

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106292; File No. SR-TXSE-2026-008]

Self-Regulatory Organizations; Texas Stock Exchange LLC; Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Amend Exchange Rule 13.003 Related to Proxy Voting

September 8, 2026.

I. Introduction

On May 28, 2026, Texas Stock Exchange LLC (the “Exchange” or “TXSE”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ a proposed rule change to amend Exchange Rule 13.003 related to proxy voting. The proposed rule change was published for comment in the Federal Register on June 11, 2026.⁴ On July 21, 2026, pursuant to Section 19(b)(2)(A) of the Act,⁵ the Commission designated a longer period within which to take action on the proposed rule change.⁶ The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act⁷ to determine whether to approve or disapprove the proposed rule change.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 105623 (June 8, 2026), 91 FR 35593 (“Notice”). Comment letters received on the proposed rule change are available at: <https://www.sec.gov/rules-regulations/public-comments/sr-txse-2026-008>.

⁵ 15 U.S.C. 78s(b)(2)(A).

⁶ See Securities Exchange Act Release No. 105956, 91 FR 46817 (July 24, 2026). The Commission designated September 9, 2026, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

⁷ 15 U.S.C. 78s(b)(2)(B).

II. Description of the Proposed Rule Change

As described more fully in the Notice,⁸ the Exchange proposes to amend Rule 13.003 to establish a mandatory process for the proportional allocation and voting of uninstructed shares held by Members⁹ of the Exchange on behalf of beneficial owners of TXSE-listed equity securities.¹⁰ Specifically, the proposed rule would require a Member to vote uninstructed shares at shareholder meetings and to allocate votes on each proposal in proportion to voting instructions received from beneficial owners for whom such Member holds shares in the applicable TXSE-listed security, subject to the exclusions and methodology set forth in the proposed rule.

Existing TXSE Rule 13.003

TXSE Rule 13.003(b) currently prohibits a Member from giving a proxy to vote stock registered in its name, unless: (i) the Member is the beneficial owner of such stock; (ii) the proxy is given pursuant to the written instructions of the beneficial owner; or (iii) the proxy is given pursuant to the rules of any national securities exchange or association of which it is a member provided that the records of the Member clearly indicate the procedure it is following. The Exchange states that the treatment of uninstructed shares under the current framework generally turns on the discretionary voting rules applicable to the Member, including NYSE Rule 452.¹¹

⁸ See Notice, supra note 4.

⁹ “Member” is defined as any registered broker or dealer that has been admitted to membership in the Exchange. See Rule 1.005(q).

¹⁰ According to the Exchange, as provided in proposed Rule 13.003(c), any reference to securities or companies listed on TXSE in this proposal is referring to securities or companies with their primary listing on TXSE and is not referring to a dually-listed security with its primary listing on another national securities exchange. See Notice, supra note 4, at 35593 n. 3.

¹¹ The Exchange states that FINRA Rule 2251 similarly limits the circumstances under which FINRA members may vote proxies without instructions from beneficial owners and permits a member to give a proxy pursuant to the rules of a national securities exchange of which it is a member, and that Nasdaq

Existing Rule 13.003(c) separately prohibits a Member that is not the beneficial owner of a security registered under Section 12 of the Act from granting a proxy to vote the security in connection with a shareholder vote on the election of a member of the board of directors (other than for a vote with respect to uncontested election of a member of the board of directors of any investment company registered under the Investment Company Act of 1940), executive compensation, or any other significant matter unless the beneficial owner of the security has instructed the Member to vote the proxy in accordance with the voting instructions of the beneficial owner.

Description of the Proposed Rule

According to the Exchange, proposed Rule 13.003(c) would apply to a Member that holds shares of an equity security, with a primary listing on the Exchange, on behalf of a beneficial owner and has not received voting instructions from that beneficial owner as of the applicable instruction cutoff, referred to in the proposed rule as the “Calculation Date,” subject to the exclusions set forth in the proposed rule.¹² The Exchange states that the proposed rule would require the Covered Member (as defined below) to vote uninstructed shares at the shareholder meeting and to allocate votes on each proposal in the same proportion as the instructions received from participating beneficial owners for whom the Member holds shares in the applicable security.¹³ Specifically, proposed Rule 13.003(c) provides that, notwithstanding Rule 13.003(b)(iii), a Member that carries an account for the beneficial owner of an equity security of an issuer with a primary listing on TXSE and holds such security in a name other than the name

General 9, Section 6 provides that Nasdaq members shall comply with FINRA Rule 2251 as if it were part of Nasdaq’s rules. See id. at 35593 n. 8 (citing FINRA Rule 2251(b)(3); Nasdaq General 9, Section 6(a)).

¹² See id. at 35594.

