

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104705; File No. SR-CboeEDGX-2025-035]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend Exchange Rule 11.21 to Allow a Retail Member Organization to Enter a Retail Order Onto the Exchange in a Principal Capacity

January 28, 2026.

I. Introduction

On May 21, 2025, Cboe EDGX Exchange, Inc. (“Exchange”) 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 (i) amend Exchange Rule 11.21(a)(2) to allow a Retail Member Organization (“RMO”) to enter a Retail Order onto the Exchange in a principal capacity, provided certain conditions are satisfied.³ On July 25, 2025, 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 On September 4, 2025, the Exchange submitted Amendment No. 1 to 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. 103182 (June 4, 2025), 90 FR 24476 (June 10, 2025). A “Retail Member Organization” or “RMO” is a Member (or a division thereof) that has been approved by the Exchange under Rule 11.21 to submit Retail Orders. See Exchange Rule 11.21(a)(1). “Member” is defined in Exchange Rule 1.5(n). As described herein, “Retail Order” is defined in Exchange Rule 11.21(a)(2).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 103546 (July 25, 2025), 90 FR 35954 (July 30, 2025) (designating September 8, 2025 as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change).

which amended and superseded the proposed rule change in its entirety.⁶ On September 5, 2025, the Commission published notice of Amendment No. 1 and instituted proceedings under Section 19(b)(2)(B) of the Act⁷ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.⁸ On December 3, 2025, the Commission designated February 5, 2026 as the date by which the Commission shall either approve or disapprove the proposed rule change.⁹ The Commission has not received any comments on the proposal. As discussed further below, this order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal

The Exchange proposes to (i) amend Exchange Rule 11.21(a)(2) to allow an RMO to enter a Retail Order onto the Exchange in a principal capacity, provided the requirements of proposed Exchange Rule 11.21(g) are satisfied; (ii) codify in proposed new Exchange Rule 11.21(g) additional requirements an RMO must comply with in order to enter Retail Orders as principal; and (iii) amend Exchange Rule 11.21(b)(6) to require that RMOs have in place policies and procedures reasonably designed to ensure compliance with proposed Exchange Rule 11.21(g), as well as to ensure that the RMO can, upon request by the Exchange, produce documentation evidencing compliance with the requirements of Exchange Rule 11.21(g).

⁶ The full text of Amendment No. 1 is available on the Commission's website at <https://www.sec.gov/comments/sr-cboeedge-2025-035/srcboeedge2025035-648447-1943494.pdf>.

⁷ 15 U.S.C. 78s(b)(2)(B).

⁸ See Securities Exchange Act Release No. 103878 (Sept. 5, 2025), 90 FR 43668 (Sept. 10, 2025) ("Notice and OIP").

⁹ See Securities Exchange Act Release No. 104302 (Dec. 3, 2025), 90 FR 56806 (Dec. 8, 2025).

A. Modifications to Exchange Rule 11.21(a)(2) In Order to Permit RMOs to Enter Retail Orders in a Principal Capacity

Currently, RMOs are only able to submit Retail Orders to the Exchange in an agency or riskless principal capacity.¹⁰ Specifically, a Retail Order is defined as: “an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.”¹¹ The Exchange states it has received feedback from certain RMOs that the ability to handle Retail Orders in a principal capacity will enable them to provide their retail customers with post-execution price improvement that is in *addition* to any price improvement received on the Exchange.¹² The Exchange states that “RMOs may choose to execute in this manner to satisfy certain execution quality and price improvement benchmarks RMOs have applied to their underlying retail order(s), as well as to simply provide additional price improvement as a service to their retail customer(s) or retail broker customers.”¹³ The Exchange further states that providing this *additional* price improvement is not possible under the current definition of Retail Order because such principal orders fail to meet the definition of riskless principal because the

