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August 17, 2026

VIA ELECTRONIC SUBMISSION

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: The Trade-Through Rule and Locked and Crossed Markets Provisions of Regulation NMS; Release No. 34-105655; File No. S7-2026-20

Dear Ms. Countryman:

Cboe Global Markets, Inc. ("Cboe") appreciates the opportunity to comment on the Securities and Exchange Commission's ("SEC" or "Commission") proposal[1] to rescind Rules 611 and 610(e) of Regulation NMS ("Proposal").[2] As the operator of four national securities exchanges for U.S. equities, four options exchanges, and an alternative trading system ("ATS"), Cboe is uniquely positioned to assess the market structure implications of the Commission's Proposal. This letter focuses on providing concrete recommendations for a post-611 national market system, building on the views expressed in our previous comment letters on trade-through prohibitions.[3]

Today, Rules 611 and 610(e) are deeply embedded in how equity markets function. Their potential elimination represents the most significant U.S. equity market structure reform in decades. If these rules are rescinded, it is important that the Commission and the industry work together to mitigate potential impacts to investors and maintain the integrity of U.S. equity markets.

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1 Securities Exchange Act Release No. 34-105655 (June 11, 2026), 91 FR 36656 (June 17, 2026) *available at* https://www.govinfo.gov/content/pkg/FR-2026-06-17/pdf/2026-12163.pdf.

2 Cboe agrees with the Commission's decision not to extend the Proposal to the options markets. As the Commission has acknowledged, options markets fundamentally differ from equities markets in several respects.

3 Letter from Patrick Sexton, EVP, General Counsel & Corporate Secretary, Cboe Global Markets, Inc., to Paul S. Atkins, Chairman, Securities and Exchange Commission (Sept. 15, 2025), *available at* https://cdn.cboe.com/resources/government_relations/Cboe-Global-Markets-Trade-Throughs-Roundtable September-2025-.pdf; Letter from Patrick Sexton, EVP, General Counsel & Corporate Secretary, Cboe Global Markets, Inc., to Paul S. Atkins, Chairman, Securities and Exchange Commission (Dec. 15, 2025), *available at* https://cdn.cboe.com/resources/government_relations/Cboe-Response-Rule-611-Roundtable-December-.pdf.

In this regard, the potential impact from eliminating Rule 611 requires particular attention. Rule 611 prohibits trading centers from executing an order at a price that is inferior to the price of a protected quotation (i.e., the best displayed quotation that is automatically accessible) in NMS stocks. Rescinding Rule 611 will effectively allow a trading center to disregard the best displayed prices on other exchanges and execute orders outside the National Best Bid and Offer ("NBBO"). While the elimination of Rule 611 may create a more competitive market, it is not without risk. If the NBBO is unnaturally wide because exchanges are unable to incentivize the posting of displayed liquidity or if the NBBO is meaningless because best execution obligations allow brokers to regularly and continuously trade outside the NBBO, the price discovery process will be impaired and investors will be worse off.

The below recommendations are tailored to address the tangible risks presented by a post-611 national market system. First and foremost, as the reference price on which the entire market relies, the integrity of the NBBO must be maintained. This can only be accomplished by ensuring the NBBO is comprised of displayed, accessible liquidity; exchanges can incentivize that displayed liquidity; and best execution standards remain robust.

Cboe's Recommendations

- Maintain the strength of the NBBO by preserving the contribution of displayed, automated, SIP-disseminated quotes through the following:
    - Eliminating the access fee caps under Rule 610(c) to enable exchanges to incentivize displayed liquidity that comprises the NBBO;
    - Ensuring best execution standards prevent orders from regularly and continuously executing outside the NBBO; and
    - Maintaining relevant key terms applicable to the NBBO such as "automated quotation" and "immediately executable";
- Allow exchanges to innovate and better compete with off-exchange venues by reforming the 19b-4 rule filing process and re-evaluating the fair access framework; and
- Adopt the Commission's Proposal on enabling locked markets to help narrow bid-ask spreads, but maintain the prohibition on crossed markets to reduce investor confusion.

