

this analysis, the SEC approved the CAT Funding Model as compliant with the Exchange Act. CAT Fee 2026–1 is calculated and implemented in accordance with the CAT Funding Model as approved by the SEC.

As discussed above, each of the inputs into the calculation of CAT Fee 2026–1 is reasonable and the resulting fee rate for CAT Fee 2026–1 calculated in accordance with the CAT Funding Model is reasonable. Therefore, CAT Fee 2026–1 would not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

### **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)(ii) of the Act.<sup>174</sup>

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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:

#### *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–Phlx–2026–24 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–Phlx–2026–24. 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–Phlx–2026–24 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>175</sup>

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

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**BILLING CODE 8011–01–P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–105437; File No. SR–CBOE–2026–046]

### **Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend its Fees Schedule To Make Changes in Connection With the Fees Related to Certain Orders Executed in Automated Improvement Mechanism Auctions, Amend the Customer Volume Incentive Program and Affiliated Volume Plan, and Amend the Cboe Options Historical Depth Description**

May 11, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on May 1, 2026, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (the “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 Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend its Fees Schedule to make changes in connection with the fees related to certain orders executed in Automated Improvement Mechanism (“AIM”) Auctions, amend the Customer Volume Incentive Program and Affiliated Volume Plan, and amend the Cboe Options Historical Depth description. 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/options/regulation/rule\\_filings/bzx/](https://www.cboe.com/us/options/regulation/rule_filings/bzx/)), and at the principal office of the Exchange.

### **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 Fees Schedule, effective May 1, 2026.

##### AIM Fee Changes

First, the Exchange proposes changes in connection with the fees related to certain orders executed in AIM Auctions.<sup>3</sup>

By way of background, AIM includes functionality in which a Trading Permit Holder (“TPH”) (an “Initiating TPH”) may electronically submit for execution an order it represents as agent on behalf of certain customers (“Agency Order”)

<sup>3</sup> The Exchange notes that the changes described herein will apply similarly to applicable AM, FLEX AIM and FLEX SAM orders, which is consistent with the structure of the Exchange's current fees for AIM Contra orders, which apply uniformly to qualifying orders in AIM, SAM, FLEX AIM, and FLEX SAM. See Fees Schedule Footnote 18.

<sup>175</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>174</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

against any other order it represents as agent, as well as against principal interest in AIM only, (an “Initiating Order”) provided it submits the Agency Order for electronic execution into the AIM Auction.<sup>4</sup> The Exchange may designate any class of options traded on Cboe Options as eligible for AIM. The Exchange notes that all Users, other than the Initiating TPH, may submit responses to an Auction (“AIM Responses”).<sup>5</sup> AIM Auctions take into account AIM Responses to the applicable Auction as well as contra interest resting on the Cboe Options Book at the conclusion of the Auction (“unrelated orders”), regardless of whether such unrelated orders were already present on the Book when the Agency Order was received by the Exchange or were received after the Exchange commenced the applicable Auction. If contracts remain from one or more unrelated orders at the time the Auction ends, they are considered for participation in the AIM order allocation process.

The Fees Schedule contains specific transaction fees for orders executed using AIM. For example, the Exchange assesses a fee of \$0.23 per contract for Market-Maker (“M” Capacity Code) AIM Contra orders in equity, Exchange Traded Funds (“ETF”) and ETN options products, yielding fee code MA. The Exchange notes that under the Fees Schedule, fees for AIM Contra orders apply uniformly to qualifying orders in SAM, FLEX AIM and FLEX SAM.<sup>6</sup>

The Exchange notes that it recently updated its rules to permit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange, in all classes, to be solicited for the Initiating Order submitted for execution against an Agency Order into a simple AIM, simple SAM, FLEX AIM or FLEX SAM Auction.<sup>7</sup>

