

# SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104847; File No. SR-CboeBYX-2026-004]

## Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Fee Schedule

February 13, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 9, 2026, Cboe BYX Exchange, Inc. (“Exchange” or “BYX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as 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 from interested persons.

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

Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) proposes to amend its Fee Schedule to add language to bring the Fee Schedule into compliance with Regulation NMS Rule 610(d), which becomes effective on February 2, 2026, and to remove obsolete definitions from the Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website ([https://www.cboe.com/us/equities/regulation/rule\\_filings/bzx/](https://www.cboe.com/us/equities/regulation/rule_filings/bzx/)), and at the principal office of the Exchange.

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

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

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform (“BYX Equities”) to add language to bring the Fee Schedule into compliance with Regulation NMS Rule 610(d), which becomes effective on February 2, 2026, and to remove obsolete definitions from the Fee Schedule. The Exchange proposes to implement these changes effective February 2, 2026.<sup>3</sup>

On September 18, 2024, the Commission adopted several amendments to Regulation NMS in order to increase the transparency of exchange fees and rebates.<sup>4</sup> As part of these amendments, the Commission adopted Regulation NMS Rule 610(d), which provides that “[a] national securities exchange shall not impose, nor permit to be imposed, any fee or fees, or provide, or permit to be provided, and rebate or other remuneration, for the execution of an order in an NMS stock that cannot be determined at the time of execution.”<sup>5</sup> On October 31, 2025, the

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<sup>3</sup> The Exchange initially submitted the proposed rule change on January 28, 2026 (SR-CboeBYX-2026-001). On February 9, 2026, the Exchange withdrew that filing and submitted this proposal.

<sup>4</sup> See Securities Exchange Act Release No. 101070 (September 18, 2024), 89 FR 81620 (October 8, 2024), File No. S7-30-22, Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders (“Rule 610(d) Adopting Release”).

<sup>5</sup> 17 CFR 242.610(d).

Commission granted temporary exemptive relief from compliance with Regulation NMS Rule 610(d).<sup>6</sup> The compliance date for Regulation NMS Rule 610(d) is the first business day of February 2026, which is Monday, February 2, 2026.

Currently, the Exchange establishes certain transaction fees and rebates for equities executions that are based on tiers calculated using volume figures from trading or quoting activity in the current month. This means that the fees and rebates at the Exchange associated with a given equities execution often cannot be determined at the time of execution, but only retroactively at the end of the month in which an execution occurred. In order to ensure that its transaction fees and rebates for equities executions are consistent with Regulation NMS Rule 610(d), the Exchange proposes to add the following language to the “General Notes” section of its Fee Schedule:

- In compliance with Regulation NMS Rule 610(d), effective February 2, 2026, unless otherwise indicated, all volume figures will be derived from quoting or trading activity in the prior month. Consequently, all new Members will receive the base rates in their first month of trading.

This change will ensure that all Exchange participants will be able to ascertain at the time of execution all the transaction fees and rebates associated with the execution of an order of an NMS stock at the Exchange.

Additionally, the Exchange proposes to delete certain definitions from the Fee Schedule that are no longer applicable to the tiers offered by the Exchange. Specifically, the Exchange

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<sup>6</sup> See Securities Exchange Act Release No. 104172 (October 31, 2025), 90 FR 51418 (November 17, 2025), File No. S7-30-22, Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders (“Temporary Exemptive Relief”).

proposes to remove the definitions of “Step-Up ADAV,”<sup>7</sup> “Step-Up Auction ADV,”<sup>8</sup> “Step-Up Add TCV,”<sup>9</sup> and “Step-Up Remove TCV,”<sup>10</sup> from the Fee Schedule as these terms are no longer being utilized by tiers currently offered by the Exchange.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>11</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>12</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>13</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as Section 6(b)(4)<sup>14</sup> as it is designed to provide for the

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<sup>7</sup> “Step-Up ADAV” means ADAV in the relevant baseline month subtracted from current ADAV.

<sup>8</sup> “Step-Up Auction ADV” means Auction ADV in the relevant baseline month subtracted from current Auction ADV.

<sup>9</sup> “Step-Up Add TCV” means ADAV as a percentage of TCV in the relevant baseline month subtracted from current ADAV as a percentage of TCV.

<sup>10</sup> “Step-Up Remove TCV” means remove ADV as a percentage of TCV in the relevant baseline month subtracted from current remove ADV as a percentage of TCV.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> Id.

<sup>14</sup> 15 U.S.C. 78f(b)(4)

equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

The Exchange believes the addition of the text under the “General Notes” section of the Fee Schedule provides for the equitable allocation of reasonable dues, fees and other charges among its Members because it allows the Exchange to preserve its current quoting and trading incentives while also complying with Regulation NMS Rule 610(d). Currently, Members are assessed certain transaction fees and paid certain transaction rebates based on tiers calculated using volume figures from trading and quoting activity in the current month. In order to comply with Regulation NMS Rule 610(d), the Exchange is adding language that provides that all transaction fees and transaction rebates shall be calculated using volume figures from trading and quoting activity in the prior month (unless otherwise indicated). As such, all transaction fees and transaction rebates associated with the execution of an order in an NMS stock at the Exchange can be determined at the time of execution of such order. All existing fees and rebates remain otherwise unchanged.

The Exchange believes that its modified Fee Schedule is not unfairly discriminatory because the Exchange will apply its revised transaction fee and transaction rebate calculations equally to all Members, in that all Members will receive transaction fees and transaction rebates based on the previous month’s volume and quotation activity. Therefore, all Members will be able to determine relevant transaction fees and transaction rebates at the time of execution of an NMS stock on the Exchange.

Additionally, the Exchange’s proposal to remove obsolete definitions from its Fee Schedule promotes just and equitable principles of trade, provides for the equitable allocation of reasonable dues, fees and other charges among its Members, and is not unfairly discriminatory

because the changes apply to all Members equally in that the definitions will no longer apply for any Member. Further, removing obsolete language from the Fee Schedule promotes clarity of the Exchange's Fee Schedule by removing definitions that are no longer applicable which promotes just and equitable principles of trade and provides for the equitable allocation of reasonable dues, fees and other charges among its Members.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."

The Exchange believes the proposed rule changes do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the Exchange's proposal will apply to all Members equally in that all Members are subject to Regulation NMS Rule 610(d) and will be able to determine their applicable transaction fees and transaction rebates based on tiers by utilizing the previous month's trading and quoting activity. Further, the Exchange's proposal to remove obsolete definitions from its Fee Schedule will apply equally to all Members in that the definitions will no longer be applicable to any Members.

Next, the Exchange believes the proposed rule changes do not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 15% of the market share.<sup>15</sup> Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, 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>16</sup> The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ ... As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages

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<sup>15</sup> See <https://www.cboe.com/en/markets/us/equities/market-statistics/> (last accessed January 26, 2026).

<sup>16</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’....”.<sup>17</sup> Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange neither solicited nor received comments on the proposed rule change.

III. 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>18</sup> and paragraph (f) of Rule 19b-4<sup>19</sup> thereunder. 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 will 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:

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<sup>17</sup> NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f).

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-CboeBYX-2026-004 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeBYX-2026-004. 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-CboeBYX-2026-004 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.<sup>20</sup>

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

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<sup>20</sup> 17 CFR 200.30-3(a)(12).