, sell long, sell short, and sell short exempt order executions, and is equal to the sum of buy volume, sell long volume, sell short volume, and sell short exempt volume. Therefore, the proposed total volume represents both the buy-side and sell-side of each execution. In contrast, the NYSE and Nasdaq products represent total volume as one side of the execution (*e.g.*, the buy-side of each execution or the total share volume of the executions). Thus, information similar to the Exchange’s total volume could be determined by simply doubling the total volume identified in the NYSE Daily Short Volume file or the Nasdaq Short Sale Volume file. Given this, the proposed total volume is a data point already available to the public, and raises no novel issues. Furthermore, the Exchange believes that providing the sum of buy volume, sell long volume, sell short volume, and sell short exempt volume as proposed will serve as an integrity check for each of the volume fields. Specifically, if total volume does *not* equal the sum of the aforementioned volume fields, subscribers could easily identify a potential error in the data. Therefore, the Exchange believes the data point as proposed may provide greater benefits to subscribers than similar data points offered in competing products.

Buy Volume

The proposed buy volume data point is the total share volume of all buy order executions and is equal to the sum of sell long volume, sell short volume, and sell short exempt volume. Exchange buy volume is publicly available via the SIP, as well as through reports on Cboe DataShop³⁸ and other vendors.

Additionally, the NYSE Daily Short Sale file and Nasdaq Daily Short Volume file currently provides similar information. As described above, the Nasdaq and NYSE products each provide “total volume” which is equivalent to the buy volume as proposed in the Short Volume Report. The only difference between the proposal and the NYSE and Nasdaq data points is that the proposed Short Volume Report includes only information related to trades executed on the Exchange, whereas the NYSE and Nasdaq includes only information

³² See Nasdaq Pricing Schedule, Section 152(a).

³³ See <https://nasdaqtrader.com/content/technicalsupport/specifications/dataproducts/ShortSaleFileSpecifications.pdf>.

³⁴ *Supra* note 4.

³⁵ See the NYSE Daily Short Volume Client Specification, Section 1, Introduction at https://www.nyse.com/publicdocs/nyse/data/Daily_Short_Volume_Client_Spec_v1.3.pdf.

³⁶ *Id.*

³⁷ *Supra* note 27.

³⁸ *Supra* note 4. Buy volume available on Cboe DataShop is equivalent to the proposed buy volume.

²⁹ *Id.*

³⁰ *Supra* note 4.

³¹ *Supra* note 5.

related to trades executed on NYSE and Nasdaq, respectively, and their affiliates. Therefore, buy volume is a data point already provided for in other exchange products, and as such, the buy volume proposed by the Exchange presents no unique issues.

Buy Trade Count

Trade count information for trades executed on the Exchange is currently publicly available via the SIP, as well as through reports on Cboe DataShop³⁹ and other vendors. Specifically, the Equity, ETF, and Index Trades product offered on Cboe DataShop provides trade price, trade size, trade condition, trading venue, and the National Best Bid and Offer (“NBBO”) for each trade record on a daily basis. Therefore, buy trade count for trades executed on the Exchange can be derived from the Equity, ETF, and Index Trades product by summing the number of trade records on BYX [sic] for the day. Accordingly, buy trade count is a data point already available to the public and thus present no new novel issues.

Sell Long Volume

As proposed, sell long volume represents the total share volume of all sell long order executions. The Exchange notes that other exchanges, such as NYSE, offer products with related data points that users can utilize to calculate sell long volume as contemplated by the proposed Short Volume Report. Specifically, the NYSE Daily Short Volume File provides the total volume (*i.e.*, the total share volume of all order executions) and the short volume (*i.e.*, the total share volume of all short order executions, which is the sum of all sell short, sell short exempt, and sell short with slide order executions).⁴⁰ Therefore, sell long information could be derived from the NYSE Daily Short Volume file by subtracting the short volume from the total volume. As such, sell long volume is not a data point unique only to the proposed Short Volume Report, and does not raise any novel issues or concerns.