¹⁰ See Exchange Rule 11.21(a)(2). The Exchange states that it offers (i) retail-only pricing incentives for low cost remove fees and premium rebates, (ii) discounts for RMOs on port fees and market data and (iii) retail tiers that give growing retail firms additional rebates. See Notice and OIP at 43670; Cboe U.S. Equities Fee Schedules, EDGX Equities, https://www.cboe.com/us/equities/membership/fee_schedule/edgx/. The Exchange also states that it offers RMOs the ability to participate in the Exchange’s “Retail Priority program,” pursuant to which the displayed portion of an individual customer’s Retail Priority Order will post at the front of the order queue for same-priced orders submitted on EDGX. *Id.* Pursuant to Exchange Rule 11.9, Interpretations and Policies .01 a “Retail Priority Order” is a Retail Order that is entered on behalf of a person that does not place more than 390 equity orders per day on average during a calendar month for its own beneficial account(s).

¹¹ See Exchange Rule 11.21(a)(2).

¹² See Notice and OIP at 43669.

¹³ See *id.* at 43670.

price ultimately allocated to the retail customer by the RMO would be different from (i.e. always be better priced than) the price the principal order received on the Exchange.¹⁴

The Exchange proposes to amend Exchange Rule 11.21(a)(2) to provide that an RMO may now also enter a Retail Order as a “principal order”, provided the requirements in proposed Exchange Rule 11.21(g), as discussed below, are met.

B. Additional Requirements for Retail Orders Entered as Principal Orders

The Exchange proposes to introduce Exchange Rule 11.21(g) to ensure that principal orders entered as Retail Orders are done so only on behalf of bona fide retail customers. Specifically: (i) the RMO must be in receipt of and actively managing, at the time of order entry onto the Exchange, a Retail Order it seeks to execute on behalf of a retail customer; (ii) the Retail Order entered by an RMO as principal must solely be for the purpose of providing post-execution price improvement¹⁵ to the retail customer(s) in addition to any price improvement received on the Exchange; (iii) the size of the principal order must not be greater than that of the underlying order(s) entered on behalf of the retail customer(s); and (iv) the total number of shares executed in a principal capacity must be fully allocated to the underlying retail customer(s) in a consistent manner and within 60-seconds of execution. The Exchange states that

¹⁴ Id. at 43669-70. A “riskless principal” transaction is a transaction in which a member, after having received an order to buy (sell) a security, purchases (sells) the security as principal and satisfies the original order by selling (buying) as principal at the *same* (emphasis added) price (the offsetting “riskless” leg). See FINRA Rule 5320.03 – “Riskless Principal Exception”, <https://www.finra.org/rules-guidance/rulebooks/finra-rules/5320>.

¹⁵ Should an RMO enter a Retail Order principally but elect not to provide post-execution price improvement the Exchange states that it would expect that the RMO would allocate that execution back to their retail customer(s) in a riskless principal capacity, in which case such transaction must comply with existing Exchange Rule 11.21(a)(2) and FINRA Rule 5320.03. See Notice and OIP at 43671, n.17.

these requirements are similar to the requirements of FINRA Rule 5320.03 (Riskless Principal Exception).¹⁶

The Exchange also states that monitoring for compliance with these requirements will occur post-trade, as part of the Exchange's existing surveillance functions, noting the Exchange's Regulatory and Surveillance departments already possess the capability to review Retail Orders to ensure that those entered in a principal or riskless principal transaction were indeed entered and executed by the RMO on behalf of a retail customer.¹⁷ The Exchange expects that the Regulatory and Surveillance functions would monitor for Retail Orders that were entered principally, but not ultimately executed as riskless principal, and further inquire with the RMO that the requirements of new Exchange Rule 11.21(g) were satisfied. Further, the Exchange states that in 2024, 25.5% of all Retail Orders entered across each of Cboe's four equities exchanges were entered as principal, compared to only 6.4% entered as riskless principal and therefore, as a practical matter, the Exchange is accustomed to conducting surveillance of Retail Orders entered as principal, and the proposed amendment should not pose any additional issues.¹⁸

