

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104333; File No. SR-NYSEARCA-2025-83]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule

December 5, 2025.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on December 1, 2025, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 modify the NYSE Arca Options Fee Schedule (“Fee Schedule”) to (1) adopt a new pricing tier for Firm and Broker Dealer posted interest in Penny Issues; and (2) adopt an additional incentive for Market Makers to post liquidity in certain actively-traded options classes. The Exchange proposes to implement the fee changes effective December 1, 2025. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com) 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 self-regulatory organization 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 those 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 parts of such statements.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of this filing is to modify the Fee Schedule to (1) adopt a new pricing tier for Firm and Broker Dealer posted interest in Penny Issues, and (2) adopt an additional incentive for Market Makers to post liquidity in certain actively-traded options classes, and more specifically, in the iShares Russell 2000 ETF (“IWM”), the Invesco QQQ Trust, Series 1 (“QQQ”) and the SPDR S&P 500 ETF Trust (“SPY”).

##### Firm and Broker Dealer Incentive

The Exchange has adopted an incentive program under which the Exchange provides credits for posted Firm and Broker Dealer interest in Penny Issues (the “FBD Posting Incentive”).<sup>4</sup> Under this incentive program, the Exchange currently provides a base credit of \$0.28 per contract on electronic executions of Firm and Broker Dealer posted interest in Penny Issues. Further, under current Tier 1 of the FBD Posting Incentive, OTP Holders that execute at least 0.30% of Total Customer Average Daily Volume (“TCADV”)<sup>5</sup> from Firm and Broker Dealer posted interest in all issues receive a credit of \$0.35 per contract.

The Exchange now proposes to adopt a new pricing tier under the FBD Posting Incentive. Under proposed new Tier 1 of the FBD Posting Incentive, OTP Holders that execute at least 0.20% of TCADV from Firm and Broker Dealer posted interest in all issues would receive a credit of \$0.32 per contract.<sup>6</sup> As is the case with current posting credit tiers, OTP Holders may aggregate their volume with affiliated OTPs to

achieve the proposed credit under the new pricing tier.<sup>7</sup>

The Exchange believes the proposed new pricing tier under the FBD Posting Incentive is reasonable because OTP Holders (and their affiliates) can bring a variety of order flow to the Exchange, which may result in increased volume and liquidity. The Exchange’s fees are constrained by intermarket competition, as OTP Holders may direct their order flow to any of the 18 options exchanges, including those with similar posting incentives.<sup>8</sup> The Exchange notes that all market participants stand to benefit from increased transaction volume, which promotes market depth, facilitates tighter spreads and enhances price discovery, and may lead to a corresponding increase in order flow from other market participants.

The Exchange cannot predict with certainty whether any OTP Holders would avail themselves of this proposed fee change by achieving the requirement to qualify for the proposed new pricing tier under the FBD Posting Incentive. The Exchange notes that whether or when an OTP Holder qualifies for the various incentive tiers in a given month is dependent on market activity and an OTP Holder’s mix of order flow. Thus, the Exchange cannot predict with any certainty the number of OTP Holders that may qualify for the proposed new tier. However, given the proposed new pricing tier may be achieved by meeting lesser volume criteria, the Exchange believes that OTP Holders would be encouraged to take advantage of the newly proposed pricing tier and its associated credit.

##### Market Maker Incentive

Currently, Market Makers receive a \$0.28 per contract credit for executions against Market Maker posted liquidity in Penny Pilot Issues and Lead Market Makers (“LMMs”) may receive an additional \$0.05 per contract credit (for a total of \$0.33 per contract credit) for posted liquidity in Penny Pilot Issues.<sup>9</sup> Similarly, Market Makers may receive a \$0.28 per contract credit for executions against their posted liquidity in SPY

<sup>7</sup> See Fee Schedule, Endnotes 8 (providing that the proposed incentives will include the activity of affiliates) and 15 (defining affiliates referenced in Endnote 8).

<sup>8</sup> See, e.g., MIAx Pearl Options Exchange, Fee Schedule, available here, [https://www.miaxglobal.com/sites/default/files/fee\\_schedule-files/MIAx\\_Pearl\\_Options\\_Fee\\_Schedule\\_09232025\\_1.pdf](https://www.miaxglobal.com/sites/default/files/fee_schedule-files/MIAx_Pearl_Options_Fee_Schedule_09232025_1.pdf) (setting forth volume tiers for Non-Priority Customer, Firm, Broker Dealer and Non-MIAx Pearl Market Makers).

<sup>9</sup> See Fee Schedule, Transaction Fee for Electronic Executions, Per Contract. See also Market Maker Monthly Penny and SPY Posting Credit Tiers (the “MM Credit Tiers”).

<sup>21</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Fee Schedule, FIRM AND BROKER DEALER PENNY POSTING CREDIT TIERS (providing in the preamble that “OTP Holders and OTP Firms meeting the qualifications below will receive corresponding credit on all electronic executions of Firm and Broker Dealer posted interest in Penny Issues”).