Currently, fee code YC is appended to all Customer (capacity “C”), Clearing TPHs (capacity “F”), Non-Clearing TPH Affiliates (capacity “L”), Broker-Dealer (capacity “B”), Joint Back-Office (capacity “J”), Non-TPH Market-Maker (capacity “N”), and Professional (capacity “U”) (collectively, “Non-Market Maker”) Simple AIM Contra orders in equity, ETF and ETN options products and assesses a fee of \$0.07 per contract. Further, fee code MA is

appended to Market-Maker Simple AIM Contra orders in equity, ETF, and ETN options products and assesses a fee of \$0.23 per contract, which may be slightly reduced via the Liquidity Provider Sliding Scale, yet remains higher than the \$0.07 per contract fee assessed to Non-Market Makers via fee code YC. To align Market-Maker Simple AIM Contra orders in equity, ETF, and ETN products with those for Non-Market Makers, the Exchange proposes to adopt fee code YM, which would be appended to Market-Maker Simple AIM Contra orders in equity, ETF and ETN products and assess a fee of \$0.07 per contract.<sup>8</sup>

The Exchange also proposes to adopt a \$0.20 per contract surcharge for Market-Maker Simple AIM Contra orders in Cboe Volatility Index (“VIX”) options. Currently, fee code BR is appended to Broker-Dealer (capacity “B”), Joint Back-Office (capacity “J”), Non-TPH Market-Maker (capacity “N”), and Professional (capacity “U”) (collectively, “Non-Market Maker, Non-Customer, Non-Firm”) orders in VIX options (as well as OEX and XEO options) and assesses a fee of \$0.40 per contract, while fee codes MV or MW are appended to Market-Maker orders in VIX options, depending on the premium, and are assessed \$0.05 (for fee code MV) or \$0.23 (for fee code MW) per contract. The Exchange proposes to adopt a \$0.20 per contract surcharge to apply to Market-Maker AIM (including SAM, FLEX AIM and FLEX SAM) Contra orders, to bring the fees more in-line with those applicable to Non-Market Maker, Non-Customer, Non-Firm orders.

The Exchange proposes to amend fee codes applicable to Non-Market Maker, Non-Customer, Non-Firm orders in Russell 2000 Index (“RUT”) options. Currently, fee code BS is appended to Non-Customer, Non-Market Maker, Non-Firm manual and AIM orders in RUT options and assesses a fee of \$0.25 per contract; fee code BK is appended to Non-Customer, Non-Market Maker, Non-Firm electronic or Non-AIM orders in RUT options and assesses a fee of \$0.65 per contract; and fee code MT is applied to Market-Maker (capacity “M”) AIM orders in RUT options and assesses a fee of \$0.30 per contract.

The Exchange now proposes to update fee code BS to apply only to manual orders in VIX [sic] options; there are no changes to the assessed fee. The Exchange also proposes to amend

fee code BK to apply to electronic orders (including AIM), and to assess a fee of \$0.55 per contract.

#### Customer Volume Incentive Program and Affiliated Volume Plan

The Exchange proposes to amend the Customer Volume Incentive Program (“VIP”) and the Affiliated Volume Plan (“AVP”). Under the VIP, the Exchange credits each TPH the per contract amount set forth in the VIP table for Public Customer (origin code “C”) orders transmitted by TPHs (with certain exceptions)<sup>9</sup> and executed electronically on the Exchange, provided the TPH meets certain volume thresholds in a month; volume for Professional Customers (origin code “U”), Broker-Dealers (origin code “B”), and Joint Back-Offices (“JBO”) (origin code “J”) orders are counted toward reaching such thresholds.<sup>10</sup> Specifically, the percentage thresholds are calculated based on the percentage of national customer volume in all underlying symbols excluding Underlying Symbol List A,<sup>11</sup> Sector Indexes,<sup>12</sup> DJX, CBTX, MBTX, MGTN, MRUT, MXEA, Mxef, MXACW, MXUSA, MXWLD, NANOS, SPEQX, SPESG, XSP and FLEX Micros entered and executed over the course of the month. VIP offers rates for both Complex and Simple orders (both in AIM and Non-AIM orders).

