

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105049; File No. SR-CBOE-2025-090]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Approving a Proposed Rule Change to Permit Orders for the Accounts of Market-Makers with an Appointment in the Applicable Class to be Solicited as the Contra-Side Order Submitted into Certain Exchange Auctions

March 19, 2026.

I. Introduction

On December 9, 2025, Cboe Exchange, Inc. (the “Exchange” or “Cboe”) filed with the Securities and Exchange Commission (the “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to permit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange to be solicited as the contra-side order submitted for execution against an agency order into certain Exchange auctions. The proposed rule change was published for comment in the Federal Register on December 22, 2025.³ On February 5, 2026, pursuant to Section 19(b)(2) of the Act,⁴ 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.⁵ The Commission did not receive any comments on the proposed rule change. This order approves the proposed rule change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 104437 (December 17, 2025), 90 FR 59906 (December 22, 2025) (“Notice”).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 104768, 91 FR 5972 (February 10, 2026). The Commission designated March 22, 2026, as the date by which the Commission shall approve, disapprove, or institute

II. Description of the Proposed Rule Change

The Automated Improvement Mechanism (“AIM”) is an electronic auction intended to provide an order that a Trading Permit Holder⁶ represents as agent (“Agency Order”) with the opportunity to receive price improvement over the National Best Bid or Offer (“NBBO”).⁷ The Solicitation Auction Mechanism (“SAM”) is an electronic auction intended to provide a larger-sized Agency Order with the opportunity to receive price improvement over the NBBO.⁸ AIM and SAM auctions are also available for flexible exchange options (“FLEX Options”) (“FLEX AIM” and “FLEX SAM,” respectively).⁹ Upon submitting an Agency Order into one of these auctions, the initiating Trading Permit Holder (“Initiating TPH”) must also submit a contra-side second order (the “Initiating Order”) for the same size as the Agency Order. The Initiating Order guarantees that the Agency Order will receive an execution at no worse than the auction start price. Upon commencement of an auction, market participants submit responses to trade against the Agency Order. At the conclusion of an AIM Auction, depending on the contra-side interest (including auction responses) available, the Initiating Order may be allocated a certain percentage of the Agency Order.¹⁰ At the conclusion of a SAM Auction, depending on the contra-side interest (including auction responses) available, the Initiating Order may be allocated the entire Agency Order or none of the Agency Order.¹¹

proceedings to determine whether to disapprove the proposed rule change.

⁶ “Trading Permit Holder” has the meaning set forth in the Cboe Bylaws. See Cboe Rule 1.1.

⁷ See Cboe Rule 5.38 (AIM).

⁸ See Cboe Rule 5.39 (SAM).

⁹ See Cboe Rules 5.73 (FLEX AIM) and 5.74 (FLEX SAM).

¹⁰ See Cboe Rule 5.37. Specifically, under Cboe Rule 5.37(e), the AIM Initiating Order will receive an allocation of 50% of the Agency Order if there is one other User at the same price or 40% of the Agency Order if there are two or more other Users at the same price. See also Cboe Rule 5.73(e) for rules concerning the execution of an Agency Order in the FLEX AIM.

¹¹ See Cboe Rule 5.39(e). See also Cboe Rule 5.74(e) for rules concerning the execution of an Agency Order

Currently, the introductory paragraphs of Rules 5.37 and 5.73 prohibit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange in all classes except S&P 500 Index options (“SPX”) to be solicited to execute against the Agency Order in a simple AIM or FLEX AIM Auction. The introductory paragraphs of Rules 5.39 and 5.73 prohibit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange to be solicited to execute against the Agency Order in a simple SAM or FLEX SAM Auction. The Exchange proposes to amend Rules 5.37, 5.39, 5.73, and 5.74 to permit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange, in all classes, to be solicited for the Initiating Order¹² submitted for execution against an Agency Order into a simple AIM Auction, a simple SAM Auction, a FLEX AIM Auction, or a FLEX SAM Auction.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹³ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁴ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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

in the FLEX SAM.

¹² The “Initiating Order” is the order comprised of principal interest or a solicited order(s) submitted to trade against the order the submitting Trading Permit Holder (the “Initiating TPH” or “Initiating FLEX Trader,” as applicable) represents as agent (the “Agency Order”).

¹³ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78f(b)(5).

interest. The Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,¹⁵ which requires that the rules of a national securities exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Permitting brokers to solicit liquidity providers in a class for electronic auctions could expand available liquidity for these auctions, thus potentially allowing more auctions to take place, which may create additional execution and price improvement opportunities for customers to the ultimate benefit of investors if orders execute at prices better than the NBBO or large-size block orders are executed more efficiently.¹⁶ Furthermore, the Exchange believes increasing the number of market participants available to be solicited for commencing an auction may increase competition to provide Initiating Orders, which may lead to an AIM Auction being initiated at a better price.¹⁷ In the Notice, the Exchange provided data for the time period from January to June 2025 indicating that a significant portion of smaller customer orders (20 contracts or fewer) executed against Market-Makers.¹⁸ Allowing this pool of liquidity to be available to be solicited to be contra orders could increase the number of AIM and SAM auctions initiated on the Exchange. It also could promote competition among executing brokers by enabling more members who are not able to commit the capital to provide the Initiating Order that is necessary to commence an auction to instead solicit Market-Makers for that necessary liquidity.

The Exchange's rules do not restrict the group of participants that may provide responses to AIM auctions, thus helping to assure that the number of TPHs who can respond to

¹⁵ 15 U.S.C. 78f(b)(8).

¹⁶ See, e.g., Notice, supra note 3, at 59908.

¹⁷ See id.

¹⁸ The Commission has also approved a proposal from Cboe to permit the solicitation of Market-Makers for the SPX Initiating Order in AIM and FLEX AIM. See Securities Exchange Act Release No. 91116 (February 11, 2021), 86 FR 10154 (February 18, 2021).

AIM auctions remains competitive.¹⁹ While allowing a Market-Maker with an appointment in the class to be solicited to be the contra order could reduce the number of responders that currently respond to auctions, the commencement of more competitive auctions, particularly AIM auctions, could attract more competitive responders, including non-Market Makers, over time to the potential benefit of investors through greater access to price improvement opportunities. In addition, the Commission understands that the Exchange already allows the same Market-Maker firm to act as both contra (via an away Market-Maker affiliate) and auction responder (via the appointed Market-Maker).²⁰ Accordingly, the proposal could remove impediments and increase efficient operations by allowing direct participation from those firms without the need to involve affiliates.

In approving the proposed rule change, the Commission believes that it is critical that the TPHs comply with, and the Exchange surveils for violations of, Cboe Rule 8.10, which prohibits TPHs from misusing material, nonpublic information (for example, advanced knowledge of auctioned orders).²¹

¹⁹ According to the Exchange, currently, there are 24 distinct TPHs with appointments across multi-list classes and 18 TPHs with VIX appointments, which represent a significant pool of liquidity that would be available to participate in AIM Auctions through both contra orders and auction responses. See Notice, supra note 3, at 59908.

²⁰ See Notice, supra note 3, at 59007.

²¹ See Cboe Rule 8.10 (Prevention of the Misuse of Material Nonpublic Information). In the Notice, the Exchange stated that the protections in Cboe Rule 8.10 will remain in place under the proposed rule change to address any potential information leakage concerns. See Notice, supra note 3, at 59007.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²² that the proposed rule change (SR-CBOE-2025-090) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Vanessa A. Countryman,

Secretary.

²² 15 U.S.C. 78s(b)(2).

²³ 17 CFR 200.30-3(a)(12).