

The SEC Should Want Investors to Pay Less to Trade

By Benjamin Schiffrin | *Director of Securities Policy*

May 19, 2026

Introduction

The costs investors pay to buy and sell stock matter. Investors whose costs are too high will lose out on the benefits of participating in our equity markets. That is why the Securities and Exchange Commission (SEC) has long [said](#) that minimizing investors' costs to the greatest extent possible is a hallmark of efficient markets and a primary objective of the SEC's rules.

Tomorrow, the House Financial Services Committee will hold a [hearing](#) regarding how to ensure our equity markets are efficient and transparent. One way in which the SEC, under Chair Gary Gensler, sought to make the equity markets more efficient and transparent was by lowering the cap on the access fees exchanges may charge. Access fees are the fees exchanges charge for accessing their quotations. Fees that are too high distort price transparency because investors believe that they are receiving the quoted price, when they are actually receiving the quoted price less the access fee. So any reduction in the access fees exchanges charge make prices more transparent to investors by reducing the difference between the quoted price and the actual price. Reducing the cost of accessing an exchange's quotation also reduces overall costs for investors.

The SEC has long imposed a cap on the access fees exchanges may charge to limit the fees the exchanges may impose. But in 2024, in conjunction with other rule changes, the SEC determined that the cap on the access fees was too high. Accordingly, it [lowered the cap](#). Although the details are complex, what matters is that higher access fee caps mean higher costs for investors (because the higher the cap, the more exchanges can charge until they reach the cap). Lower access fee caps mean lower costs for investors (because the lower the cap, the less exchanges can charge until they reach the cap). So by lowering the access fee cap, the SEC reduced the access fees that exchanges may charge and thereby reduced costs for investors. The SEC estimated that, under the change, investors would have paid about \$2 billion less in access fees in 2023.

The SEC approved this rule change unanimously, with Commissioner Peirce and Commissioner Uyeda, who remain on the Commission today, voting for it. Not only that, but a federal appellate court sustained the rule change after the exchanges challenged it (because it reduced what they could charge investors). In so doing, the court [found](#) “no reason to second-guess” the SEC's judgment that “a higher fee would increase transaction costs and worsen price transparency.”

Nonetheless, MEMX, a national securities exchange, has now [requested](#) that the SEC grant exemptive relief for all exchanges that would essentially relieve them of their obligation to comply with the reduced access fee caps. The SEC has requested comment on the application. If the SEC grants the application, it would in effect be increasing the costs investors pay to trade.

MEMX's Exemptive Request

MEMX predicates its request for relief on the fact that there are “other market structure rule changes currently being contemplated by the Commission.” According to MEMX, its request “is designed to give the Commission time to consider and discuss with market participants whether and how access fees should be regulated in light of possible changes to Rule 611 of Regulation NMS”—a rule prohibiting trades at prices worse than the best prices quoted on other exchanges. MEMX therefore requests exemptive relief for “an unspecified duration.”

The problem with predicating exemptive relief on this basis is that it is purely speculative. Although the SEC has expressed an interest in reevaluating Rule 611, it has not yet proposed any revisions to that rule. Even if it did, it is not clear how any such proposal would impact access fee caps. Nor is it clear how long it would take for the SEC to consider any comments on such a proposal and adopt a final rule, or for any challenges to such a rule to be resolved. In the meantime, if the SEC granted the relief, investors would suffer higher costs as a result of a higher access fee cap.

MEMX says it wants the exemptive relief so that the industry “does not have to implement new regulations that the Commission may later eliminate or modify.” But the SEC may never eliminate or modify these new regulations. And it is these new regulations, and not the hypothetical changes to Rule 611 on which MEMX predicates its request for exemptive relief, that the SEC adopted and that an appellate court upheld. National securities exchanges should have to comply with these new regulations the same as any other regulations to which they are subject. The SEC may always “eliminate or modify” a rule, but that is not a basis for exempting market participants from complying with that rule, let alone from complying with an entirely different rule.