The NBBO Must Retain an Essential Role in a Post-611 Landscape

The NBBO serves a critical function in equity markets and must continue to do so should Rule 611 be rescinded. Indeed, the NBBO functions as the backbone of investor confidence, execution-quality benchmarking, and price formation. Widely disseminated by the Securities Information Processors ("SIPs"), the NBBO is the central public reference price that millions of investors rely on every day: retail investors placing limit and stop orders, institutional routers assessing execution quality, brokers discharging their best execution obligations, automated auction mechanisms facilitating price improvement, and off-exchange venues using the NBBO as their reference price for execution.

Given the significance of the NBBO to market participants, taking steps to maintain the NBBO's importance in a post-Rule 611 world is critical. To maintain the importance of the NBBO, the Commission must take steps to help ensure that market participants are incentivized to provide displayed liquidity and, from a regulatory perspective, ensure that market participants are expected to give meaningful consideration to executing against displayed quotations when making routing and trading decisions. Without such guidance, both the quantity and quality of displayed quotations will diminish, thereby deteriorating the quality and relevance of the NBBO. While there are various mechanisms through which the Commission may aid in preserving the importance of the NBBO, Cboe believes the most relevant are: (i) exchange pricing and access fee caps; (ii) collaboration with FINRA to enhance best execution guidance around displayed liquidity; and (iii) maintaining relevant key terms such as "immediately executable" and "automated quotation."

If the Commission does not pair rescission with the enhancements described in this letter, the NBBO will degrade over time. That degradation would not be contained to a single corner of the market. Retail investors placing limit and stop orders would lose a reliable benchmark for evaluating their fills. Institutional routers and their best execution processes would lose the principal benchmark against which execution quality is measured. Automated auction mechanisms that facilitate price improvement relative to the NBBO would have a less meaningful, less trustworthy price to improve upon. And off-exchange venues, which today rely on exchange-generated quotations as their execution reference price even as they capture more than half of equity volume, would be pricing off a benchmark that reflects less and less of the market's genuine trading interest. In short, every participant that depends on the NBBO depends on exchanges having the ability to attract the liquidity needed to maintain the quality of displayed quotations. Rescinding Rule 611 without the complementary reforms described in the sections below would remove an incentive structure that supports the NBBO without replacing that structure, and the entire ecosystem built on the NBBO's reliability would bear the resulting cost.

Access Fee Caps

Without displayed liquidity, the NBBO will deteriorate. A weakened NBBO not only causes wider spreads but also undermines the NBBO's role as the market's fundamental reference price upon which millions of investors and institutions rely. Rebates are the primary tool exchanges – including Cboe – have to incentivize market participants to post and maintain displayed quotations at the top-of-book that contribute to the NBBO.

Currently, Rule 611 supports the NBBO not only through the trade-through prohibition itself, but through the incentive structure that Rule 611 creates. Because Rule 611 protects only the best-priced, immediately accessible quotation and guarantees that quotation priority over inferior quotes, exchanges have a direct incentive to design functionality and pricing schedules, including rebates, that attract liquidity providers to post tighter, more competitive quotations. A liquidity provider that narrows its spread to reach the best bid or offer is rewarded with execution priority and greater certainty of execution; a liquidity provider quoting at an inferior price is not. It is this dynamic, and not simply the trading obligation established by Rule 611, that continuously pulls displayed quotations toward the tightest available spread and keeps the NBBO a meaningful reference price.

In a post-Rule 611 world, exchanges will no longer be able to rely on protected quotation status to compel interaction with their markets; instead, exchanges must be able to compete for order flow by making their displayed quotations economically attractive to routing members. By capping access fees, Rule 610(c) directly limits the size of the rebates exchanges can offer, which undermines the very mechanism that draws displayed, top-of-book liquidity to lit markets.[4] The elimination of the access fee caps will help preserve and enhance the NBBO by giving exchanges the flexibility to compete on pricing in ways a rigid cap forecloses.

In addition, Cboe notes that the elimination of the access fee cap is precisely the kind of market-driven innovation the Commission itself favors over prescriptive requirements. Without the access fee cap, exchanges would have the ability to tailor pricing and rebates to the specific liquidity and displayed-price outcomes that support resilient, displayed quotations and a deeper, more liquid market. Such ability for exchanges will be critical in a post-Rule 611 equities market, where displayed quotations are no longer required to be protected and thus exchanges no longer have the ability to compel order flow by virtue of having a protected, top-of-book quotation. Exchanges must be able to compete for order flow in a post-Rule 611 world. As such, the Commission’s criticism of "prescriptive requirements on market participants" in the context of Rule 611 must be extended to access fee caps, and we encourage the Commission to take a consistent, principled approach by eliminating Rule 610(c) in order to preserve the relevance and significance of the NBBO.

