

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105061; File No. SR-CBOE-2026-008]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Suspension of and Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Adopt Rule 8.23

March 20, 2026.

I. Introduction

On January 20, 2026, Cboe Exchange, Inc. (“Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (“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 adopt Exchange Rule (“Rule”) 8.23 to codify certain order and quote entry and trading activity that is prohibited on the Exchange. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.³ The proposed rule change was published for comment in the Federal Register on February 2, 2026.⁴ Pursuant to Section 19(b)(3)(C) of the Act,⁵ the Commission is hereby: (1) temporarily suspending the proposed rule change; and (2) instituting proceedings to determine whether to approve or disapprove the proposed rule change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ See Securities Exchange Act Release No. 104721 (January 28, 2026), 91 FR 4645 (February 2, 2026) (SR-CBOE-2026-008) (Notice of Filing of Proposed Rule Change to Adopt Rule 8.23) (“Notice”). Comments received on the Notice are available on the Commission’s website at: <https://www.sec.gov/rules-regulations/public-comments/sr-cboe-2026-008>.

⁵ 15 U.S.C. 78s(b)(3)(C).

II. Background and Description of the Proposed Rule Change⁶

The Exchange proposes to adopt Rule 8.23, which would codify order and quote entry and trading activity that the Exchange believes is disruptive, and prohibited by the Act, the rules and regulations thereunder, and the Exchange's Rules.⁷ The Exchange states that Trading Permit Holders ("TPHs") should be submitting all orders and quotes at any time for the purpose of bona fide transactions or in good faith for legitimate purposes.⁸

The Exchanges states that, as a national securities exchange registered pursuant to Section 6 of the Act, it is required to be organized and to have the capacity to enforce compliance by its members and persons associated with its members, with the Act, the rules and regulations thereunder, and its Rules.⁹ The Exchange also states that its Rules are required to be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade . . . and, in general, to protect investors and the public interest."¹⁰ In addition, the Exchange states that Section 9(a)(1) of the Act prohibits any member of a national securities exchange from engaging in certain activity for the purpose of creating a false or misleading appearance of active trading.¹¹ The Exchange further states that Rule 10b-5 under the Act prohibits any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.¹² Further, the Exchange states

⁶ For additional detail regarding the Exchange's proposal, see the Notice, supra note 4.

⁷ See Notice, supra note 4, 91 FR at 4646.

⁸ Id.

⁹ 15 U.S.C. 73f(b)(1); see Notice, supra note 4, 91 FR at 4646.

¹⁰ 15 U.S.C. 78f(b)(5); see Notice, supra note 4, 91 FR at 4646.

¹¹ See Notice, supra note 4, 91 FR at 4646; and 15 U.S.C. 78i(a)(1).

¹² See Notice, supra note 4, 91 FR at 4646; and 17 CFR 240.10b-5.

that various Exchange Rules currently prohibit disruptive order and quote entry and trading activity.¹³

The Exchange states that it has identified various activities that may comprise disruptive order and quote entry or trading activity in violation of its Rules and the Act, and that the proposal describes what the Exchange considers to be prohibited activity.¹⁴ Specifically, proposed Rule 8.23(a) states that TPHs, on their own behalf or on behalf of customers, must submit all orders and quotes at any time for the purpose of executing bona fide transactions or in good faith for legitimate purposes. Proposed Rule 8.23(a) also provides a non-exhaustive list of non-bona fide or nonlegitimate purposes.¹⁵ The Exchange views the activity identified in proposed Rule 8.23(a) as currently prohibited by Exchange rules and consistent with activity the Exchange has previously identified as being disruptive and violative of its Rules.¹⁶

Proposed Rule 8.23(b) describes various factors the Exchange may consider when assessing whether conduct constitutes disruptive or manipulative activity that violates proposed Rule 8.23. The Exchange believes that these factors are consistent with the prohibited activity described in proposed Rule 8.23(a) that, when considered in context, supports whether there was requisite intent for the market participant's conduct, for example, to induce another market participant to engage in

¹³ See Notice, *supra* note 4, 91 FR at 4646. For example, the Exchange states that Rule 8.1 prohibits TPHs from engaging in acts or practices inconsistent with just and equitable principles of trade; Rule 8.2 prohibits TPHs from engaging in conduct in violation of the Act, the rules and regulations thereunder, and Exchange Rules; Rule 8.6 prohibits TPHs from engaging in market manipulation; and Rule 8.10 prohibits TPHs from misusing material, nonpublic information.

