

# Pricing Tier & Access Fee Reform

The SEC recently proposed rules involving reducing the access fee cap and limiting volume-based pricing tiers on exchanges. The proposed reforms would promote competition among both broker-dealers and exchanges to ultimately benefit investors. Here is why you should support the reforms:

## Regulated Stock Exchanges

**Exchanges differ from other businesses due to their regulatory privileges and requirements.**

1. The Securities and Exchange Commission (SEC) has a federal mandate to oversee equity exchanges given their regulatory privilege of being equity trading venues. Exchanges themselves act as self-regulatory organizations (SROs) and only allow registered broker-dealers, which are exchange members, to send orders.
2. The “order protection rule” requires broker-dealers to route to the exchange currently offering the best price of a stock regardless of fees (“protected quote”) at the time.

### Primary Exchange Revenue Source

**Transaction Fees:** Revenue generated from charging for the trade that takes place

#### Rebates

A payment provided by exchanges to firms to incentivize order flow.

#### Access Fees

A fee that exchanges can charge participants to access their displayed quotes & is capped at 30-mils (\$0.30 per 100 shares).

## Pricing Tiers & Access Fees

Exchanges use **pricing tiers** to offer varied monthly discounts to firms based on the volume of executed orders, most commonly measured in percent of cumulative market volume, sent to the exchange.

- If the volume of order flow reaches a certain threshold pre-determined by an exchange, firms can receive more advantageous pricing on **ALL** volume or a larger rebate than those who trade lower volumes on the specific exchange.

Revenue generated from **access fees** on an exchange is typically used to fund rebate payouts. Certain exchanges pay out, on a net basis, more than 90% of the access fees collected in the form of rebates.

## The SEC’s Authority

**Given the Securities Acts Amendments of 1975, the SEC has the authority “...to foster the development of a national securities market system...” with the goal of improving markets and protecting investors.<sup>1</sup>**

Congress has specifically directed the SEC to ensure the following:

1

Economically efficient execution of securities transactions

2

Fair competition among broker-dealers across markets

3

The practicality of brokers executing investors’ orders in the best market

## Pricing Tiers Could Violate The Securities Exchange Act

**Here is how the current regime could violate the Securities Exchange Act:<sup>2</sup>**

1. **Burden on competition:** High access fees act as barriers to entry for smaller trading firms and retail investors. Incumbent, larger broker-dealers with significant trading volume can access the highest pricing tiers, giving them an advantage over smaller competitors and disincentivizing competition amongst exchanges based on performance.
2. **Unfair practice:** Brokers have an obligation to achieve best execution for their clients, but the tiered pricing system incentivizes firms to route their clients’ orders to exchanges that offer the highest rebate or to reach a specific tier by the end of the month.
3. **Inequitable pricing scheme:** Exchanges are adopting fee practices which create a complex landscape where the cost of trading becomes opaque for investors.

## SEC Proposed Reforms

### Pricing Tiers<sup>3</sup>

1. Orders sent to Exchanges on behalf of clients (agency orders) by broker-dealers will not qualify towards pricing tier volume requirements.
2. Exchanges will be required to implement compliance measures to ensure members are not reaching tiers with any agency related trades.
3. Exchanges must electronically disclose information to the SEC regarding the number of members that qualify for each tier on a monthly basis.

### Desired Outcomes

- Minimize the conflict of interest between firms and customers
- Lessen burdens on competition for smaller firms
- Greater transparency on pricing and count of firms qualifying for pricing tiers

### Access Fees<sup>4</sup>

1. The SEC proposed various paths to reducing access fees. The industry has coalesced around one of the SEC’s proposals, which outlines the following:
  - A uniform access fee reduction to lower the access fee cap from 30-mils (\$0.30 per 100 shares) to 10-mils per share traded.<sup>5</sup>
2. Access fees and rebate rates must be determinable at the time of the trade (no “forward-looking” fee or rebate tiers).