Currently, VIP offers 4 tiers. Particularly, a TPH may meet the criteria under Tier 1 if its qualifying volume in the qualifying classes is above 0% and up to 0.75% of national customer volume, under Tier 2 if its qualifying volume in qualifying classes is above 0.75% and up to 2.00% of national customer volume, under Tier 3 if its qualifying volume in the qualifying classes is above 2.00% and up to 4.00% of national customer volume, under Tier 4 if its qualifying volume in the qualifying classes is above 4.00%.

The Exchange proposes to adopt new Tier 5. A TPH may meet the criteria under proposed Tier 5 if its qualifying volume in the qualifying classes is above 5.00%. As a result of the proposed change, the Exchange also proposes to amend Tier 4 criteria to provide that a TPH may meet the criteria under Tier 4 if its qualifying volume in the qualifying classes is above 4.00% and up to 5.00%.

Under proposed Tier 5, the Exchange proposes VIP credit rates of \$0.17 for Simple Non-AIM contracts, \$0.14 for

<sup>4</sup> See Rule 5.37.

<sup>5</sup> For purposes of this filing and the proposed fee, the term “AIM Response” will include responses submitted to AIM and SAM Auctions.

<sup>6</sup> See Fees Schedule Footnote 18.

<sup>7</sup> See Securities Exchange Act Release No. 105049 (March 19, 2026), 91 FR 14057 (March 24, 2026) (SR-CBOE-2025-090).

<sup>8</sup> The Exchange proposes to amend Footnote 10 to state that volume executed via Market-Maker Simple AIM Contra orders in equity, ETF and ETN products is excluded from the Liquidity Provider Sliding Scale program.

<sup>9</sup> See Cboe Options Fees Schedule, Footnote 36.

<sup>10</sup> See Cboe Options Fees Schedule, Volume Incentive Program.

<sup>11</sup> See Cboe Options Fees Schedule, Footnote 34.

<sup>12</sup> See Cboe Options Fees Schedule, Footnote 47.

Simple AIM contracts, \$0.25 for Complex Non-AIM contracts, and \$0.24 for Complex AIM contracts.

The VIP offers both rates for Complex and Simple orders. The VIP provides that a TPH will only receive the Complex credit rates for both its Complex AIM and Non-AIM volume if at least 32% for Tiers 1, 2, and 3 or 38% for Tier 4 of that TPH's qualifying VIP volume in the previous month was comprised of Simple volume. If the TPH's previous month's volume does not meet the applicable volume thresholds, then the TPH's Customer (C) Complex volume will receive credits at the Simple rate only (*i.e.*, all volume, both Simple and Complex, will receive credits at the applicable Simple rate). In light of the proposed adoption of Tier 5, the Exchange proposes to amend the program to provide that that a TPH will only receive the Complex credit rates for both its Complex AIM and Non-AIM volume if at least 32% for Tiers 1, 2, and 3 or 38% for Tiers 4 and 5 of that TPH's qualifying VIP volume in the previous month was comprised of Simple volume.

The proposed changes are designed to incentivize more volume to earn credits while also maintaining an incremental incentive for TPHs to strive for the highest tier level. The Exchange expects the impact of the change to be minimal, as currently, one TPH qualifies for Tier 4. Further, under current Tier 4 and proposed Tier 5, the VIP credit rates are the same for Complex AIM contracts (*i.e.*, \$0.25 for Non-AIM contracts and \$0.24 for AIM contracts) and for Simple AIM contracts (*i.e.*, \$0.14). The difference between VIP credit rates for Simple Non-AIM contracts are \$0.02 (*i.e.*, \$0.15 for Tier 4 Simple Non-AIM contracts and \$0.17 for Tier 5 Simple Non-AIM contracts).

The proposed changes are also designed to increase the amount of volume TPHs provide on the Exchange and further encourage them to contribute to a deeper, more liquid market, as well as to increase transactions and take such execution opportunities provided by such increased liquidity. The Exchange believes that this, in turn, benefits all market participants by contributing towards a robust and well-balanced market ecosystem. The Exchange notes the proposed tiers are competitively achievable for all TPHs that submit significant customer order flow, in that all firms that submit the requisite significant customer order flow could compete to meet the tier.