¹⁴ See Notice, *supra* note 4, 91 FR at 4646. The Exchange states that it has issued guidance through Regulatory Circulars to identify examples of when behavior is disruptive and thus prohibited by the Act or Exchange Rules. *Id.*; see also, e.g., Cboe Regulatory Circular 22-014 (September 26, 2022), available at: [RC22-014 Prearranged Trading and Signaling of Imminent Orders \(cboe.com\)](#); and Cboe Regulatory Circular 22-008 (March 18, 2022), available at: [RC22-008 Quote and Order Messaging - Prohibited Activity \(cboe.com\)](#).

¹⁵ See Notice, *supra* note 4, 91 FR at 4646-47.

¹⁶ *Id.* See also *supra* note 14.

market activity.¹⁷ Proposed Rule 8.23(c) provides that, absent other factors or circumstances, certain activities do not constitute a violation of proposed Rule 8.23.¹⁸ Finally, the Exchange proposes to adopt interpretations and policies to proposed Rule 8.23 that provide additional information relevant to the determination whether certain activity is prohibited by Rule 8.23.¹⁹

III. Suspension of the Proposed Rule Change

Pursuant to Section 19(b)(3)(C) of the Act,²⁰ at any time within 60 days of the date of filing of an immediately effective proposed rule change pursuant to Section 19(b)(1) of the Act,²¹ the Commission summarily may temporarily suspend the change in the rules of a self-regulatory organization (“SRO”) 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. A temporary suspension of the proposed rule changes is necessary and appropriate to allow for additional analysis of the proposed rule change’s consistency with the Act and the rules thereunder.

Section 6(b)(5) of the Act requires the rules of an exchange to be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, perfect the mechanism of a free and open market and a national market system, protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers;²² and Section 6(b)(8) of the Act requires that the rules of an exchange

¹⁷ See Notice, supra note 4, 91 FR at 4647.

¹⁸ Id. at 4647-48.

¹⁹ Id. at 4648.

²⁰ 15 U.S.C. 78s(b)(3)(C).

²¹ 15 U.S.C. 78s(b)(1).

²² 15 U.S.C. 78f(b)(5).

not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.²³

In temporarily suspending the Exchange's proposed rule change, the Commission intends to further consider whether the proposal is consistent with the statutory requirements applicable to a national securities exchange under the Act. In particular, the Commission will consider whether the proposed rule change satisfies the standards set forth in Sections 6(b)(5) and 6(b)(8) of the Act.²⁴ Therefore, the Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, to temporarily suspend the proposed rule change.²⁵

IV. Proceedings to Determine Whether to Approve or Disapprove the Proposed Rule Change

In addition to temporarily suspending the proposal, the Commission also hereby institutes proceedings pursuant to Section 19(b)(2)(B) of the Act²⁶ to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of comments received, and the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

²³ 15 U.S.C. 78f(b)(8).

²⁴ See 15 U.S.C. 78f(b)(5) and (8), respectively.

²⁵ For purposes of temporarily suspending the 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).

²⁶ 15 U.S.C. 78s(b)(2)(B).

Pursuant to Section 19(b)(2)(B) of the Act,²⁷ the Commission is providing notice of the grounds for disapproval under consideration. As described above, the Exchange has proposed to codify certain order and quote entry and trading activity that is prohibited on the Exchange. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the proposed rule change's consistency with the Act, and in particular, Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices; promote just and equitable principles of trade; protect investors and the public interest; and not permit unfair discrimination between customers, issuers, brokers or dealers;²⁸ and Section 6(b)(8) of the Act, which requires that the rules of a national securities exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.²⁹

Under the Commission's Rules of Practice, the "burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder ... is on the self-regulatory organization ['SRO'] that proposed the rule change."³⁰ The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,³¹ and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative

²⁷ Id.

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ 15 U.S.C. 78f(b)(8).

³⁰ Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

³¹ Id.

finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.³²

For these reasons, the Commission believes it is appropriate to institute proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act³³ to determine whether the proposal should be approved or disapproved.

V. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Sections 6(b)(5) and 6(b)(8) of the Act³⁴ or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of data, views, and arguments, the Commission will consider, pursuant to Rule 19b-4 under the Act,³⁵ any request for an opportunity to make an oral presentation.³⁶

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Any person who

³² Id.

³³ 15 U.S.C. 78s(b)(2)(B).

³⁴ 15 U.S.C. 78f(b)(5); 15 U.S.C. 78f(b)(8).

³⁵ 17 CFR 240.19b-4.

³⁶ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Pub. L. 94-29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

wishes to file a rebuttal to any other person's submission must file that rebuttal by [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change. 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. Please include file number SR-CBOE-2026-008 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-CBOE-2026-008. 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 filing 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-CBOE-2026-008 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁷

Vanessa A. Countryman,
Secretary.

³⁷ 17 CFR 200.30-3(a)(57) and (58).