It is not surprising that MEMX would want the relief it requests, but it is surprising that the SEC would contemplate granting that relief. The relief would force investors to pay more to trade. The SEC found explicitly and repeatedly that reducing the access fee caps “will lower costs for investors . . . and will help to address distortions in the market associated with the preexisting fee caps”; “will reduce costs for investors”; and will make it “cheaper to transact for investors as a whole.” Several institutional investors, among other commenters, supported the reduced access fee caps on the basis that it would lower their costs. The SEC, which is supposed to protect investors, should want to retain these cost savings that the reduced access fee caps provide.

At the least, the SEC should not undo the reduced access fee caps through exemptive relief. The SEC adopted the reduced access fee caps after issuing a proposal, receiving public comment, and considering those comments. It noted that “the access fee caps have been extensively considered for many years” and that the “reduced level appropriately accommodates various competing interests.” Due to the legal challenge to the rule change and extensions of time to allow market

participants to prepare for its implementation, the reduced access fee caps [have not yet gone into effect](#). That means the SEC has not yet seen how the reduced access fee caps work in practice, so there is really no basis for the SEC to change its position. Nonetheless, if the SEC now believes a different approach to the access fee caps is warranted, it should inform the public of its views, solicit comment, and make any changes only after considering those comments. The SEC should not simply grant the exchanges exemptive relief, which would have the effect of undoing a change the SEC adopted after an extensive rulemaking process and consideration of the public's views. Investors should not have their trading costs increased just because that is what exchanges want.

Conclusion

At the time the SEC reduced the access fee caps, Chair Gensler [said](#) that “lowering the access fee cap . . . will lower costs for investors.” Commissioner Lizarra [said](#) that reduced access fee caps “will increase the transparency of stock prices on exchanges.” And Commissioner Crenshaw [said](#) that the new access fee caps will “help improve market quality and preserve the integrity of displayed prices, which will reduce costs for investors.” The public mirrored these sentiments. For example, Professor J.W. Verret of the George Mason University School of Law [said](#):

High access fees can act as barriers to entry for new market participants, particularly smaller trading firms and retail investors. By lowering the access fee cap . . . regulators would reduce these barriers, promoting a more competitive and diverse market landscape. This increased competition would foster more innovation, better pricing, and improved services, ultimately benefitting investors, traders, and issuers alike. . . . Lowering the access fee cap . . . would create a more equitable, transparent, and competitive market environment. By encouraging market transparency, fostering innovation, reducing barriers to entry, and promoting the interests of small and retail investors, regulators can create a healthier and more dynamic marketplace that benefits all participants.

So the reduced fee caps are exactly the type of change that policymakers concerned about the efficiency and transparency of our equity markets should welcome. That the exchanges want to charge investors more should not matter; the SEC should side with investors who benefit from lower fees. The SEC, and policymakers of all stripes, should favor reforms that make it less costly for investors to trade and that make the price investors receive for their trades more transparent.




BETTER MARKETS

Better Banks | Better Businesses
Better Jobs | Better Economic Growth
Better Lives | Better Communities

Better Markets is a public interest 501(c)(3) non-profit based in Washington, DC that advocates for greater transparency, accountability, and oversight in the domestic and global capital and commodity markets, to protect the American Dream of homes, jobs, savings, education, a secure retirement, and a rising standard of living.

Better Markets fights for the economic security, opportunity, and prosperity of the American people by working to enact financial reform, to prevent another financial crash and the diversion of trillions of taxpayer dollars to bailing out the financial system.

By being a counterweight to Wall Street's biggest financial firms through the policymaking and rulemaking process, Better Markets is supporting pragmatic rules and a strong banking and financial system that enables stability, growth, and broad-based prosperity. Better Markets also fights to refocus finance on the real economy, empower the buyside and protect investors and consumers.

For press inquiries, please contact us at press@bettermarkets.com or (202) 618-6430.



[SUBSCRIBE](#) to Our Monthly Newsletter

FOLLOW US ON SOCIAL



2000 Pennsylvania Avenue NW | Suite 4008 | Washington, DC 20006 | 202-618-6464 | www.bettermarkets.org
© 2026 Better Markets, Inc. All Rights reserved.