The Exchange proposes to make corresponding amendments to the Affiliated Volume Plan ("AVP"). Under

AVP, if a Market-Maker Affiliate<sup>13</sup> ("Affiliate OFP") or Appointed OFP<sup>14</sup> receives a credit under the VIP, the Market-Maker will receive an access credit on its BOE Bulk Ports corresponding to the VIP tier reached as well as a transaction fee credit on its sliding scale Market-Maker transaction fees (not including any additional surcharges or fees assessed as part of the Liquidity Provider Sliding Scale Adjustment Table). In connection with the proposed changes to the VIP, the Exchange proposes to make a corresponding change to the AVP and adopt VIP Tier 5, with a Market-Maker Affiliate Access Credit of 25% and Liquidity Provider Sliding Scale Credit of 35%. All other Tiers and corresponding Market-Maker Affiliate Access Credits and Liquidity Provider Sliding Scale Credits remain unchanged under the proposed rule change.

#### Cboe Options Historical Depth

Finally, the Exchange also proposes to amend the Cboe Options Historical Depth description to remove language that is no longer applicable. Specifically, the Exchange proposes to remove "This discount cannot be combined with any other discount offered by the Exchange." This language referred to a previous discount that was removed from the Exchange's Fee Schedule on February 25, 2026.<sup>15</sup> As this discount is no longer on the Exchange's Fee Schedule, the Exchange proposes to remove this supplementary language to clean up the Exchange's Fee Schedule.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (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>16</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>17</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>18</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>19</sup> which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities.

#### AIM Fee Changes

The Exchange believes the proposed changes in connection with the fees related to certain orders executed in the AIM Auctions are reasonable, equitable, and not unfairly discriminatory.

The Exchange believes it is reasonable to adopt fee code YM and assess Market-Maker Simple AIM Contra orders in equity, ETF, and ETN options products a fee of \$0.07 per contract, which is the same rate currently assessed to Non-Market Maker Simple AIM Contra orders via fee code YC. As noted above, the Exchange recently updated its rules to permit orders for the accounts of Market-Makers with an appointment in the applicable class. [sic] in all classes, on the Exchange to be solicited for the Initiating Order submitted for execution against an Agency Order in a simple AIM or simple SAM Auction. Given this change, the Exchange believes it is equitable and not unfairly discriminatory to assess Market-Maker Simple AIM Contra orders the same \$0.07 per contract fee assessed to Non-Market Maker Simple AIM Contra orders, as both are able to be the contra side in a simple AIM Auction.

The Exchange believes it is reasonable to adopt a \$0.20 per contract surcharge applicable to Market-Maker AIM Contra orders in VIX options. The proposed surcharge brings the total fees assessed to Market-Makers acting as AIM Contra participants in VIX more in-line with the \$0.40 per contract assessed under fee code BR to Non-Market Maker, Non-Customer, Non-Firm AIM Contra orders

<sup>13</sup> For purposes of AVP, "Affiliate" is defined as having at least 75% common ownership between the two entities as reflected on each entity's Form BD, Schedule A.

<sup>14</sup> See Cboe Options Fees Schedule Footnote 23. Particularly, a Market-Maker may designate an Order Flow Provider ("OFP") as its "Appointed OFP" and an OFP may designate a Market-Maker to be its "Appointed Market-Maker" for purposes of qualifying for credits under AVP.

<sup>15</sup> See Securities Exchange Act Release No. 104910 (March 2, 2026), 91 FR 10841 (March 5, 2026) (SR-CBOE-2026-021).

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

<sup>18</sup> *Id.*

<sup>19</sup> 15 U.S.C. 78f(b)(4).

in VIX options. As noted above, based on the current Fees Schedule, Market-Makers acting as AIM Contra participants would be assessed \$0.05 per contract (for options with a premium below \$0.10, yielding fee code MV) or \$0.23 per contract (for options with a premium of \$0.10 or above, yielding fee code MW). The Exchange believes the proposed \$0.20 per contract surcharge is equitable and not unfairly discriminatory, as it is designed to bring Market-Maker AIM Contra fees more in-line with Non-Market Maker AIM Contra fees, given the current Market-Maker fee structure for VIX options.