C. Amendments to Exchange Rule 11.21(b)(6) Requiring Policies and Procedures for, and Documentation of, Retail Orders Entered in a Principal Capacity

The Exchange proposes to amend Exchange Rule 11.21(b)(6) to require that RMOs choosing to enter Retail Orders in a principal capacity must have in place policies and procedures reasonably designed to ensure compliance with the requirements of new Exchange Rule 11.21(g), and to ensure the RMO is able to, upon request, provide the Exchange with

¹⁶ See Notice and OIP at 43671. FINRA Rule 5320.03 provides an exception for FINRA members from FINRA's general prohibition on a member trading ahead of its own customers.

¹⁷ See Notice and OIP at 43671.

¹⁸ Id.

documentation evidencing compliance with such requirements. If an RMO does not itself conduct a retail business, but chooses to execute in a principal capacity Retail Orders it manages on behalf of another broker-dealer, the RMO's supervisory procedures must be reasonably designed to ensure that the orders it receives from such other broker-dealer that are designated as Retail Orders meet the definition of a Retail Order. To this end, the RMO must: (i) obtain an annual written representation, in a form acceptable to the Exchange, from each other broker-dealer that sends the RMO orders to be designated as Retail Orders that entry of such orders as Retail Orders will be in compliance with the requirements of Exchange Rule 11.21; and (ii) monitor whether Retail Order flow routed on behalf of such other broker-dealers meets the applicable requirements.

Additionally, the Exchange states that the proposed rule change does not present any new or material risks that the Exchange has not already mitigated through its RMO application process for orders entered onto the Exchange as Retail Orders on behalf of retail customers.¹⁹ The Exchange further states that its regulatory and surveillance functions provide appropriate oversight by monitoring for continued compliance with the terms of the RMO requirements, including that an RMO will only designate orders as Retail Orders if all requirements of a Retail Order are met.²⁰ If an RMO fails to abide by the Retail Order requirements, the Exchange in its sole discretion may disqualify a Member from its status as an RMO.²¹ The Exchange also states that as Members of the Exchange, RMOs must be registered brokers or dealers and therefore are subject to various FINRA and Exchange business conduct rules, and that RMOs are obligated to

¹⁹ Id. at 43672.

²⁰ See id.

²¹ See Exchange Rule 11.21(c)(1).

ensure that only orders that comply with Exchange rules are routed to the Exchange and designated as Retail Orders.²²

III. Discussion and Commission Findings

After careful review, 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.²³ In particular, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5).²⁴ Section 6(b)(5) of the Act 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 interest; and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.²⁵

The Commission has previously recognized that market participants and some exchanges distinguish between individual retail investors, whose orders are considered desirable by liquidity providers because such retail investors are presumed on average to be less informed about short-term price movements, and professional traders, whose orders are presumed on average to be more informed about short-term price movements.²⁶ The Commission has also recognized that, because of this distinction, some liquidity providers may be more inclined to

²² See Notice and OIP at 43673 (citing as examples FINRA Rule 2010 (Standards of Commercial Honor and Principles of Trade), Exchange Rule 2.2 (Obligation of Members and the Exchange), and Exchange Rule 3.1 (Business Conduct of Members)).

²³ 15 U.S.C. 78f(b). 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).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ 15 U.S.C. 78f(b)(5).

²⁶ See, e.g., Securities Exchange Act Release No. 73702 (Nov. 28, 2014), 79 FR 72049, 72051 (Dec. 4, 2014) (SR-BX-2014-048) (approving the BX Retail Price Improvement Program on a pilot basis).

offer price improvement to retail orders.²⁷ And the Commission has previously stated that proposals involving segmentation of order flow on a national securities exchange – even if such order flow is retail or offers price improvement to retail orders – must be carefully evaluated.²⁸

