

Model is reasonable. Therefore, CAT Fee 2025–2 would not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

*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 has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>183</sup> and paragraph (f)(2) of Rule 19b–4 thereunder.<sup>184</sup> 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 shall 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](mailto:rule-comments@sec.gov). Please include file number SR–ISE–2025–18 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–ISE–2025–18. 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](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–ISE–2025–18 and should be submitted on or before August 4, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>185</sup>

Sherry R. Haywood,  
Assistant Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–103413; File No. SR–NYSENAT–2025–14]

**Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Connectivity Fee Schedule Related to Connectivity to Third Party Systems and Third Party Data Feeds**

July 9, 2025.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that on June 27, 2025, NYSE National, Inc. (“NYSE National” or “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 change from interested persons.

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

The Exchange proposes to amend the Connectivity Fee Schedule to amend the list of third party systems and third party data feeds to which Users can connect, related fees and a reference to who can charge redistribution fees. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, 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 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 those 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 parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

**1. Purpose**

The Exchange proposes to amend the Connectivity Fee Schedule to amend the list of third party systems and third party data feeds to which Users<sup>4</sup> can connect, related fees and a reference to who can charge redistribution fees.

Currently, Users are offered connectivity to the execution systems of third party markets and other service providers (“Third Party Systems”) and connectivity to data feeds from third

<sup>4</sup> For purposes of the Exchange's colocation services, a “User” means any market participant that requests to receive colocation services directly from the Exchange. See Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 at n.9 (June 6, 2018) (SR–NYSENAT–2018–07). As specified in the Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE Texas, Inc. (together, the “Affiliate SROs”). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR–NYSE–2025–24, SR–NYSEAMER–2025–37, SR–NYSEARCA–2025–47, and SR–NYSETEX–2025–18.

<sup>185</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

<sup>183</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>184</sup> 17 CFR 240.19b–4(f)(2).

party markets and other content service providers (“Third Party Data Feeds”) at the Mahwah, New Jersey data center (“MDC”).<sup>5</sup> The Exchange proposes to amend the two lists to add new items, combine existing items, and amend related fees.

#### Proposed Changes

##### Changes to the List of Third Party Systems

The Exchange proposes to make the following changes to the list of Third Party Systems:

- Add Blue Ocean ATS (BOATS), Canadian Imperial Bank of Commerce (CIBC), Long Term Stock Exchange,<sup>6</sup> MEMX,<sup>7</sup> Pragma, and Small Exchange<sup>8</sup> (collectively, the “Proposed Third Party Systems”).
- To reflect Cboe Canada’s integration of Cboe Canada and Cboe MATCHNow into one entity,<sup>9</sup> combine Cboe MATCHNow into Cboe Canada.

To make these changes, the list of available Third Party Systems would be amended as follows (proposed deletions bracketed, proposed additions italicized):

##### Third Party Systems

B3 Bovespa  
*Blue Ocean ATS (BOATS)*  
 Boston Options Exchange (BOX)  
*Canadian Imperial Bank of Commerce (CIBC)*  
 Cboe Canada  
 [Cboe MATCHNow]  
 Cboe US  
 Chicago Mercantile Exchange (CME Group)  
 Investors Exchange (IEX)  
*Long Term Stock Exchange*  
*MEMX*  
*MIAx*  
 Nasdaq Canada (CXC, CXD, CX2)  
 Nasdaq US Stock Market

NYFIX Marketplace  
 Omega  
 OTC Markets Group  
*Pragma*  
*Small Exchange*  
 TMX Group

The Exchange does not propose to change the monthly recurring fee Users pay for access to each Third Party System. Although the proposed changes to the list of Third Party Systems would combine Cboe MATCHNow with Cboe Canada to reflect their integration by Cboe Canada, thereby removing Cboe MATCHNow from the current list of Third Party Systems, no User would be charged more as a consequence. A User would continue to be able to choose which systems it wants from any Third Party System. It would not have to receive any systems, or pay for any bandwidth, that it did not choose.<sup>10</sup>

##### Changes to Connectivity to Third Party Data Feeds

The Exchange expects that the connectivity partner of BOATS will charge a redistribution fee, which will be passed through to the User. Accordingly, the Exchange proposes to add “and their partners” to the first sentence of the second paragraph under “Connectivity to Third Party Data Feeds,” which describes who can charge redistribution fees, so that it includes connectivity partners.