<sup>5</sup> TCADV includes OCC calculated Customer volume of all types, including Complex Order Transactions and QCC transactions, in equity and ETF options. See Fee Schedule, Endnote 8.

<sup>6</sup> With the proposed adoption of the new pricing tier as Tier 1, the Exchange proposes to rename current Tier 1 as Tier 2.

and LMMs may receive an additional \$0.04 per contract credit (for a total of \$0.32 per contract credit) for posted liquidity in SPY if it is in the LMM's appointment.<sup>10</sup> The Exchange currently offers additional incentives (*i.e.*, enhanced credits) to Market Makers to post liquidity.<sup>11</sup>

The Exchange also offers an incentive to encourage Market Makers to post interest in SPY. A Market Maker that has posted interest of at least 0.15% of TCADV in SPY during a calendar month currently receives a per contract credit of \$0.36 for electronic executions against such posted interest. In addition, a Market Maker that has posted interest of at least 0.20% of TCADV in SPY during a calendar month currently receives a per contract credit of \$0.45 for electronic executions against such posted interest. Given the heightened trading in IWM, QQQ and SPY, the Exchange proposes to add another incentive by offering any Market Maker that has posted Market Maker interest in IWM, QQQ, and SPY of at least 0.90% of total combined IWM, QQQ, and SPY industry ADV during a calendar month, a per contract credit of \$0.36 for electronic executions against posted interest in IWM and QQQ, and a per contract credit of \$0.45 for electronic executions against posted interest in SPY.<sup>12</sup>

As is the case today, a Market Maker that qualifies for more than one available credit will always receive the highest rebate applicable to a transaction. For example, a Market Maker that is eligible to receive both the \$0.40 per contract credit under the Super Select Tier as well as the proposed \$0.45 per contract credit via the Market Maker Incentive for SPY would receive the latter (higher) credit.

<sup>10</sup> See Fee Schedule, the MM Credit Tiers, Base Rate.

<sup>11</sup> See *e.g.*, MM Credit Tiers, Super Tier (which provides a \$0.39 per contract credit for executions of Market Maker posted interest in SPY provided the Market Maker achieves at least 0.55% of TCADV from Market Maker posted interest in all issues, or at least 1.60% of TCADV from all interest in all issues, all account types, with at least 0.15% TCADV from Market Maker posted interest in all issues) and Super Select Tier (which provides a \$0.40 per contract credit for executions of Market Maker posted interest in SPY provided the Market Maker achieves at least 0.25% of total combined IWM, QQQ, and SPY industry ADV from Market Maker posted interest in IWM, QQQ, and SPY, combined with an ETP Holder and Market Maker posted volume in Tape B Adding ADV that is equal to at least 1.55% of US Tape B CADV executed on NYSE Arca Equity Market).

<sup>12</sup> See proposed Fee Schedule, Market Maker Incentives for SPY (including reference to Endnote 8, which sets forth the calculations for monthly posting credits).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>13</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>14</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposed change is reasonable, equitable, and not unfairly discriminatory. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices 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>15</sup>

There are currently 18 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.<sup>16</sup> Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in October 2025, the Exchange had 10.09% market share of executed volume of multiply-listed equity and ETF options trades.<sup>17</sup> In such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>15</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7-10-04) ("Reg NMS Adopting Release").

<sup>16</sup> The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics>.

<sup>17</sup> Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.*, the Exchange's market share in multiply-listed equity and ETF options decreased from 12.55% in October 2024 to 10.09% for the month of October 2025.

power in the execution of option order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.

## The Proposed Rule Change Is Reasonable

### Firm and Broker Dealer Incentive

The Exchange believes the proposed new pricing tier under the FBD Posting Incentive is a reasonable means to incent OTP Holders to transact more options volume on the Exchange. The FBD Posting Incentive is designed to encourage OTP Holders to increase the Firm and Broker dealer volume sent to the Exchange for execution. The proposed new pricing tier, which will be available to participants that qualify for the FBD Posting Incentive, would encourage increased market participation by OTP Holders and their affiliates. The Exchange believes this should increase volume and liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities and tighter spreads, and may lead to a corresponding increase in order flow from other market participants. Further, the FBD Posting Incentive is similar to and competitive with posting credits tiers for Firm and Broker Dealer volume offered by other exchanges [*sic*]<sup>18</sup> and is designed to attract (and compete for) order flow to the Exchange, which provides a greater opportunity for trading by all market participants.

The Exchange believes that the proposed change to adopt a new pricing tier under the existing FBD Posting Incentive would incent OTP Holders to increase the number and variety orders sent to the Exchange for execution. Further, the Exchange notes that it continues to provide OTP Holders alternative methods (and thus increased opportunities) to qualify for posting credits, resulting in favorable rates for a variety of order types. As such, OTP Holders would be encouraged to increase their participation on the Exchange, thereby improving the quoted markets and attracting more order flow to the Exchange. To the extent that the proposed change attracts more order flow to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution, which, in turn, promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free

<sup>18</sup> See *supra*, note 8.

and open market and a national market system.