¹³ See id.

of the beneficial owner, other than accounts for which the Member of an affiliated person exercises voting authority in a fiduciary, advisory, or discretionary capacity pursuant to an agreement with the beneficial owner (“Covered Member”) shall, with respect to any shares of such security held for a beneficial owner from whom no voting instructions have been received as of the Calculation Date (as defined in proposed Rule 13.003, Interpretation and Policy .02) (the “Uninstructed Shares”), comply with the obligations described below in connection with each shareholder meeting of such issuer.

Proposed Rule 13.003(c)(1) provides that the Covered Member shall submit a proxy designating the Uninstructed Shares as present at such meeting, regardless of whether any matter on the ballot for such meeting would otherwise qualify as a routine matter permitting discretionary voting under the rules of any other national securities exchange or association of which such Covered Member is a member. Submission of a proxy for purposes of representation at the meeting shall not be deemed the exercise of discretionary voting authority.

Proposed Rule 13.003(c)(2) provides that the Covered Member shall vote the Uninstructed Shares on each proposal submitted to shareholders at such meeting by casting votes FOR, AGAINST, and ABSTAINING, or such other voting categories as are available for the applicable proposal, in the same proportion as the aggregate voting instructions received by such Covered Member from beneficial owners of shares of such issuer held in the Covered Member’s custody who have submitted voting instructions with respect to such proposal as of the Calculation Date, as defined below (the “Instructed Vote Distribution”), calculated in accordance with proposed Rule 13.003, Interpretation and Policy .02.

Proposed Rule 13.003(c)(2)(A) provides that if the Covered Member has received no voting instructions from any beneficial owner with respect to a particular proposal as of the

Calculation Date, the Covered Member shall vote all Uninstructed Shares as ABSTAINING on such proposal. Proposed Rule 13.003(c)(2)(B) provides that the proposed proportional allocation requirement shall not apply to shares held or voted by a Covered Member in any capacity described in proposed Rule 13.003(e), including shares voted by a Covered Member acting as an executor, administrator, guardian, trustee, or in a similar representative or fiduciary capacity. The proposed requirement also would not apply to shares voted by a named ERISA Plan investment manager or by a designated investment adviser pursuant to proposed Rule 13.003(e). Such shares also would be excluded from the calculation of the Instructed Vote Distribution.

Proposed Rule 13.003(c)(3) provides that the proportional allocation required under proposed Rule 13.003(c)(2) constitutes a mandatory ministerial obligation of the Covered Member. In executing such allocation, the Covered Member exercises no judgment, preference, or discretion as to how Uninstructed Shares are voted; the allocation is determined solely by application of the formula prescribed by such paragraph (c)(2) and proposed Rule 13.003, Interpretation and Policy .02 without modification or substitution by the Covered Member. The proportional allocation obligation under this paragraph (c) does not constitute the giving of a proxy to vote at the Member's discretion in violation of proposed Rule 13.003(b) or (d) or Section 6(b)(10) of the Act.

Proposed Rule 13.003(c)(4) provides that a Covered Member shall maintain records of the proportional allocation methodology applied pursuant to proposed Rule 13.003(c)(2) in accordance with Exchange Act Rule 17a-4.

The Exchange states that it proposes to retain the existing prohibition, as set forth in proposed Rule 13.003(d), on a Member that is not the beneficial owner of a Section 12 security granting a proxy to vote the security in connection with director elections, executive

compensation, or any other significant matter determined by the Commission unless the beneficial owner has instructed the Member to vote the proxy in accordance with the beneficial owner's instructions.¹⁴ The Exchange also states that this prohibition would continue to apply to securities and accounts outside the scope of proposed Rule 13.003(c), including securities not listed on the Exchange and shares otherwise excluded from the proposed proportional allocation requirement.¹⁵

In addition, proposed Rule 13.003(d) provides that the mandatory proportional allocation of Uninstructed Shares pursuant to proposed Rule 13.003(c)(2) does not constitute the giving of a proxy to vote at the Member's discretion in violation of proposed Rule 13.003(b) or (d) or Section 6(b)(10) of the Act because the Covered Member exercises no judgment, preference, or discretion in determining the votes cast for such shares, which would be determined solely by the formula prescribed by proposed Rule 13.003(c)(2) and proposed Rule 13.003, Interpretation and Policy .02.

Proposed Rule 13.003, Interpretation and Policy .02(a) would add the following definitions for purposes of proposed Rule 13.003, Interpretation and Policy .02 and proposed Rule 13.003(c): "Calculation Date" would mean the date and time by which the Covered Member customarily closes receipt of voting instructions from beneficial owners in connection with a shareholder meeting of the applicable issuer, in accordance with the Covered Member's standard proxy processing practices as applied to meetings of other issuers whose securities the Covered Member holds in the same capacity. The Calculation Date shall be no later than the date the Covered Member submits its final vote tally to the meeting tabulator. If a shareholder

¹⁴ See Notice, supra note 4, at 35594. Under the proposal, existing Rule 13.003(c) and (d) would be re-lettered as proposed Rule 13.003(d) and (e), respectively.