The Exchange proposes to make the following changes to the list of Third Party Data Feeds (together, the “Proposed Third Party Data Feeds”):

- Add the following Third Party Data Feeds with the following fees for monthly recurring connectivity:
  - Blue Ocean ATS (BOATS), for \$750 a month;
  - Cboe CFE Futures, for \$1,500 per month;

- Long Term Stock Exchange, for \$2,600 per month;<sup>11</sup>
- MEMX Equities, for \$2,000 per month;<sup>12</sup>
- MEMX Options, for \$2,000 per month;<sup>13</sup> and
- Small Exchange, for \$1,000 per month.<sup>14</sup>

- To reflect Cboe Canada’s integration of Cboe Canada and Cboe MATCHNow into one entity,<sup>15</sup> combine Cboe MATCHNow into Cboe Canada and change the combined monthly recurring connectivity fee to \$2,000 per month.

- Combine Nasdaq Stock Market with Nasdaq ISE under the name “Nasdaq Stock Market” and change the combined monthly recurring connectivity fee to \$3,000 per month.

- Combine TMX Group and Montreal Exchange<sup>16</sup> under the name of “TMX Group” with a combined monthly recurring connectivity fee of \$2,500 per month.

In addition, the Exchange proposes to change the monthly recurring connectivity fee per Third Party Data Feed for 18 feeds.

To make these changes, the text under “Connectivity to Third Party Data Feeds” and list of available Third Party Data Feeds would be amended as follows (proposed deletions bracketed, proposed additions italicized):

Third Party Data Feed providers *and their partners* may charge redistribution fees. When the Exchange receives a redistribution fee, it passes through the charge to the User, without change to the fee. The fee is labeled as a pass-through of a redistribution fee on the User’s invoice. The Exchange does not charge third party markets or content providers for connectivity to their own feeds.

Third party data feed	Monthly recurring connectivity fee per third party data feed
B3 Bovespa .....	\$3,[000]900
<i>Blue Ocean ATS (BOATS)</i> .....	750
Boston Options Exchange (BOX) .....	1,[000]300
Cboe BZX Exchange (CboeBZX) and Cboe BYX Exchange (CboeBYX) .....	[2,000]1,500

<sup>5</sup> Through its Fixed Income and Data Services (“FIDS”) business, Intercontinental Exchange, Inc. (“ICE”) operates the MDC. The Exchange and the Affiliate SROs are indirect subsidiaries of ICE.

<sup>6</sup> See Securities Exchange Act Release No. 85828 (May 10, 2019), 84 FR 21841 (May 15, 2019) (In the Matter of the Application of Long Term Stock Exchange, Inc.; for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission).

<sup>7</sup> See Securities Exchange Act Release No. 88806 (May 4, 2020), 85 FR 27451 (May 8, 2020) (In the Matter of the Application of MEMX LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission).

<sup>8</sup> See “CFTC Designates Small Exchange, Inc., as a Contract Market” (March 10, 2020) (available at <https://www.cftc.gov/PressRoom/PressReleases/8128-20>).

<sup>9</sup> See “Cboe Canada Announces Planned Unification of its Canadian Operations” (December 18, 2023) (available at <https://ir.cboe.com/news/news-details/2023/CBOE-CANADA-ANNOUNCES-PLANNED-UNIFICATION-OF-ITS-CANADIAN-OPERATIONS/default.aspx>).

<sup>10</sup> For example, if a User connected to Cboe Canada but did not access any other Cboe system, including Cboe MATCHNow, it would not pay for any additional system or have its monthly fee

changed as a consequence of the proposed combination.

<sup>11</sup> See *supra* note 6.

<sup>12</sup> See *supra* note 7.

<sup>13</sup> See *id.*

<sup>14</sup> See *supra* note 8.

<sup>15</sup> See *supra* note 9.

<sup>16</sup> The Montreal Exchange is a subsidiary of TMX Group. See <https://www.m-x.ca/en/about-us/mx/overview#:~:text=Today%2C%20a%20wholly%20owned%20subsidiary,retail%20and%20institutional%20investors%20needs>.