Sell Long Trade Count

As proposed, sell long trade count represents the total trade count of all sell long order executions. Currently, this data can be derived using publicly available information available in the Short Sale Daily Reports which are available on the Cboe website,⁴¹ and the

Equity, ETF, and Index Trades product available on Cboe DataShop.⁴² Specifically, the Short Sale Daily Transaction report on the Cboe website reflects short sale executions on the Exchange as they appeared on the consolidated tape. Short sale and short sale exempt trade count information can be determined summing the total number of transactions identified in the Short Sale Daily Transaction report. Long sale trade count could then be determined by subtracting the short sale transaction count from the buy trade count, which can be obtained from Cboe DataShop⁴³ as described above. Because sell long trade count can be calculated from existing publicly available information it presents no novel issues.

Sell Short Volume and Sell Short Exempt Volume

The sell short volume and sell short exempt volume in the proposed Short Volume Report is similar to a data point currently offered through NYSE’s Daily Short Volume file. Specifically, the NYSE Daily Short Volume file includes both short volume and sell short exempt volume for shares executed on NYSE and its affiliates.⁴⁴ Accordingly, the provision of separate sell short volume and sell short exempt volume is not without precedent. The only difference in the data from the NYSE Daily Short Volume file and the proposed data is that the NYSE report includes only information related to trades executed on the NYSE affiliated exchanges, whereas the Short Volume Report includes only information related to trades executed on the Exchange.

Sell Short Trade Count and Sell Short Exempt Trade Count

As noted above, the Short Volume Report will include both a sell short trade count and a sell short exempt trade count. The sell short trade count is equal to the total trade count of sell short order executions. The short sell exempt trade count is equal to the total trade count of sell short exempt orders.

Today, sell short and sell short exempt trade counts are not available or easily derivable in existing market data products or publicly available information. However, the Short Sale Daily Transaction report available on the Cboe website⁴⁵ provides a short sale trade count consisting of combined sell short and sell short exemptions. The Exchange believes that bifurcating sell short trade counts and sell short exempt

trade counts will benefit investors by providing insight into the risk environment around a security subject to the restrictions of Regulation SHO Rule 201.⁴⁶ As a general matter, when a security becomes subject to the short sale price restrictions of Rule 201, it is because that security’s price is experiencing extreme downward price pressure. In adopting Rule 201, the Commission believed it was appropriate to adopt a short sale-related circuit breaker because, when triggered, it will prevent short selling, including potentially manipulative or abusive short selling, from driving down further the price of a security that has already experienced a significant intra-day price decline. A sale order shall be marked “short exempt” only if the provisions of Rule 201(c) or 201(d) are met.⁴⁷ Rule 201(c), for example, generally allows a broker-dealer to mark a sale “short exempt” if the broker-dealer identifies the order as being at a price above the current national best bid at the time of submission of the order to a trading center. In part, the Commission believed that Rule 201 would effectively restrict short sellers from participating as liquidity takers when Rule 201 is in effect, and instead act as liquidity providers, adding depth to the market, as short sale orders will be executed only when purchasers arrive willing to buy at prices above the national best bid.⁴⁸

In this sense, by having the ability to ascertain specific short exempt trade counts, subscribers may be better able to assess the qualitative nature of sell side activity in a particular security. A marked increase or decrease in short exempt trade count can perhaps indicate whether investors are willing to pay a higher price for a security, rather than seek buying opportunities at lower prices as the stock continues to decline. Therefore, the Exchange believes the proposal will provide greater benefits to subscribers compared to what is currently available on the Cboe website, and does not represent a significant departure from information that is currently available.

Furthermore, similar data points are derivable from the NYSE’s Monthly Short Sales file, which provides a record of every short sale transaction for each security traded on the NYSE affiliated exchanges during the month.⁴⁹ Specifically, the NYSE Monthly Short

⁴⁶ 17 CFR 242.201.

⁴⁷ 17 CFR 242.200(g)(2).

⁴⁸ *Id.* at 58.

⁴⁹ See the NYSE Monthly Short Sales Client Specification, Section 1, Introduction, at https://www.nyse.com/publicdocs/nyse/Monthly_Short_Sales_Spec_v1.3.pdf.