¹⁵ See id.

meeting is adjourned and reconvened, a new Calculation Date shall apply based on the reconvened meeting date in accordance with the same standard practices.¹⁶ “Category Percentage” would mean, for each available voting category on a proposal, the quotient obtained by dividing the number of Total Instructed Shares allocated to such category by the Total Instructed Shares.¹⁷ “Covered Member” would have the meaning set forth in proposed Rule 13.003(c).¹⁸ “Instructed Vote Distribution” would have the meaning set forth in proposed Rule 13.003(c)(2).¹⁹ “Total Instructed Shares” would mean, for a given proposal, the aggregate number of shares of the applicable issuer held in the Covered Member’s custody for which voting instructions have been received and allocated to a voting category as of the Calculation Date, excluding shares described in proposed Rule 13.003(c)(2)(B).²⁰ “Uninstructed Shares” would have the meaning set forth in proposed Rule 13.003(c).²¹

Proposed Rule 13.003, Interpretation and Policy .02(b) would establish the methodology for calculating the proportional allocation of Uninstructed Shares.²² The Exchange states that the calculation would be performed separately for each proposal on the ballot. A beneficial owner that provides voting instructions on one proposal but not another would be included in the

¹⁶ See proposed Rule 13.003, Interpretation and Policy .02(a)(1).

¹⁷ See proposed Rule 13.003, Interpretation and Policy .02(a)(2).

¹⁸ See proposed Rule 13.003, Interpretation and Policy .02(a)(3).

¹⁹ See proposed Rule 13.003, Interpretation and Policy .02(a)(4).

²⁰ See proposed Rule 13.003, Interpretation and Policy .02(a)(5).

²¹ See proposed Rule 13.003, Interpretation and Policy .02(a)(6).

²² For each proposal at a shareholder meeting, the Covered Member shall determine the number of Uninstructed Shares to be voted in each available voting category as follows: (1) Determine the Total Instructed Shares for such proposal; (2) For each available voting category, calculate the Category Percentage for such category; (3) Multiply the total number of Uninstructed Shares by the Category Percentage for each voting category to produce an initial whole-and-fractional allocation for each category; (4) Round down each initial allocation to the nearest whole share; and (5) Allocate and vote any remainder shares, being the difference between the total number of Uninstructed Shares and the sum of the rounded allocations across all voting categories, to ABSTAINING. See proposed Rule 13.003, Interpretation and Policy .02(b).

instructed vote distribution only for the proposal on which instructions were received, and the shares would be treated as Uninstructed Shares for each proposal where voting instructions were not submitted. Any fractional allocation resulting from the allocation formula would be rounded down to the nearest whole share, and any remainder shares would be allocated to ABSTAINING.²³

Proposed Rule 13.003, Interpretation and Policy .02(c) provides that the Instructed Vote Distribution and Total Instructed Shares shall be calculated separately for each proposal on the ballot. A beneficial owner who has submitted voting instructions with respect to one or more proposals but not all proposals shall be included in the Total Instructed Shares for each proposal on which instructions were received, and the shares held for such beneficial owner shall be treated as Uninstructed Shares for each proposal on which no instructions were received.

Proposed Rule 13.003, Interpretation and Policy .02(d) provides that where the voting options for a proposal include WITHHOLD AUTHORITY in lieu of, or in addition to, AGAINST, including in connection with director elections conducted under a plurality voting standard, the proportional allocation described in paragraph (b) of this Interpretation and Policy shall be applied to each available voting category in the same manner, substituting WITHHOLD AUTHORITY for AGAINST, where applicable. Any remainder shares shall be allocated to ABSTAINING, or to WITHHOLD AUTHORITY if ABSTAINING is not an available voting category for such proposal.

According to the Exchange, the proposed rule reflects the proportional voting principle that voting outcomes on matters up for a shareholders vote at companies with securities that have their primary listing on TXSE should be determined by the voting instructions of participating

²³ See Notice, supra note 4, at 35595.

beneficial owners, with such instructions applied uniformly to the voting of uninstructed shares for every matter submitted to a shareholder vote. By replacing broker discretionary voting with a formula-driven allocation tied to instructions actually submitted, the Exchange believes that the proposed rule eliminates the exercise of broker discretion over shares in which the broker has no economic interest and also eliminates the inconsistent and proposal-dependent treatment of uninstructed shares produced by the framework currently in place in the market, while preserving all existing shareholder voting rights.²⁴

III. Proceedings to Determine Whether to Approve or Disapprove SR-TXSE-2026-008 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act²⁵ to determine whether the Exchange's proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of 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.