Third party data feed	Monthly recurring connectivity fee per third party data feed
Cboe Canada .....	[1,200]2,000
Cboe CFE Futures .....	1,500
Cboe EDGX Exchange (CboeEDGX) and Cboe EDGA Exchange (CboeEDGA) .....	[2,000]1,500
Cboe Exchange (Cboe) and Cboe C2 Exchange (C2) .....	[2,000]1,500
[Cboe MATCHNow .....	1,000]
Chicago Mercantile Exchange (CME Group) .....	3,000
Financial Industry Regulatory Authority (FINRA) .....	[500]650
Global OTC .....	[100]150
ICE Data Services Consolidated Feed ≤100 Mb .....	200
ICE Data Services Consolidated Feed >100 Mb to ≤1 Gb .....	500
ICE Data Services Consolidated Feed >1 Gb .....	1,000
ICE Data Services Consolidated Feed Shared Farm ≤100Mb .....	[200]300
ICE Data Services Consolidated Feed Shared Farm >100 Mb to ≤1 Gb .....	[500]750
ICE Data Services Consolidated Feed Shared Farm >1 Gb .....	[1]2,000
ICE Data Services PRD .....	[200]300
ICE Data Services PRD CEP .....	[400]500
Intercontinental Exchange (ICE) .....	1, [500]950
Investors Exchange (IEX) .....	1, [000]300
Long Term Stock Exchange .....	2,600
MEMX Equities .....	2,000
MEMX Options .....	2,000
Miami International Securities Exchange/MIAX PEARL .....	2,000
[Montréal Exchange (MX) .....	1,000]
Nasdaq Stock Market .....	[2]3,000
Nasdaq Global Index Data Service (GIDS) .....	100
Nasdaq UQDF & UTDF .....	[500]650
Nasdaq Canada (CXC, CXD, CX2) .....	1, [500]950
[Nasdaq ISE .....	1,000]
Omega .....	1, [000]300
OTC Markets Group .....	1, [000]300
Small Exchange .....	1,000
TMX Group .....	2,500

#### Access to the Proposed Third Party Systems

The Exchange would provide access to the Proposed Third Party Systems as conveniences to Users.

As with the current Third Party Systems, Users would connect to the Proposed Third Party Systems over the internet protocol (“IP”) network, a local area network available in the MDC.

As with the current Third Party Systems, in order to obtain access to a Proposed Third Party System, the User would enter into an agreement with the relevant proposed third party, pursuant to which it would charge the User for access to the Proposed Third Party System. The Exchange would then enable unicast connectivity between the User and the Proposed Third Party System over the IP network.<sup>17</sup> The Exchange would charge the User for the connectivity to the Proposed Third Party System. A User would only receive, and would only be charged for, access to the Proposed Third Party

#### System for which it enters into agreements with the third party.

The Exchange has no affiliation with the providers of any of the Proposed Third Party Systems. Establishing a User’s access to a Proposed Third Party System would not give the Exchange any right to use the Proposed Third Party System. Connectivity to a Proposed Third Party System would not provide access or order entry to the Exchange’s execution system, and a User’s connection to a Proposed Third Party System would not be through the Exchange’s execution system.

The Exchange proposes to charge the same monthly recurring fee for connectivity to the Proposed Third Party Systems that it does for the current Third Party Systems. Specifically, when a User requested access to a Proposed Third Party System, it would identify the applicable third party and what bandwidth connection would be required. The fees for such bandwidth connection would vary based on the size of the connection, not on the particular Third Party System the User chooses. The Exchange is not proposing to change the pricing of any of these bandwidth connections; the Exchange is simply expanding the list of

#### Third Party Systems that Users may access via these bandwidth connections.

##### Connectivity to the Proposed Third Party Data Feeds

The Exchange would provide connectivity to the Proposed Third Party Data Feeds as a convenience to Users.

As with the existing connections to Third Party Data Feeds, the Exchange would receive a Proposed Third Party Data Feed from the content service provider at the relevant source. The Exchange would then provide connectivity to that data to Users for a fee. Users would connect to the Proposed Third Party Data Feeds over the IP network. The Proposed Third Party Data Feeds would include trading and other information concerning the securities that are traded on the relevant third party systems.

As with the existing connections to Third Party Data Feeds, in order to connect to a Proposed Third Party Data Feed, a User would enter into a contract with the third party content service provider, pursuant to which it may charge the User for the data feed. The Exchange would receive the Proposed Third Party Data Feed in remote locations and transport it over its fiber optic network to the MDC. After the

<sup>17</sup> Information flows over existing network connections in two formats: “unicast” format, which is a format that allows one-to-one communication, similar to a phone line, in which information is sent to and from the Exchange; and “multicast” format, which is a format in which information is sent one-way from the Exchange to multiple recipients at once, like a radio broadcast.

content service provider and User entered into an agreement and the Exchange received authorization from the content service provider, the Exchange would retransmit the data to the User over the User's port. The Exchange would charge the User for connectivity to the Proposed Third Party Data Feed. A User would only receive, and would only be charged the fee for, connectivity to a Proposed Third Party Data Feed for which it entered into a contract.

The Exchange has no affiliation with the sellers of the Proposed Third Party Data Feeds and would have no right to use those feeds other than as a redistributor of the data. None of the Proposed Third Party Data Feeds would provide access or order entry to the Exchange's execution system. The Proposed Third Party Data Feeds would not provide access or order entry service to the execution systems of the third parties generating the feeds. The Exchange would receive the Proposed Third Party Data Feeds via arms-length agreements and would have no inherent advantage over any other distributor of such data.