³⁹ *Supra* note 4. For purposes of this proposal, the trade size data point from Cboe DataShop is the same as the proposed buy volume data point.

⁴⁰ *Supra* note 27.

⁴¹ *Supra* note 5.

⁴² *Supra* note 4.

⁴³ *Id.*

⁴⁴ *Supra* note 27.

⁴⁵ *Supra* note 5.

Sale file includes a “short type” indicator for each transaction that indicates whether the short sale is short sale exempt or not short sale exempt and also includes the size of each transaction.⁵⁰ Therefore, subscribers to the NYSE Monthly Short Sales file can determine the sell short trade counts and sell short exempt trade counts by summing the number of each transaction on a given day during the prior month. Although the NYSE Monthly Short Sale file provides similar data points to that proposed here, such information is available on a monthly basis rather than a daily basis.

Nonetheless, as proposed the sell short and sell short exempt trade counts would be available to subscribers on an end-of-day basis it is not designed to provide information for which subscribers would make intraday trading decisions. Therefore, the Exchange does not believe the proposed data points would provide subscribers with an unfair advantage over other market participants. The Exchange believes the proposal strikes an appropriate balance in providing useful information to subscribers that is not a significant departure from existing information, but does not provide subscribers with sensitive information for which subscribers would make intraday trading decisions.

In sum, except for short sale and short sale exempt trade counts, each of the data points included in the proposed Short Volume Report are currently either available or derivable from a product of a competitor exchange or are publicly available. The Exchange seeks to gather information from each of these separate data points and compile such information into a useful format such as the proposed Short Volume Report. The Exchange believes that the proposed product will benefit market participants because consolidating the aforementioned data points in a single data product will allow market participants to more easily understand the changing risk environment on a daily basis and allow for more informed trading decisions. The information included in the proposed Short Volume Report will be provided on an end-of-day basis and will not provide information on an intraday basis. Nonetheless, subscribers will have access to not only the current end-of-day Short Volume Report, but historical end-of-day reports dating back to January 2, 2015. As such, the Exchange believes the proposal will provide subscribers with valuable information that may help in identifying historical

price trends and short sale activity in a specific security. The proposal provides trade volume and trade count information but provides nothing to indicate who is responsible for selling pressure in a given security. Further, the proposal only provides information as it relates to transactions and provides no order information. Given this, combined with the general availability of the information comprising the Short Volume Report, the Exchange does not believe that the proposed Short Volume Report provides users or subscribers with sensitive trading information or an unfair competitive advantage.

Finally, as noted above the proposed Short Sale Report is a completely voluntary product, and participants are not required to subscribe to the Short Volume Report. Moreover, the Short Volume Report is available to all potential users, regardless of size. Therefore, the Exchange believes the proposed rule change is reasonable, equitable and not unfairly discriminatory.

The Exchange believes the proposal to change the name of Rule 13.8 to “Data Products” is reasonable because the proposed Short Volume Report is not a book feed, and thus “EDGX Book Feeds” does not accurately describe all of the paragraphs under Rule 13.8. The Exchange also believes the proposal to add the preamble to Rule 13.8 is reasonable because it will eliminate potential investor confusion as to which data products the Exchange charges a fee. Furthermore, both of the aforementioned changes to Rule 13.8 are identical to the text of BZX and BYX Rule 11.22.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in 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 offer a data product that provides data similar to that offered by other competitor equities exchanges or data that is currently publicly available via the SIP, the Cboe website or DataShop, or other vendors. Any differences in the proposed product to similar products offered by competing exchanges are intended to better understand the changing risk environment on a daily basis. The Exchange is proposing to introduce the Short Volume Report in order to keep pace with changes in the industry and evolving customer needs and believes this proposed rule change would

contribute to robust competition among national securities exchanges. Further, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Short Volume Report will be available equally to all Members and non-Members that choose to subscribe to such report. As stated, the Short Volume Report is optional and Members and non-Members may choose to subscribe, or not, based on their view of the additional benefits and added value provided by utilizing the Short Volume Report. Given the above, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, 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-CboeEDGX-2021-049 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-CboeEDGX-2021-049. 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

⁵⁰ *Id.*

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-CboeEDGX-2021-049, and should be submitted on or before May 19, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵¹

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94780; File No. SR-BOX-2022-14]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Reorganize Various Fees Within the Exchange Fee Schedule

April 22, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 8, 2022, BOX Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reorganize various fees within the Exchange Fee Schedule. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at <http://boxoptions.com>.