The Exchange also believes it is reasonable, equitable, and not unfairly discriminatory to amend the fee structure for Non-Market Maker, Non-Customer, Non-Firm orders in VIX options. As noted above, under the current Fees Schedule, the fee assessed for Market-Maker AIM orders in RUT options (\$0.30 per contract for orders yielding fee code MT) is higher than the fee assessed for Non-Market Maker, Non-Customer, Non-Firm AIM orders in RUT options (\$0.25 per contract for orders yielding fee code BS). By updating fee code BK to apply to electronic orders including AIM orders in RUT options at \$0.55 per contract, the Exchange is effectively increasing the fee assessed to Non-Market Maker, Non-Customer, Non-Firm participants for AIM orders in RUT options, while simultaneously slightly reducing the fee assessed to those same participants for other, non-AIM electronic orders. Given the recent change to permit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange, in all classes, to be solicited for the Initiating Order submitted for execution against an Agency Order, the Exchange believes the proposed changes will facilitate and encourage the submission of AIM orders in RUT options through local Market-Makers. Incentivizing Market-Maker participation in RUT AIM auctions benefits all participants by promoting deeper liquidity, tighter markets, and greater price improvement opportunities.

#### Customer Volume Incentive Program and Affiliated Volume Plan

The Exchange believes the proposed amendments to the VIP (and corresponding amendments to AVP) to adopt Tier 4 [sic] and to amend the volume threshold for Tier 4 to be above 4.00%–5.00%, is reasonable because it continues to encourage TPHs to take the opportunity to receive credits on Customer orders by reaching the proposed volume thresholds. The

Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges<sup>20</sup> and are reasonable, equitable and non-discriminatory because they are open to all TPHs on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Additionally, the Exchange operates in a highly competitive market. The Exchange is only one of several options venues to which market participants may direct their order flow. Competing options exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates/credits and fees that apply based upon members achieving certain volume and/or growth thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides, including the pricing of comparable tiers.<sup>21</sup>

The Exchange believes adjusting the VIP volume thresholds by adopting Tier 5 (and making corresponding changes to the AVP) and amending the volume threshold for Tier 4 is reasonable because it will continue to encourage TPHs to increase their order flow to the Exchange based on increasing their Customer, Professional Customer, Broker-Dealer, and JBO executed orders as a percentage of national customer volume. Particularly, the Exchange believes the proposed threshold change is reasonable because it will encourage increased volume to receive a higher per contract credit for Non-AIM Simple orders, resulting in a deeper, more liquid market, and an increase in transaction opportunities provided by the increased liquidity. In turn, these increases benefit all TPHs by contributing towards a robust and well-balanced market ecosystem. Increased overall order flow benefits all investors by deepening the Exchange's liquidity pool, providing greater execution incentives and opportunities, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency, and improving investor protection.

While the Exchange has no way of knowing whether this proposed rule change would definitively result in any particular TPH qualifying for the

proposed tier, the Exchange anticipates that approximately one to two TPHs may be able to compete for and achieve the proposed criteria of the proposed Tier 5; however, the proposed tier is open to any TPH that satisfies the tier's criteria. The Exchange believes the proposed tier could provide an incentive for other TPHs to submit increased volumes to qualify for the proposed enhanced credit.

The proposed volume thresholds also do not represent a significant departure from the current required criteria under the Exchange's existing tiers and is therefore still reasonable based on the difficulty of satisfying the tiers' criteria and ensures the existing credit and proposed thresholds appropriately reflect the incremental difficulty to achieve the existing VIP tiers. Further, the Exchange believes that the amendments are reasonable because it will still allow TPHs transmitting qualifying orders that reach a threshold of above 4.00% to receive either the same credit for doing so, in the case of Simple and Complex Non-AIM Contracts and Complex AIM Contracts, or a \$0.02 greater credit for Simple AIM Contracts. Finally, the changes to the AVP are reasonable because the AVP utilizes the VIP tier structure, and thus, any changes to the VIP tiers must be incorporated into the AVP.