#### Application and Impact of the Proposed Changes

The proposed rule change would not apply differently to distinct types or sizes of market participants. Rather, it would apply to all Users equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Connectivity Fee Schedule is applied uniformly to all Users.

Access to most of the Proposed Third Party Systems and connectivity to most of the Proposed Third Party Data Feeds were requested by Users, but the Exchange believes that it would gain at most a handful of new customers among Users due to the proposed change.<sup>18</sup> The Exchange does not expect that the remainder of the proposed rule change will result in new Users.

#### Competitive Environment

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, 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>19</sup>

The Exchange's provision of access to the Proposed Third Party Systems ("Access") and connectivity to the Proposed Third Party Data Feeds ("Connectivity") is subject to competition from access and connectivity that Users can obtain through the third-party telecommunications service providers that have installed their equipment in the MDC's two meet-me-rooms ("Telecoms").

More specifically, a User may access a Proposed Third Party System by, first, entering into an agreement with the relevant proposed third party, pursuant to which the third party would charge the User for access to the Proposed Third Party System, and second, accessing the Proposed Third Party System through one of the Telecoms. Likewise, a User may connect to a Proposed Third Party Data Feed by, first, entering into a contract with the third party content service provider, if required, pursuant to which the third party may charge the User for the Proposed Third Party Data Feed, and second, connecting to the Proposed Third Party Data Feed through one of the Telecoms.

In both cases, the User would be able to access any of the Proposed Third Party Systems or connect to any of the Proposed Third Party Feeds independent of the Access or Connectivity provided by the Exchange. Users that already have or establish access or connectivity are not at any competitive disadvantage created by the Exchange.

The proposed change is not otherwise intended to address any other issues relating to colocation services or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>20</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>21</sup> in particular, because it is 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, 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 and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>22</sup> because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

#### The Proposed Rule Change Is Reasonable

The Exchange believes that the proposed rule change is reasonable.

In considering the reasonableness of proposed services and fees, the Commission's market-based test considers "whether the exchange was subject to significant competitive forces in setting the terms of its proposal . . . , including the level of any fees."<sup>23</sup> If the Exchange meets that burden, "the Commission will find that its proposal is consistent with the Act unless 'there is a substantial countervailing basis to find that the terms' of the proposal violate the Act or the rules thereunder."<sup>24</sup> Here, the Exchange is subject to significant competitive forces in setting the terms on which it offers its proposal, in particular because substantially similar substitutes are available and the Exchange has not placed present or future Users that establish access or connectivity independent of the options provided by the Exchange at a competitive disadvantage created by the Exchange.

#### Substantially Similar Substitutes Are Available

As described above,<sup>25</sup> Users may access Proposed Third Party Systems and connect to Proposed Third Party

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

<sup>23</sup> See Securities Exchange Act Release No. 90209 (October 15, 2020), 85 FR 67044, 67049 (October 21, 2020) (Order Granting Accelerated Approval to Establish a Wireless Fee Schedule Setting Forth Available Wireless Bandwidth Connections and Wireless Market Data Connections) (SR-NYSE-2020-05, SR-NYSEAMER-2020-05, SR-NYSEARCA-2020-08, SR-NYSECHX-2020-02, SR-NYSEENAT-2020-03, SR-NYSE-2020-11, SR-NYSEAMER-2020-10, SR-NYSEARCA-2020-15, SR-NYSECHX-2020-05, SR-NYSEENAT-2020-08) ("Wireless Approval Order"), citing Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) ("2008 ArcaBook Approval Order"). See *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

<sup>24</sup> See Wireless Approval Order, *supra* note 23, at 67049, citing 2008 ArcaBook Approval Order, *supra* note 23, at 74781.

<sup>25</sup> See "Competitive Environment," *supra* note 23.

<sup>18</sup> A User is not required to be a member of the Exchange or any of the Affiliate SROs.

<sup>19</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

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

<sup>21</sup> 15 U.S.C. 78f(b)(5).

Data Feeds independent of the options provided by the Exchange, creating competition for the Exchange's proposed Access and Connectivity. More specifically, a User may access a Proposed Third Party System by, first, entering into an agreement with the relevant proposed third party for access, if required, and second, accessing the Proposed Third Party System through one of the Telecoms. Likewise, a User may connect to a Proposed Third Party Data Feed by, first, entering into an agreement with the relevant third party for connectivity, and second, connecting to the Proposed Third Party Data Feed through one of the Telecoms. Users that establish access or connectivity independent of the Access and Connectivity offered by the Exchange are not at any competitive disadvantage created by the Exchange. As of May 31, 2025, more than 97% of the circuits for which Users contracted were supplied by the Telecoms.