### Desired Outcomes

- Reduce the cost of accessing displayed quotes
- Prevent price distortions that undermine the goal of protected quotes
- Update pricing to account for technological advancements and market changes since 2005

1. Pub.L. 94-29, “Securities Acts Amendments of 1975” (June 1975) at [Public Law 94-29—June 4, 1975](#)  
 2. See IEX, “Why Exchange Rebate Tiers are Anti-Competitive” (June 27, 2023), avail. at [IEX Square Edge | Why Exchange Rebate Tiers are Anti-Competitive](#)  
 3. SEC Proposed Rule, “Volume-Based Exchange transaction Pricing for NMS Stocks” (October 2023) at [Proposed Rule: Volume-Based Exchange Transaction Pricing for NMS Stocks \(sec.gov\)](#)  
 4. SEC Proposed Rule, “Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders” (December 2022) at [Proposed Rule: Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better \(sec.gov\)](#)  
 5. IEX Exchange, “What the Buiside Really Think About the SEC’s Reg NMS Proposal” (May 2023) at [One pager \(website-files.com\)](#)

~\$3.5bn

Total rebate payouts by all exchanges in 2022

4846

Pricing variables that determine the fees charged and rebates offered by exchanges<sup>7</sup>

59

Different pricing tiers offering a rebate exceeding the allowable access fee (e.g., 30-mil access fee, 32-mil rebate)

100%

Of the exchanges that pay a rebate to post displayed & non-displayed orders have at least one tier where the rebate is greater than or equal to the access fee they charge

5.4%

Of total market share locked up if a single firm hit the top rebate tier on NASDAQ, NYSE, ARCA, EDGX, BZX, and MEMX (6 of the 16 public equity exchanges)

~89%

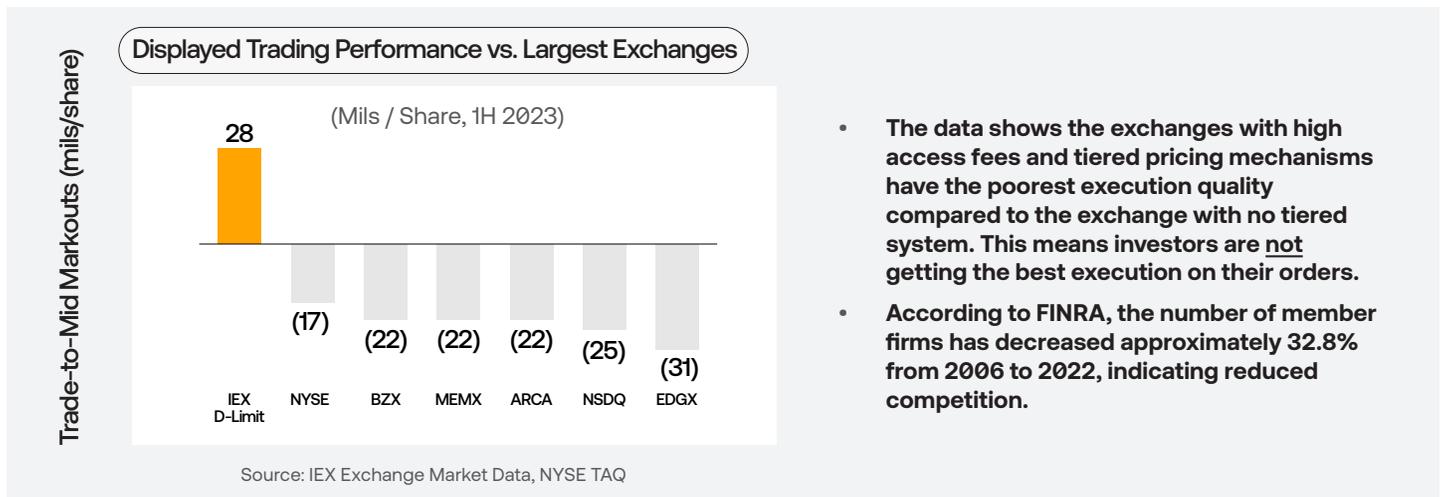
Of the exchanges that pay a rebate to post displayed & non-displayed orders have at least one tier where the rebate exceeds 30-mils, the maximum allowable fee

