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September 25, 2026

VIA ELECTRONIC SUBMISSION

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1700 K Street, NW
Washington, DC 20006

Re: FINRA Regulatory Notice 26-15 – Request for Comment on Modernizing FINRA's Best Execution Guidance

Dear Ms. Piorko Mitchell:

Cboe Global Markets, Inc. ("Cboe") appreciates the opportunity to respond to FINRA Regulatory Notice 26-15 (the "Notice"), in which FINRA requests comment on modernizing its best execution guidance under FINRA Rule 5310 in light of the Securities and Exchange Commission's (the "SEC" or "Commission") proposal to rescind SEC Rules 611 and 610(e) of Regulation NMS. As an operator of multiple equities and options exchanges, as well as an SEC-registered alternative trading system ("ATS") that trades NMS stocks, Cboe is well positioned to assess how FINRA's best execution guidance can serve investors most effectively if the Commission's proposal is adopted.

Fundamentally, we believe FINRA Rule 5310 functions well and does not require a wholesale overhaul. Best execution should continue to require brokers to exercise reasonable diligence such that the resultant price achieved for customers is as favorable as possible under prevailing market conditions. This is a principles-based standard that has served investors well for decades and will continue to do so. That said, the anticipated elimination of Rule 611 represents a significant shift in market structure that has serious implications for the future of U.S. equity markets.

The potential impact to the national best bid and offer ("NBBO") is of particular concern. The NBBO functions as the backbone of investor confidence, execution-quality benchmarking, and price formation in U.S. equity markets. It is relied upon by retail investors placing limit and stop orders, by brokers assessing the quality of their routing decisions, by automated auction mechanisms facilitating price improvement, and by off-exchange venues that use the NBBO as their reference price for execution.

If the NBBO's integrity is eroded such that it no longer meaningfully represents the true market for a security, best execution practices and methodologies that rely on the NBBO as a benchmark will be undermined. In this scenario, best execution standards will be anchored to a weaker reference point, potentially resulting in materially worse outcomes for investors over time, despite full compliance with best execution standards. This is clearly not the SEC's intention in eliminating Rule 611, and we believe additional guidance from FINRA would help prevent this outcome as the strength and integrity of the NBBO are largely inseparable from a broker's ability to satisfy its duty of best execution.

The below recommendations would provide important guidance regarding FINRA's expectations in a post-611 world, support best execution and the investor experience, and complement the goal of preserving a healthy NBBO.

Summary of Recommendations

- Post-611 Guidance: If Rule 611 is eliminated, provide guidance consistent with the principle that regularly and continuously trading outside the NBBO, in the absence of sufficient justification, is inconsistent with best execution principles.
- Accessible Quotes: Clarify that a quote will be considered accessible for purposes of best execution analysis only if it is automated and immediately executable.
- Listed Options Markets: The listed options market functions well as a quote-driven, exchange-based market that places proper emphasis on execution quality. Accordingly, no further guidance is needed in the options market at this time.

Recommendations

Post-611 Guidance

We recommend FINRA issue guidance to provide member firms with clarity regarding FINRA's expectations for order routing in a post-611 environment. Rule 611 is deeply ingrained in how the equity market operates and how brokers route orders. Absent clear guidance, brokers will face considerable regulatory uncertainty regarding how to satisfy their best execution obligations post-611, likely resulting in inconsistent practices across firms and unpredictable examination outcomes. FINRA guidance will help reduce this regulatory uncertainty for brokers and ensure consistent application of best execution standards, and if appropriately tailored, will also complement the goal of preserving a healthy NBBO in a post-611 market.

The SEC stated in its proposal to rescind Rule 611 that "best execution obligations should continue to ensure brokers use reasonable diligence to secure the most favorable terms for customer orders[,]" and that "price is a critical concern for investors."[1] We agree, and it should be noted that liquidity priced at the NBBO or better will often represent the most favorable terms. If FINRA's best execution framework were to permit brokers to regularly and continuously trade outside the NBBO without sufficient justification, we believe it would be inconsistent with best execution. It would also negatively impact the NBBO as liquidity providers would likely reconsider whether to display prices if they are summarily disregarded. This would be a setback for investors.

Thus, we recommend FINRA adopt clear guidance that best execution is presumed to have been satisfied where a broker executes orders at or within the NBBO. This guidance is designed to be easily understood, support best execution, and complement the overarching goal of maintaining a healthy NBBO and overall market quality. Facts and circumstances may support executing an order outside the NBBO in furtherance of best execution, but it would be important for FINRA guidance to include a non-exhaustive list of clearly enumerated justifications (e.g., block-sized transactions) for trading outside the NBBO.

Accessible Quotes

As part of the rescission of Rule 611, the Commission is proposing to eliminate the "automated quotation" definition in Rule 600(b), as well as the "immediately and automatically" execution standard. In our view, the current standard ensures that the NBBO reflects genuinely accessible, executable interest rather than stale or inaccessible quotations. We have recommended that the Commission retain this definition and execution standard irrespective of the changes to Rule 611 in order to help preserve the strength of the NBBO.[2]

Rule 5310 currently identifies the "accessibility of the quotation" as a factor relevant to the reasonable diligence a firm must exercise when ascertaining the best market for a subject security. Regardless of whether the SEC eliminates the "automated quotation" definition and the "immediately and automatically" execution standard under Regulation NMS, we recommend that FINRA clarify that, for purposes of best execution under Rule 5310, the accessibility of a quotation factor should take into account whether a quotation is an automated quotation that is immediately executable. Best execution standards should not require brokers to consider inaccessible quotes.

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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 *See* Letter from Patrick Sexton, EVP, General Counsel & Corporate Secretary, Cboe Global Markets, Inc. (Aug. 17, 2026), *available at* https://cdn.cboe.com/resources/government_relations/Cboe-Response-SEC-Proposal-on-Rule-611.pdf.

Listed Options Markets

We do not believe the listed options market requires any additional best execution guidance at this time. Unlike the equities market, the SEC has not proposed to eliminate trade-through protections for listed options. If the SEC does so in the future, there may be a need for additional guidance related to options; however, any such guidance would need to consider the unique characteristics of the options market as compared to the equities market. Notably, Cboe intends to adopt best execution rules for its options markets modeled on FINRA Rule 5310 in support of the existing best execution framework.

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Cboe appreciates FINRA's engagement on this important aspect of market structure and welcomes the opportunity to discuss these comments further.

Sincerely,

s/Patrick Sexton

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