Because Users are third parties and are not required to make such information public, the Exchange does not have visibility into how many Users currently access the Proposed Third Party Systems or connect to the Proposed Third Party Data Feeds independently, as described above.<sup>26</sup> However, the market for access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds is competitive, and there is no reason to believe that other actual or potential Users would not obtain access and connectivity independently if they considered it to be in their commercial interest.

Such Users compete, or would compete, with the Exchange's Access and Connectivity and exert, or would exert, significant competitive forces on the Exchange in setting the terms of its proposal, including the level of the Exchange's proposed fees.<sup>27</sup> If the Exchange were to set its proposed fees too high, Users could respond by instead selecting other substantially similar access and connectivity by independently establishing access and connectivity as described above.

<sup>26</sup> The Exchange believes that currently Users may access at least two of the Proposed Third Party Data Feeds from one or more other Users who redistribute such access, but, as they are third parties, the Exchange does not have visibility into whether Users intend to access Proposed Third Party Systems or connect to Proposed Third Party Data Feeds for their own use, or if they offer, or intend to offer, other Users such access or connectivity.

<sup>27</sup> See 2008 ArcaBook Approval Order, *supra* note 23, at 74789 and n.295 (recognizing that products need not be identical to be substitutable).

#### Users Are Not at a Competitive Disadvantage Created by the Exchange

The Exchange does not believe that FIDS would have any competitive advantage over Users that establish independent access to Proposed Third Party Systems or connectivity to Proposed Third Party Data Feeds. The Exchange's proposed service for Access and Connectivity does not have (a) any special access to the Proposed Third Party Systems and Proposed Third Party Data Feeds or (b) advantage within the MDC, as all distances in the MDC are normalized.

Moreover, the Exchange does not believe that FIDS would have any competitive advantage because it would charge for connectivity only, not the Proposed Third Party System or Proposed Third Party Data Feed itself. All Users that connect to a Proposed Third Party System or Proposed Third Party Data Feed, whether they elect to connect using the Exchange's proposed service or not, would have to pay a third party for the Proposed Third Party System or Proposed Third Party Data Feed.

Nor does the Exchange believe that FIDS has a competitive advantage by virtue of the fact that ICE owns and operates the MDC's meet-me-rooms. Users purchasing Access or Connectivity—like Users of any other colocation service—would require a circuit connecting out of the MDC, and in most cases, such circuits are provided by Telecoms.<sup>28</sup> Currently, 16 Telecoms operate in the meet-me-rooms and provide a variety of circuit choices. It is in the Exchange's best interest to set the fees that Telecoms pay to operate in the meet-me-rooms at a reasonable level<sup>29</sup> so that market participants, including Telecoms, will maximize their use of the MDC. By setting the meet-me-room fees at a reasonable level, the Exchange encourages Telecoms to participate in the meet-me-rooms and to sell circuits to Users for connecting into and out of the MDC. These Telecoms then compete with each other by pricing such circuits at competitive rates. These competitive rates for circuits help draw in more Users and Hosted Customers to the MDC, which directly benefits the Exchange by increasing the customer base to whom the Exchange can sell its colocation services, which include

<sup>28</sup> Note that in the case of wireless connectivity, a User in colocation still requires a fiber circuit to transport data. If a Telecom is used, the data is transmitted wirelessly to the relevant pole, and then from the pole to the meet-me-room using a fiber circuit.

<sup>29</sup> See Securities Exchange Act Release No. 98002 (July 26, 2023), 88 FR 50232 (August 1, 2023) (SR-NYSENat-2023-12) ("MMR Notice").

cabinets, power, ports, and connectivity to many third-party data feeds, and because having more Users and Hosted Customers leads, in many cases, to greater participation on the Exchange. In this way, by setting the meet-me-room fees at a level attractive to telecommunications firms, the Exchange spurs demand for all of the services it sells at the MDC, while setting the meet-me-room fees too high would negatively affect the Exchange's ability to sell its services at the MDC.<sup>30</sup> Accordingly, there are real constraints on the meet-me-room fees the Exchange charges, such that the Exchange does not have an advantage in terms of costs when compared to third parties that enter the MDC through the meet-me-rooms to provide services to compete with the Exchange's services.