Pursuant to Section 19(b)(2)(B) of the Act,²⁶ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the proposed rule change's

²⁴ See id. at 35593.

²⁵ 15 U.S.C. 78s(b)(2)(B).

²⁶ See id.

consistency with the Act and, in particular, (1) Section 6(b)(5) of the Act,²⁷ 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 interest; and (2) Section 6(b)(10) of the Act,²⁸ which requires that the rules of a national securities exchange must prohibit any member that is not the beneficial owner of a security registered under Section 12 of the Act from granting a proxy to vote the security in connection with a shareholder vote on the election of a member of the board of directors of an issuer (except for a vote with respect to the uncontested election of a member of the board of directors of any investment company registered under the Investment Company Act of 1940), executive compensation, or any other significant matter, as determined by the Commission, unless the beneficial owner of the security has instructed the member to vote the proxy in accordance with the voting instructions of the beneficial owner.

One commenter states that it supports the proposal without modification and that the current proxy system “plainly is not working,” citing the time and expense of proxy campaigns and the difficulties of reaching quorum.²⁹ Another commenter states that the proposal could result in more efficient and cost-effective exchange-traded fund proxy campaigns and that it would expect a similar impact for uncontested campaigns for closed-end funds.³⁰ However, this

²⁷ 15 U.S.C. 78f(b)(5).

²⁸ 15 U.S.C. 78f(b)(10).

²⁹ See Letter from Neil J. Hennessy, Founder, Chairman and Chief Executive Officer, and Teresa M. Nilsen, President and Chief Operating Officer, Hennessey Advisors, Inc., dated June 22, 2026, at 1-2.

³⁰ See Letter from Paul G. Cellupica, General Counsel, and Matt Thornton, Deputy General Counsel, Investment Company Institute, dated July 2, 2026, at 7.

commenter states that the proposal’s implications for contested matters involving closed-end funds are harder to assess and that the Exchange should clarify the scope of the rule to ensure that accounts voted by fiduciaries or other third parties are excluded in the proportional voting calculation.³¹ Another commenter states that it supports the goal of proportional voting to improve quorum and retail representation but has significant concerns about the proposal’s operational feasibility.³² This commenter provides several recommendations, including requests for clarity on the proposal’s interaction with NYSE Rule 452 and FINRA Rule 2251 to avoid conflicting broker-dealer obligations across exchanges and on the scope of the fiduciary, advisory, and ERISA exclusions from proportional voting.³³

Several commenters oppose the proposal.³⁴ One commenter states that the proposal may be inconsistent with corporate governance best practices and may perpetuate distortions of proxy voting results or result in proxy voting abuses.³⁵ Another commenter states that the proposal would circumvent majority voting requirements in cases when few shareholders have cast votes.³⁶ A third commenter states that the proposal would weaken core investor-rights protections and distort corporate governance votes.³⁷

³¹ See id. at 7-8.

³² See Letter from Stephen Byron, Managing Director, Head of Operations, Technology, Cyber & BCP, and Anthony Macchiarulo, Vice President, Financial Services Operations & Assistant General Counsel, SIFMA, dated July 13, 2026, at 1.

³³ See id.

³⁴ See Letters from Jeff Mahoney, General Counsel, Council of Institutional Investors, dated Aug. 13, 2026 (“CII Letter”); Liz Gordon, Executive Director of Corporate Governance, New York State Common Retirement Fund, dated Aug. 21, 2026 (“NY Fund Letter”); Mark D. Levine, New York City Comptroller, dated Aug. 31, 2026 (“NYC Comptroller Letter”).

³⁵ See CII Letter at 1, 2-5.

³⁶ See NY Fund Letter at 1.

³⁷ See NYC Comptroller Letter at 1.

The Commission asks that commenters address the sufficiency of the Exchange’s statements in support of the proposal, which are set forth in the Notice, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on whether the proposal to establish a mandatory process for the proportional allocation and voting of Uninstructed Shares held by Members of the Exchange on behalf of beneficial owners of TXSE-listed equity securities is designed to be consistent with the requirements of Section 6(b)(5) and Section 6(b)(10) of the Act.³⁸

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the concerns identified above, including the issues raised by commenters, 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), 6(b)(10), 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 views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4 under the Act,³⁹ any request for an opportunity to make an oral presentation.⁴⁰

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

³⁸ 15 U.S.C. 78f(b)(5) and (10).

³⁹ 17 CFR 240.19b-4.

⁴⁰ Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 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).

DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Any person who 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*].

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-TXSE-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-TXSE-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-TXSE-2026-008 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Rebuttal comments should be submitted by [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴¹

Sherry R. Haywood,

Assistant Secretary.

⁴¹ 17 CFR 200.30-3(a)(57).