

to those offered by other competitor options exchanges.²⁵ The Exchange is offering the Intra-Day Volume Summary in order to keep pace with changes in the industry and evolving customer needs, and believes the data product will contribute to robust competition among national securities exchanges. At least eight other U.S. options exchanges offer a market data product that is substantially similar to the Exchange's offering. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price Intra-Day Volume Summary is constrained by competition among exchanges that offer similar data products to their customers. As discussed above, there are currently a number of similar products available to market participants and investors. At least eight other U.S. options exchanges offer a market data product that is substantially similar to the Exchange's offering, which the Exchange must consider in its pricing discipline in order to compete effectively.²⁶ For example, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as discussed, market participants are under no obligation to utilize or purchase. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fees would apply uniformly to any subscriber, in that the Exchange would not differentiate between subscribers that purchase the Intra-Day Volume Summary and all subscribers would receive the same information in the data feed. The Exchange believes the proposed fees are set at a modest level that would allow interested subscribers to purchase such data based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)²⁷ of the Act and subparagraph (f)(2) of Rule 19b-4²⁸ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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 shall institute proceedings under Section 19(b)(2)(B)²⁹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2022-37 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-NYSEArca-2022-37. 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-NYSEArca-2022-37 and should be submitted on or before August 2, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

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

Proposed Collection; Comment Request; Extension: Rule 139b

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

Notice is hereby given that the Securities and Exchange Commission (the "Commission") has, in accordance with the Paperwork Reduction Act of 1995 (Public Law 104-13, 44 U.S.C. 3501 *et seq.*) ("PRA"), is soliciting comments on the collection of information associated with the Rule 139b (17 CFR 230.139b) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act") that was adopted by the Commission on

²⁵ *Id.*

²⁶ See *supra* note 11.

²⁷ 15 U.S.C. 78s(b)(3)(A).

²⁸ 17 CFR 240.19b-4(f)(2).

²⁹ 15 U.S.C. 78s(b)(2)(B).

³⁰ 17 CFR 200.30-3(a)(12).

November 30, 2018.¹ The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.

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

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

It is difficult to provide estimates of the burdens and costs for those broker-dealers that will include performance information in a rule 139b research report. As discussed in the Adopting Release, this is difficult to estimate because current data collected does not

reflect the affiliate exclusion, does not include the entire universe of covered investment funds, and it is uncertain what percentage of communications currently filed as rule 482 advertising prospectuses (or rule 34b-1 supplemental sales materials) will instead be published in reliance of rule 139b, as covered investment fund research reports.² For purposes of the PRA, we estimate that 10% of the rule 482 and rule 34b–1 communications currently filed by broker-dealers with FINRA (approximately 48,341) could be considered as rule 139b covered investment fund research reports. We estimate that broker-dealers will publish annually 4,834 (10% of 48,341) covered investment fund research reports. Moreover, we assume for purposes of the PRA that all estimated rule 139b research reports will include fund performance information. We further estimate that 1,169 broker-dealers would likely be respondents to the collection of information with a frequency of 4.1 responses per year.³ Additionally, we estimate that each research report will require 3 hours of ongoing internal burden hours by a broker-dealers’ personnel to comply with the rule 139b collection of information requirements, which for each broker-dealer is estimated to be 12.3 internal burden hours.⁴ Accordingly, we estimate that the standardized performance presentation requirements will result in an average 12.3 annual hour burden per broker-dealer.

In sum, we estimate that rule 139b’s requirements will impose a total annual internal hour burden of 14,379 hours on broker-dealers.⁵ We do not think there is an external cost burden associated with this collection of information.

This information collection is subject to the PRA and responses to this collection of information requirement would not be mandatory for broker-dealers seeking to rely upon rule 139b, but would be necessary for those broker-dealers that would like to provide performance information in their

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

³ From information provided by FINRA, for the period January 1, 2021 through December 31, 2021, there were an aggregate of 48,341 filings that were coded either as Rule 482 or Rule 34b1 filings. Furthermore, for the period January 1, 2021 through December 31, 2021, the Commission estimates that there were 4,834 covered investment fund research reports/1,169 broker-dealers = 4.1 annual responses per broker-dealer.

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

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

covered investment fund research reports. Responses to the information collections will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by September 12, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov.

Dated: July 6, 2022.

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95203; File No. SR–CboeEDGX–2022–030]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

July 6, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on July 1, 2022, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

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