Lastly, not only do access fee caps act as government-imposed price controls, but a blanket price cap is an overly blunt and unnecessary requirement considering that Section 19(b) of the Exchange Act and Rule 19b-4 already provide a case-by-case mechanism to review and reject exchange fees. Moreover, access fee caps were adopted to ensure fees charged by an exchange to access a protected quotation were not predatory because of the government mandate that protected quotations be accessed before others. That rationale no longer exists if Rule 611 is rescinded. While the Proposal acknowledges the original justification, the Commission notes that the existing access fee caps remain necessary to preserve a future arbitrage mechanism needed to counteract crossed markets. It is difficult to see how the revised justification

4 For context, the ramifications of even a small reduction in access fee caps are both significant and severe. As we have previously demonstrated, a modest reduction in the access fee cap from 30 mils to 10 mils can reduce a liquidity provider's average rebate by as much as 71% and reduce rebates on resting retail orders by 63%. Reductions of this magnitude will force liquidity providers to fundamentally reconsider their willingness to provide on-exchange liquidity, likely leading to adverse consequences for spreads and displayed market quality. These effects are likely to be most acute during periods of market stress which is precisely when the economic incentive to provide on-exchange liquidity is needed most.

for Rule 610(c) would outweigh the constraint on market forces that access fee caps represent, especially when considering the existence of the aforementioned statutorily prescribed fee review process and the fact that market participants will be under no obligation to participate in the future arbitrage mechanism.

Enhanced Best Execution Guidance

FINRA recently published a request for comment on modernizing its best execution guidance, and Cboe intends to comment more extensively in response to the request. As a general matter, though, Cboe again notes that with the potential rescission of Rule 611, maintaining the viability of the NBBO will be difficult in an equities market where no formal regulatory requirement to protect the NBBO exists, and it will be impossible if firms are allowed to regularly and continuously disregard the NBBO. In this regard, it will be critical that the SEC and FINRA consider guidance that not only supports the duty of best execution, but also the importance of the NBBO and displayed liquidity.

“Automated Quotation” and “Immediately Executable”

Preserving the NBBO's relevance also depends on maintaining the definition of "automated quotation" in Rule 600(b), as well as the "immediately and automatically" execution standard, regardless of whether the Commission rescinds other defined terms that currently support Rule 611 (e.g., "protected bid/offer"). This standard ensures that the NBBO reflects genuinely accessible, executable interest rather than stale or inaccessible quotations. If the Commission eliminates the “automated quotation” and “immediately executable” definitions, trading platforms could adopt speedbumps or other intentional delays while still contributing stale prices to the NBBO. Because quoting activity determines a venue's share of SIP market data revenue, this could allow slower, lower quality venues to qualify for that revenue without offering investors genuinely accessible prices, thereby potentially fueling the exchange proliferation that the Commission intended to rein in.

Additionally, the "immediately and automatically" standard should be re-examined. In 2016, Commission staff interpreted "immediate" to preclude any intentional delays not otherwise de minimis in nature, defining that threshold as a delay of less than one millisecond. We encourage the Commission to consider whether a materially shorter interval would better reflect the state of current market technology, especially in a post-611 national market system. Reducing the “immediately and automatically” standard to a shorter interval would help to ensure that faster displayed quotations are not disadvantaged relative to slower or conditional liquidity.

We are also encouraged that the Proposal's changes to the definition of "Core Data" retain "best bid and best offer" even as they eliminate the "protected bid and protected offer" terminology. We support this approach and recommend that the Commission ensure that any remaining changes to Rule 600 continue to preserve the same reliance on displayed, automated, SIP-disseminated quotations, consistent with the automated quotation standard discussed above, rather than inadvertently loosening the NBBO's inputs to include significantly delayed or non-displayed or otherwise inaccessible trading interest. Of course, the value of Core Data disseminated via the SIPs can only be maintained if the Commission implements measures consistent with those suggested above. Indeed, the millions of investors relying on the SIPs every day to inform their trading decisions makes taking such measures even more critical.