If anything, the Exchange would be subject to a competitive disadvantage vis-à-vis Users regarding access to the Proposed Third Party Systems or connectivity to the Proposed Third Party Data Feeds. Users that choose to independently establish access or connectivity may negotiate terms with the Telecoms through whom such access and connectivity is delivered, in response to competitive forces. Such prices are not required to be filed by any party with the Commission. In contrast, the Exchange's service and pricing would be standardized as set out in this filing, and the Exchange would be unable to respond to pricing pressure from its competitors without seeking a formal fee change in a filing before the Commission.

In sum, because the Exchange is subject to significant competitive forces in setting the terms on which it offers its proposal, in particular because the Exchange believes that a substantially similar substitute is available, and the Exchange has not placed actual or proposed Users that already have or establish access or connectivity at a competitive disadvantage created by the Exchange, the proposed fees for the Exchange's connectivity to Proposed Third Party Systems and Proposed Third Party Data Feeds are reasonable.<sup>31</sup> If the Exchange were to set its prices for access to Proposed Third Party Systems or Proposed Third Party Data Feeds at a level that Users found to be too high, Users could easily choose to connect to Proposed Third Party Systems or

<sup>30</sup> See *id.* at 50235. Importantly, the Exchange is prevented from making any alteration to its meet-me-room services or fees without filing a proposal for such changes with the Commission.

<sup>31</sup> See Wireless Approval Order, *supra* note 23. There is no fee change proposed for the Proposed Third Party Systems.

Proposed Third Party Data Feeds through Telecoms, as detailed above.

#### Additional Considerations

The Exchange believes that it is reasonable to add “and their partners” to the second paragraph under “Connectivity to Third Party Data Feeds” (“Proposed Pass-Through Edit”) as that would add clarity as to who may charge redistribution fees, making the paragraph more precise.

The Exchange believes that it is reasonable to make the proposed changes, as connectivity to the Proposed Third Party Systems and access to the Proposed Third Party Data Feeds was generally requested by Users.

#### The Proposed Rule Change Is Equitable

The Exchange believes that the proposed rule change is equitable.

The Exchange believes that the fees for connectivity to the Proposed Third Party Data Feeds are an equitable allocation of fees. The Exchange recognizes that the monthly recurring fee Users pay for access to the below Proposed Third Party Data Feeds will increase if they connect to one, but not both, of the current Third Data Feeds, but believes that they are equitable, for the following reasons:

- The combination of Cboe MATCHNow into Cboe Canada reflects the integration by Cboe Canada of those two entities into one entity.<sup>32</sup> In other words, the Proposed Third Party Data Feed mirrors the actions of Cboe Canada. At the same time, the combined fee is less than the sum of the current fees for those feeds.

- Nasdaq Stock Market and Nasdaq ISE are proposed to be combined. With this combination, Nasdaq ISE as well as Nasdaq BX, Nasdaq GEMX, Nasdaq MRX, Nasdaq PHLX and the Nasdaq Stock Market—which are all distinct self-regulatory organizations—will all be available under “Nasdaq Stock Market”. The proposed fee for the combination of the Nasdaq Stock Market and Nasdaq ISE is equal to the sum of the current fees for those feeds.

- The Montreal Exchange is a subsidiary of TMX Group.<sup>33</sup> The proposed combination of the two into one Proposed Third Party Data Feed mirrors the actions of TMX Group. At the same time, the combined fee is less than the sum of the current fees for those feeds.

The Exchange believes it is equitable to propose to increase the fee for ICE Data Services Consolidated Feed Shared

Farm >1 Gb to \$2,000<sup>34</sup> because the format of this data feed, as well as the two other ICE Data Services Consolidated Feed Shared Farm data feeds, is unicast. As a consequence, it requires a dedicated part of the network, as opposed to connectivity to multicast data feeds.

The Exchange does not propose to change the monthly recurring fee Users pay for access to each Third Party System. Although the proposed changes to the list of Third Party Systems would combine Cboe MATCHNow with Cboe Canada to reflect their integration by Cboe Canada, thereby removing Cboe MATCHNow from the current list of Third Party Systems, no User would be charged more as a consequence. A User would continue to be able to choose which systems it wants from any Third Party System. It would not have to receive any systems, or pay for any bandwidth, that it did not choose.

The Exchange believes that the Proposed Pass-Through Edit is equitable as it would add clarity as to who may charge redistribution fees, making the paragraph more precise and thereby ensuring the accuracy of, and adding clarity and transparency to, the Connectivity Fee Schedule.

Without this proposed rule change, Users would have fewer options for connectivity to the Proposed Third Party Systems and Proposed Third Party Data Feeds. By offering Access and Connectivity, the Exchange gives each User additional options for addressing its needs, responding to User demand for options. Offering these additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of connectivity that best suits its needs. Users that do not opt to utilize the Exchange’s proposed Access or Connectivity would still be able to access Proposed Third Party Systems or connect to Proposed Third Party Data Feeds using Telecoms.