The Exchange believes proposed Tier 5 and Tier 4, as amended, remain in line with existing tiers, both in required criteria and credits. For example, the volume threshold amount under existing Tier 1 is currently set as a range within a 0.75 percentage point (0%–0.75%), Tier 2 is currently set as a range within a 1.25 percentage point (between 0.75% up to 2.00%), and Tier 3 is currently set as a range within 2 percentage points (2.00% up to 4.00%). It is reasonable to incrementally increase the range for Tier 4 to be within 1 percentage points (between 4.00% and up to 5.00%), and then over 5.00% for Tier 5, as proposed, since higher credits are available for higher tiers, with the exception of Tier 5 which offers the same credits as Tier 4 except for Simple Non-AIM Contracts. The Exchange also believes that the tiers, as amended, are in a reasonable increment to encourage overall order flow to the Exchange without so significantly increasing the difficulty in reaching the tiers' criteria.

The Exchange believes that the proposal represents an equitable allocation of rebates and is not unfairly discriminatory because all TPHs have the opportunity to meet the tier thresholds. The Exchange also notes that the proposed changes will not adversely impact any TPH's pricing or

<sup>20</sup> See e.g., NASDAQ Stock Market Rules, Options Rules, Options 7 Pricing Schedule, Sec. 2 Options Market—Fees and Rebates, Tiers 1–6; see also NYSE Arca Options, Fees and Charges, Customer Posting Credit Tiers in Non-Penny Issues.

<sup>21</sup> *Id.*

ability to qualify for other credit tiers. Rather, should a TPH not meet the proposed criteria, the TPH will merely not receive the proffered credit, for both the VIP and AVP.

#### Cboe Options Historical Depth

The Exchange believes that the proposed rule change related to the Cboe Options Historical Depth fee will remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, will protect investors and the public interest by improving accuracy and clarity within the Fees Schedule. Specifically, by removing language that references a previously removed discount, the proposed rule change is designed to protect investors by making the Fees Schedule more accurate and adding clarity to the Fees Schedule, thereby mitigating any potential investor confusion. The proposed rule change will have no impact on trading on the Exchange or fees assessed by the Exchange, as the proposed Fees Schedule change is non-substantive in nature, and there are no changes to fees assessed as a result of the proposal.

#### *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.

#### AIM Fee Changes

The Exchange does not believe that the proposed rule changes related to fees for certain orders executed in AIM Auctions will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. In general, the proposed changes are designed to bring fees for Market-Maker AIM Contra orders more in-line with similar fees for other participants, given the recent change to permit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange, in all classes, to be solicited for the Initiating Order submitted for execution against an Agency Order. The Exchange believes the proposed changes will facilitate and encourage the submission of AIM orders in equity, ETF and ETN, RUT, and VIX options through local Market-Makers. Incentivizing Market-Maker participation in these AIM auctions benefits all participants by promoting deeper liquidity, tighter markets, and greater price improvement opportunities.

The amended fee for Market-Maker Simple AIM Contra orders in equity,

ETF, and ETN options and \$0.20 per contract surcharge for Market-Maker AIM Contra orders in VIX options will apply uniformly to all Market-Makers acting as AIM contra on applicable orders. Similarly, the amended fee structure for Non-Market Maker, Non-Customer, Non-Firm orders in VIX options will apply uniformly to all applicable Non-Market Maker, Non-Customer, Non-Firm orders in VIX options. While the proposed change results in an increase in the fee assessed to Non-Market Maker, Non-Customer, Non-Firm participants for AIM orders in RUT options, the Exchange believes such increase will facilitate and encourage the submission of AIM orders in RUT options through local Market-Makers, which benefits all participants by promoting deeper liquidity, tighter markets, and greater price improvement opportunities. The Exchange notes that use of the AIM auction mechanism is voluntary.