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 self-regulatory organization 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 self-regulatory organization 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 purpose of the proposed rule change is to reorganize various fees within the Exchange's Fee Schedule. The reorganized Exchange Fee Schedule reflects the current fees, which remain unchanged.

The Exchange is proposing to organize the Exchange Fee Schedule by grouping certain fees together. Specifically, the Exchange is proposing that the fees that are not related to trading activity on a facility of the Exchange would be grouped together in the first three sections of the Exchange Fee Schedule.³ The first three sections of fees are not transactional based fees applicable to a facility of the Exchange, BOX Options Market, an options trading facility of the Exchange under 3(a)(2) of the Exchange Act.⁴ Following that, Sections IV-VII of the Exchange Fee Schedule⁵ will include fees that are

³ See Section I (Participant Fees), Section II (Regulatory Fees), and Section III (Technology Fees).

⁴ BOX is currently the only facility of the Exchange that is actively trading. The rules for the Exchange's other proposed facility, BSTX LLC, were recently approved by the SEC (See Securities Exchange Act Release No. 94092 (January 27, 2022), 87 FR 5881 (February 2, 2022)).

⁵ See Section IV (Electronic Transaction Fees), Section V (Manual Transaction Fees), Section VI (Complex Order Transaction Fees), and Section VII (Eligible Orders Routed to an Away Exchange).

specific to activity on the BOX Options Market ("BOX"). The last section, Section VIII,⁶ applies to billing generally, including aggregate billing and billing disputes. BSTX fees will be filed as a separate rule filing from this proposal.

The Exchange believes that this proposed reorganization of the Exchange Fee Schedule provides a clearer structure. As part of the reorganization, the Exchange is adding a section header with a corresponding description,⁷ adding clarifying detail throughout the Exchange Fee Schedule, and making conforming changes throughout to reflect the renumbered sections. In addition, the Exchange is amending Section VIII by replacing "BOX" with the "Exchange" where it references the Fee Schedule to add clarity to the section. Further, the Exchange is reordering the fees in the Regulatory Fee Section but not proposing to amend or alter any of the fees in the Regulatory Fee Section. The Exchange believes that these proposed changes make the Exchange Fee Schedule easier to read and provides clarity to the end-user on the fees of the Exchange.

The Exchange is proposing to clarify that the fees outlined in Sections IV-VII are transactional based fees applicable to BOX Options Market.⁸ To clarify the nature of these fees and avoid any potential confusion, the Exchange is including a section header and description for Sections IV-VII that explains the fees are directly related to the BOX Options Market. The Exchange is also making conforming changes throughout the Fee Schedule to reflect these changes. The Exchange notes that these changes are purely clerical and do not amend any fee or rebate in the Exchange Fee Schedule.

The Exchange is also proposing to move all the footnotes in the Exchange Fee Schedule to endnotes. The Exchange believes this change simplifies the Exchange Fee Schedule, makes it easier to read, and is similar to how other exchanges organize their fee schedules.⁹ Lastly, the Exchange is making non-substantive clean-up changes to add precision to the rulebook

⁶ See Section VIII (Exchange Billing).

⁷ See proposed new preamble to Sections IV-VII of the Exchange Fee Schedule, and revised title for Section VIII.

⁸ Section VII covers fees for orders routed to an away exchange from BOX. Although these fees do not apply to transactions that occur directly on BOX, they nonetheless are directly related to options transactions. Therefore, the Exchange believes it is appropriate to group them with the other transactional based fees for BOX Options Market.

⁹ See Cboe Exchange, Inc. Fee Schedule.

⁵¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.