IEX Position

- ➔ Volume-based pricing tiers impair fair market competition and harm investors.
- ➔ The structure and means by which tiers are determined is unclear and often unfair to exchange members.
- ➔ The 30-mil access fee cap set in 2005 is outdated and no longer serves its original purpose. Now it is used by large exchanges as the standard rate to access quotes, which is out of step with market and economic changes since 2005.

Exchange Pricing Misconceptions

1. Economies of scale trigger discounts in almost every industry; it's no different from Costco. **The burden of exchange transactions falls on the smaller members who are not able to trade in volumes that would qualify them for the highest tiers. This creates cost savings enjoyed by only a small number of market participants and effectively undermines competitive economic forces. To qualify for the highest tier on Nasdaq, firms need to account for at least 1.5% of total market volume. Many individuals can afford consumer goods in bulk, but only a handful can afford 1.5% of total market volume on Nasdaq.**
2. There is not enough data to support the negative effects of the current pricing regime.



- The data shows the exchanges with high access fees and tiered pricing mechanisms have the poorest execution quality compared to the exchange with no tiered system. This means investors are not getting the best execution on their orders.
- According to FINRA, the number of member firms has decreased approximately 32.8% from 2006 to 2022, indicating reduced competition.

3. Prohibiting exchanges from offering pricing tiers will hinder the best execution requirements the SEC proposed in December 2022. **Pricing tiers complicate broker-dealers' best execution obligations as the tiered system incentivizes firms to route their agency clients' order to exchanges that offer the highest rebate or to reach a specific tier by the end of the month. Curtailing or eliminating pricing tier incentives would simplify this decision making.**
4. Reducing the access fee cap will harm investors by limiting rebates. **83% of investors support a uniform access fee cap of 10-mils for all symbols. Numerous asset managers, pension funds, and other institutional investors accounting for trillions of dollars in investor assets, have urged the Commission to reduce the access fee cap to 10-mils for all stocks priced at \$1 per share or more.<sup>8</sup>**
5. A 30-mil access fee cap, which subsidizes rebates at current levels, is needed to compensate for high risks faced by liquidity providers. **IEX has produced extensive data showing that the cost of adverse selection is closely correlated to the charging of maximum access fees. Exchanges are viewed as venues of last resort since ATs and other off-exchange venues generally charge much lower access fees. Additionally, there is ample public data on this market-wide phenomenon, the cost it imposes on investors, and its detrimental impact on displayed liquidity and price discovery.<sup>9</sup>**

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**Five out of the top 10 [trading firms] get a check from [Cboe] after the costs of their connectivity and market data. So we are cutting them a check monthly after their costs [sic].**

- Chris Concannon, President & COO of Cboe Global Markets, 2018

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6. Letter from John Ramsay, Chief Market Policy Officer, IEX, to Vanessa Countryman, Secretary, SEC, dated March 20, 2023, at 23-25 avail. At [s73022-20160364-328968.pdf \(sec.gov\)](https://www.sec.gov/section/73022-20160364-328968.pdf)  
 7. RBC Capital Markets, "Complexity of Exchange Pricing and Corresponding Challenges to Transparency and Routing" (November 2023)  
 8. See IEX Exchange, "Investors Support the SEC's Proposal to Reform Reg NMS" (May 2023) at [MSR One Pager \(website-files.com\)](https://www.iex.com/MSR-One-Pager-website-files.com)  
 9. Letter from John Ramsay, Chief Market Policy Officer, IEX, to Vanessa Countryman, Secretary, SEC, dated October 19, 2023, at 18-21 avail. At [s73022-276579-672162.pdf \(sec.gov\)](https://www.sec.gov/section/73022-276579-672162.pdf)