The Exchange believes that the proposed change is equitable because it will result in fees being charged only to Users that voluntarily select to receive

the corresponding services and because those services will be available to all Users.

Furthermore, the Exchange believes that the services and fees proposed herein are equitably allocated because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (*i.e.*, the same products and services are available to all Users). All Users that voluntarily select the Exchange’s Access or Connectivity would be charged the same amount for the same services. Users who opt not to use Access or Connectivity would not be charged. In this way, the proposed rule change equitably allocates the proposed fees only to Users who choose to use the Exchange’s Access or Connectivity.

#### The Proposed Change Is Not Unfairly Discriminatory

The Exchange believes that the proposed rule change is not unfairly discriminatory, for the following reasons.

The Exchange believes that the Proposed Pass-Through Edit is not unfairly discriminatory as it would add clarity as to who may charge redistribution fees, making the paragraph more precise and thereby ensuring the accuracy of, and adding clarity and transparency to, the Connectivity Fee Schedule to all market participants.

Without this proposed rule change, Users would have fewer options for access to Proposed Third Party Systems or connectivity to Proposed Third Party Data Feeds. The proposed change would provide Users with an additional choice with respect to the form and optimal latency of the access they use to connect to Proposed Third Party Systems or connectivity to Proposed Third Party Data Feeds, allowing a User to select the connectivity that better suits its needs, helping it tailor its colocation operations to the requirements of its business operations. Users that do not opt to utilize the Exchange’s proposed Access or Connectivity would still be able to access the Proposed Third Party Systems or connect to Proposed Third Party Data Feeds using Telecoms.

The Exchange believes that the proposed change is not unfairly discriminatory because it will result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services will be available to all Users. Furthermore, the Exchange believes that the services and fees proposed herein are not unfairly discriminatory because, in addition to the services being completely voluntary,

<sup>34</sup> The feed is produced by an entity owned by the Exchange’s ultimate parent, ICE, and so the Exchange has an indirect interest in ICE Data Services Consolidated Feed Shared Farm >1 Gb as well as the other two ICE Data Services Consolidated Feed Shared Farm data feeds. See 83 FR 26314, *supra* note 4, at 26323. See also Securities Exchange Act Release No. 83221 (May 11, 2018), 83 FR 23014 (May 17, 2018) (SR–NYSE–2018–20) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Provide Users With Connectivity to Three Additional Third Party Data Feeds and Change Its Price List Related to These Co-Location Services).

<sup>32</sup> See *supra* note 9.

<sup>33</sup> See *supra* note 16.

they are available to all Users on an equal basis (*i.e.*, the same products and services are available to all Users). All Users that voluntarily select the Exchange's Access or Connectivity would be charged the same amount for the same services.

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,<sup>35</sup> the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change would not affect competition among national securities exchanges or among members of the Exchange, but rather between FIDS and its commercial competitors. By offering Access and Connectivity, the Exchange would give each User additional options for addressing its needs, responding to User demand for options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of connectivity that best suits its needs. Users that do not opt to utilize the Exchange's proposed Access or Connectivity would still be able to access Proposed Third Party Systems and connect to Proposed Third Party Data Feeds using Telecoms.

The Exchange does not believe that FIDS would have any competitive advantage over Users that establish independent access to Proposed Third Party Systems or connectivity to Proposed Third Party Data Feeds. The Exchange's proposed service for Access and Connectivity does not have (a) any special access to the Proposed Third Party Systems and Proposed Third Party Data Feeds or (b) advantage within the MDC, as all distances in the MDC are normalized.

Moreover, the Exchange does not believe that FIDS would have any competitive advantage because it would charge for connectivity only, not the Proposed Third Party System or Proposed Third Party Data Feed itself. All Users that connect to a Proposed Third Party System or Proposed Third Party Data Feed, whether they elect to connect using the Exchange's proposed service or not, would have to pay a third party for the Proposed Third Party System or Proposed Third Party Data Feed.