The Exchange believes the proposed rule change to the VIP and AVP does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes to the AVP, and corresponding changes to the AVP, will encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all TPHs. As a result, the Exchange believes that the proposed change furthers 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."<sup>22</sup> Further, the proposed change applies to all TPHs submitting qualified orders equally, in that all TPHs submitting such orders are eligible for the tiers (as amended), have a reasonable opportunity to meet the tiers' criteria (as amended) and will all receive the existing credit if such criteria is met. As described above, while only certain orders would count towards the qualifying thresholds, specifically, Customers, Professionals, Broker-Dealers and JBOs, these market participants' orders are primarily executed as agency orders, whose order flow would bring greater volume and liquidity, which benefits all market participants by providing more trading opportunities and tighter spreads. Overall, the proposed change is

designed to encourage additional order flow to the Exchange, which the Exchange believes benefits all market participants on the Exchange by providing more liquidity, thus trading opportunities, encouraging even more TPHs to send orders, thereby contributing towards a robust and well-balanced market ecosystem to the benefit of all market participants.

The Exchange does not believe that the proposed rule change related to the Cboe Options Historical Depth fee will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the proposed rule change is designed to protect investors by making the Fees Schedule more accurate and adding clarity to the Fees Schedule, thereby mitigating any potential investor confusion. The proposed rule change will have no impact on trading on the Exchange or fees assessed by the Exchange, as the proposed Fees Schedule change is non-substantive in nature, and there are no changes to fees assessed as a result of the proposal.

Finally, 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. In regards to the fee changes related to AIM Contra orders in RUT or VIX options, the proposed fees apply to an Exchange proprietary product, which are traded exclusively on the Exchange. In regards to the other fee changes, the Exchange notes that it operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 17 other options exchanges. Based on publicly available information, no single options exchange has more than 15% of the market share.<sup>23</sup> Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange, and, additionally 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

<sup>22</sup> See Securities Exchange Act Release No. 51808, 70 FR 37495, 37498-99 (June 29, 2005) (S7-10-04) (Final Rule).

<sup>23</sup> See Cboe Global Markets U.S. Options Monthly Market Volume Summary (April 30, 2026), available at [https://markets.cboe.com/us/options/market\\_statistics/](https://markets.cboe.com/us/options/market_statistics/).

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>24</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 for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’. . . .”<sup>25</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>26</sup> and paragraph (f) of Rule 19b-4<sup>27</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.

<sup>24</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

<sup>25</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>26</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>27</sup> 17 CFR 240.19b-4(f).

**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:

*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–CBOE–2026–046 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–2026–046. 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–2026–046 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>28</sup>

**J. Matthew DeLesDernier,**  
*Deputy Secretary.*

[FR Doc. 2026–09597 Filed 5–13–26; 8:45 am]

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<sup>28</sup> 17 CFR 200.30–3(a)(12).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–105438; File No. SR–GEMX–2026–16]

**Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees for Industry Members Related to Reasonably Budgeted CAT Costs of the National Market System Plan Governing the Consolidated Audit Trail for May 1, 2026 Through December 31, 2026**

May 11, 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 April 27, 2026, Nasdaq GEMX, LLC (“GEMX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “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**

The Exchange proposes to establish fees for Industry Members<sup>3</sup> related to reasonably budgeted CAT costs of the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”) for the period from May 1, 2026 through December 31, 2026. These fees would be payable to Consolidated Audit Trail, LLC (“CAT LLC” or the “Company”) and referred to as CAT Fee 2026–1, and would be described in a section of the Exchange’s fee schedule entitled “Consolidated Audit Trail Funding Fees.” The fee rate for CAT Fee 2026–1 would be \$0.000001 per executed equivalent share. CAT Executing Brokers will receive their first monthly invoice for CAT Fee 2026–1 in June 2026 calculated based on their transactions as CAT Executing Brokers for the Buyer (“CEBB”) and/or CAT Executing Brokers for the Seller (“CEBS”) in May 2026. As described further below, CAT

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

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

<sup>3</sup> An “Industry Member” is defined as “a member of a national securities exchange or a member of a national securities association.” See Rule General 7, Section 1. See also Section 1.1 of the CAT NMS Plan. Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the CAT NMS Plan and/or the CAT Compliance Rule. See Rule General 7 (Consolidated Audit Trail Compliance).