The proposed rule change is novel in that it expands the definition of Retail Order to allow RMOs to submit Retail Orders to the Exchange in a principal capacity without requiring an offsetting riskless transaction.²⁹ In order to enter such orders, however, the RMO's sole purpose must be to provide post-execution price improvement to the retail customer in addition to any price improvement received on the Exchange.³⁰ The Exchange states that principal orders entered in this manner are for the benefit of the underlying retail customer, and are consistent with the definition of Retail Order and the purposes of its Retail Priority program. Further, the Exchange states that more retail flow may be directed to the Exchange and have the opportunity to execute on a regulated, transparent market if RMOs are provided with this additional order capacity.³¹

In addition to the post-execution price improvement requirement described above, the RMO must be in receipt of and actively managing, at the time of order entry onto the Exchange, the Retail Order or Orders it seeks to execute on behalf of a retail customer or customers,³² the size of the principal order must not be greater than that of the underlying order(s) entered on

²⁷ Id.

²⁸ See Securities Exchange Act Release No. 86619 (Aug. 9, 2019) 84 FR 41769, 41771 (Aug. 15, 2019) (SR-IEX-2019-05) (approving the IEX Retail Price Improvement Program).

²⁹ See supra note 14 regarding riskless principal transactions.

³⁰ See proposed Exchange Rule 11.21(g)(ii). The Exchange states that RMOs may choose to execute in this manner to satisfy certain execution quality and price improvement benchmarks or to provide additional price improvement as a service to retail customers or retail broker customers. See Notice and OIP at 43670.

³¹ See Notice and OIP at 43673.

³² See proposed Exchange Rule 11.21(g)(i).

behalf of the retail customer(s),³³ and the total number of shares executed in a principal capacity must be fully allocated to the underlying retail customer(s) in a consistent manner and within 60 seconds of execution.³⁴ These conditions are analogous to conditions imposed by FINRA with respect to riskless principal transactions, including, in relevant part, that the offsetting principal transaction occur within 60 seconds of execution.³⁵

The proposed expansion of the definition of Retail Order, in combination with the requirements imposed by new Exchange Rule 11.21(g), is reasonably designed to attract retail order flow to a registered national securities exchange, while offering the opportunity for retail investors to benefit from additional, post-execution price improvement that RMOs may be willing to offer.

Further, the proposal includes safeguards with respect to regulatory and surveillance functions. The proposed changes to Exchange Rule 11.21(b)(6) require that RMOs choosing to enter Retail Orders in a principal capacity maintain policies and procedures reasonably designed to ensure compliance with the requirements of new Exchange Rule 11.21(g).³⁶ In addition, an RMO must, upon request, be able to provide the Exchange with documentation evidencing compliance. The Exchange represents that monitoring for compliance with these requirements will occur post trade, as part of the Exchange's existing surveillance functions.³⁷ The Exchange further represents that it is accustomed to conducting surveillance of Retail Orders entered as principal such that the proposed amendment should not pose any additional issues, and its

³³ See proposed Exchange Rule 11.21(g)(iii).

³⁴ See proposed Exchange Rule 11.21(g)(iv).

³⁵ See *supra* note 16.

³⁶ See proposed Exchange Rule 11.21(g).

³⁷ See Notice and OIP at 43671.

Regulatory and Surveillance departments already possess the capability to review Retail Orders to ensure that those entered in a principal or riskless principal transaction were indeed entered and executed by the RMO on behalf of a retail customer.³⁸

The proposal to expand the definition of Retail Order to include orders entered on a principal basis, subject to the compliance requirements and monitoring discussed herein, is reasonably designed to ensure that RMOs submit only bona fide retail order flow as Retail Orders and thereby should promote just and equitable principals of trade and protect investors and the public interest.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act³⁹ that the proposed rule change (SR-CboeEDGX-2025-035), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

Sherry R. Haywood,

Assistant Secretary.

³⁸ Id.

³⁹ 15 U.S.C. 78s(b)(2).

⁴⁰ 17 CFR 200.30-3(a)(12).