Nor does the Exchange believe that FIDS has a competitive advantage over any third-party competitors offering access to the Proposed Third Party Systems or connectivity to the Proposed Third Party Data Feeds by virtue of the fact that ICE owns and operates the MDC's meet-me-rooms. Users purchasing Access or Connectivity—like Users of any other colocation service—would require a circuit connecting out of the MDC, and in most cases, such circuits are provided by third-party Telecoms. Currently, 16 Telecoms operate in the meet-me-rooms and provide a variety of circuit choices. It is in the Exchange's best interest to set the fees that Telecoms pay to operate in the meet-me-rooms at a reasonable level<sup>36</sup> so that market participants, including Telecoms, will maximize their use of the MDC. By setting the meet-me-room fees at a reasonable level, the Exchange encourages Telecoms to participate in the meet-me-rooms and to sell circuits to Users for connecting into and out of the MDC. These Telecoms then compete with each other by pricing such circuits at competitive rates. These competitive rates for circuits help draw in more Users and Hosted Customers to the MDC, which directly benefits the Exchange by increasing the customer base to whom the Exchange can sell its colocation services, which include cabinets, power, ports, and connectivity to many third-party data feeds, and because having more Users and Hosted Customers leads, in many cases, to greater participation on the Exchange. In this way, by setting the meet-me-room fees at a level attractive to telecommunications firms, the Exchange spurs demand for all of the services it sells at the MDC, while setting the meet-me-room fees too high would negatively affect the Exchange's ability to sell its services at the MDC.<sup>37</sup> Accordingly, there are real constraints on the meet-me-room fees the Exchange charges, such that the Exchange does not have an advantage in terms of costs when compared to third parties that enter the MDC through the meet-me-rooms to provide services to compete with the Exchange's services.

If anything, the Exchange would be subject to a competitive disadvantage vis-à-vis Users regarding access to the Proposed Third Party Systems or connectivity to the Proposed Third Party Data Feeds. Users that choose to independently establish access or connectivity may negotiate terms with the Telecoms or other Users through whom such access and connectivity is

delivered, in response to competitive forces. Such prices are not required to be filed by any party with the Commission. In contrast, the Exchange's service and pricing would be standardized as set out in this filing, and the Exchange would be unable to respond to pricing pressure from its competitors without seeking a formal fee change in a filing before the Commission.

The Proposed Pass-Through Edit would not impose any burden on competition. It is not intended to address competitive issues but rather is concerned solely with adding clarity as to who may charge redistribution fees.

The changes would not put any market participants at a relative disadvantage compared to other market participants or penalize one or more categories of market participants in a manner that would impose an undue burden on competition.

#### *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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>38</sup> and Rule 19b-4(f)(6) thereunder.<sup>39</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>40</sup>

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

<sup>38</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>39</sup> 17 CFR 240.19b-4(f)(6).

<sup>40</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>35</sup> 15 U.S.C. 78f(b)(8).

<sup>36</sup> See MMR Notice, *supra* note 29.

<sup>37</sup> See *supra* note 30.



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) <sup>41</sup> 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 (<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-NYSENAT-2025-14 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-NYSENAT-2025-14. 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-NYSENAT-2025-14 and should be submitted on or before August 4, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>42</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103408; File No. SR-CboeBZX-2025-081]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of the Canary PENGU ETF Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

July 9, 2025.

On June 25, 2025, Cboe BZX Exchange, Inc. ("Exchange" or "BZX") filed with the Securities and Exchange Commission (the "Commission"), 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> a proposed rule change to list and trade shares of the Canary PENGU ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. On July 7, 2025, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the original filing in its entirety. On July 8, 2025, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change, as modified by Amendment No. 1, in its entirety. The proposed rule change, as modified by Amendment No. 2, is 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, as modified by Amendment No. 2, from interested persons.

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

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 ("Exchange Act" or the "Act"),<sup>3</sup> and Rule 19b-4

thereunder,<sup>4</sup> Cboe BZX Exchange, Inc. ("BZX" or the "Exchange") is filing with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change to list and trade shares of the Canary PENGU ETF (the "Trust"),<sup>5</sup> under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The shares of the Trust are referred to herein as the "Shares."

#### 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.

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/equities/regulation/rule\\_filings/bzx/](http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

This Amendment No. 2 to SR-CboeBZX-2025-081 amends and replaces in its entirety the proposal as originally submitted on June 25, 2025, and as amended by Amendment No. 1 on July 7, 2025. The Exchange submits this Amendment No. 2 in order to clarify certain points and add additional details to the proposal.

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(e)(4),<sup>6</sup> which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.<sup>7</sup> Canary Capital

<sup>4</sup> 17 CFR 240.19b-4.

<sup>5</sup> The Trust will be formed as a Delaware statutory trust. The Trust will have no fixed termination date.

<sup>6</sup> The Commission approved BZX Rule 14.11(e)(4) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018).

<sup>7</sup> Any of the statements or representations regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values, or the applicability of Exchange listing rules specified in this filing to list a series of Other Securities (collectively, "Continued Listing Representations") shall

<sup>41</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>42</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(1).