Given the significance of these changes, Cboe encourages the Commission to commit to monitoring NBBO quality following any rescission of Rule 611 with a focus on metrics such as effective spread, quote depth, and price dispersion across trading centers. These metrics will help assess whether the NBBO continues to function as a reliable execution benchmark in a post-611 landscape.

Allow Exchanges to Compete More Effectively

Rescinding Rule 611 will not, by itself, create a more competitive equity market. The Commission should address, in a meaningful way, the regulatory asymmetries between exchanges and off-exchange venues. If the asymmetries are not addressed, the elimination of Rule 611 will simply exacerbate the existing advantage off-exchange venues enjoy. To rectify this, the Commission must consider tailored reforms to level the playing field and allow exchanges to compete more effectively.

First, the Commission should reform the 19b-4 rule filing process. A more streamlined rule filing process, grounded in objective and consistent standards and timelines, will help exchanges compete and innovate not only against each other, but also against off-exchange venues that are not subject to the same process. This is especially critical considering off-exchange venues now account for more than 50% of equity trading volume. As a starting point, the Commission should clarify which exchange functions are actually subject to the rule filing process. Notably, the Commission's 2008 release[5] on immediately effective rule filings characterized trading rules as generally non-controversial and immediately effective. The Commission should revisit that release to clarify which categories of filings still qualify as "trading rules" for this purpose.

Second, the Commission should clarify the contours of its fair access requirement. Current interpretations of fair access deny exchanges the flexibility to innovate when it comes to order types and offerings designed to foster displayed liquidity. Current treatment also impacts the ability of exchanges to better compete with off-exchange venues, including by developing liquidity pools based on objective, metrics-based criteria that are uniformly applied across all exchange participants. Revisiting this framework is especially important considering the Commission's stated goal of fostering a marketplace with greater competition. Exchanges are fully capable of competing, consistent with fair access requirements, but interpretative constraints must be

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[5] Securities Exchange Act Release No. 34-58092 (July 3, 2008), 73 FR 40144 (July 11, 2008), *available at* https://www.sec.gov/files/rules/final/2008/34-58092.pdf.

removed to increase parity with off-exchange venues. Modifying the fair access standard poses no disadvantage to off-exchange venues but simply grants exchanges the ability to compete for order flow on comparable terms, consistent with the Commission's own competitive objectives.

Locked vs. Crossed Markets

Cboe agrees with the Commission's Proposal to rescind the prohibition on locked markets. Locked markets function as a natural consequence of competitive quoting, not a defect to be regulated away. Prohibiting locked markets artificially forces one side of a locked quote to reprice, widening the effective spread and enabling off-exchange venues to execute inside a spread that would not otherwise exist. In contrast, allowing locked markets would narrow spreads. As we previously noted, a modest 5% reduction in average effective spread by allowing locked markets could save investors in TSLA more than $115 million annually. The aggregate savings across all securities would be substantially larger.

Crossed markets, on the other hand, are more likely to confuse investors and create unforeseen issues. Chiefly, contrary to the Commission's expectation that crossed markets will resolve quickly through a naturally occurring arbitrage mechanism whereby firms are incentivized to uncross markets, we are concerned that crossed markets will occur frequently and persist throughout the trading day, especially in less liquid names where the arbitrage incentive is weaker and quoting is thinner. We do not believe a reduction in compliance costs, which is the principal benefit the Commission has identified from enabling crossed markets, outweighs these concerns. Rescinding Rule 611 and allowing locked markets are already significant changes to U.S. equity market structure, and the Commission should not unduly compound these changes by allowing crossed markets.

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To conclude, we urge the Commission to pair the likely rescission of Rule 611 with these complementary reforms. Together, these measures would foster a more competitive market without sacrificing the market integrity Rule 611 currently supports. Cboe appreciates the Commission's continued engagement on this important Proposal and welcomes the opportunity to discuss these comments further.

s/Patrick Sexton

Patrick Sexton
EVP, General Counsel, and Corporate Secretary
Cboe Global Markets, Inc.

CC: The Honorable Paul Atkins, Chairman
The Honorable Hester Peirce, Commissioner
The Honorable Mark Uyeda, Commissioner
Mr. Jamie Selway, Director, Division of Trading and Markets