Finally, to the extent the proposed change continues to attract greater volume and liquidity, the Exchange believes the proposed change would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. In the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors.

#### Market Maker Incentive

The Exchange believes that providing an additional incentive for executions against posted liquidity in IWM, QQQ, and SPY is a reasonable means to encourage greater participation in these three actively-traded options classes, which are consistently the most active options issues nationally. The proposed incentive would also provide an additional means for Market Makers to qualify for increased credits for posting volume on the Exchange. By encouraging activity in these options classes, the Exchange believes that opportunities to qualify for other rebates are increased, which benefits all participants through increased Market Maker activity. The Exchange also believes that encouraging a higher level of trading volume in IWM, QQQ, and SPY should increase opportunities for OTP Holders and OTP Firms to achieve credits available through existing incentive programs, such as the MM Credit Tiers, which provides OTP Holders and OTP Firms the ability to achieve per contract credit for electronic executions of posted Market Maker interest in IWM, QQQ, and SPY by combining the volume of the OTP Holder and OTP Firm with volume of their affiliates or Appointed Market Maker. To the extent that order flow, which adds liquidity, is increased by the proposal, OTP Holders and OTP Firms will be encouraged to compete for the opportunity to trade on the Exchange, including by sending additional order flow to the Exchange to achieve higher tiers or enhanced rebates. The resulting increased volume and liquidity would benefit all Exchange participants by providing more trading opportunities and tighter spreads.

The Exchange also notes that the proposed additional incentive for posting in IWM, QQQ, and SPY is reasonable as it is consistent with

credits offered to Market Makers by other options exchanges [sic].<sup>19</sup>

#### The Proposed Rule Change Is an Equitable Allocation of Credits and Fees and Is Not Unfairly Discriminatory Firm and Broker Dealer Incentive

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits, and is not unfairly discriminatory, as it applies equally to all similarly-situated market participants on an equal and non-discriminatory basis.

The proposal is based on the amount and type of business transacted on the Exchange and OTP Holders can opt to avail themselves of the incentives or not. Moreover, the proposal is designed to encourage OTP Holders to submit orders from all account types to the Exchange as a primary execution venue. To the extent that the proposed change attracts more Firm and Broker Dealer orders to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Exchange believes it is not unfairly discriminatory to introduce a new pricing tier as it would be available to all similarly situated market participants on an equal and non-discriminatory basis. The proposal is based on the amount and type of business transacted on the Exchange and OTP Holders are not obligated to try to achieve the qualifications for the proposed new pricing tier, nor are they obligated to execute Firm and Broker Dealer orders. Rather, the proposal is designed to encourage OTP Holders to utilize the Exchange as a primary trading venue for Firm and Broker Dealer executions (if they have not done so previously) or increase volume sent to the Exchange. To the extent that the proposed change attracts more Firm and Broker Dealer orders to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule change would improve market quality

for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery. The resulting increased volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, 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.

#### Market Maker Incentive

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits, and is not unfairly discriminatory, as it applies equally to all similarly-situated market participants on an equal and non-discriminatory basis.

The proposal is based on the amount and type of business transacted on the Exchange and OTP Holders can opt to avail themselves of the incentives or not. Moreover, the proposal is designed to encourage OTP Holders to submit orders in IWM, QQQ, and SPY to the Exchange as a primary execution venue. To the extent that the proposed change attracts more Market Maker orders to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Exchange believes that providing an additional incentive for executions against posted liquidity in IWM, QQQ, and SPY is not unfairly discriminatory. The proposed incentive is not unfairly discriminatory to non-Market Makers (*i.e.*, Customers, Professionals Customers, Firms and Broker-Dealers) because such market participants are not subject to the burdens and heightened obligations that apply to Market Makers, such as burdensome quoting obligations and costs related to market making activities. The Exchange believes the proposed incentive is reasonable, equitable and not unfairly discriminatory because encouraging Market Makers to direct more volume to the Exchange would also contribute to the Exchange's depth of book as well as to the top of book liquidity.

<sup>19</sup> See, e.g., MIAX Pearl Fee Schedule, Section 1.a., Transaction Rebates/Fees, Exchange Rebates/Fees—Add/Remove Tiered Rebates/Fees, available here, [https://www.miaxglobal.com/sites/default/files/fee\\_schedule-files/MIAX\\_Pearl\\_Options\\_Fee\\_Schedule\\_09232025\\_1.pdf](https://www.miaxglobal.com/sites/default/files/fee_schedule-files/MIAX_Pearl_Options_Fee_Schedule_09232025_1.pdf).

### B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed change to adopt a new pricing tier and additional incentives for trading in IWM, QQQ and SPY are each a response to the competitive environment in which the Exchange operates, and the proposed credits are consistent with incentives offered by the Exchange's competitors. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."<sup>20</sup>

*Intramarket Competition.* The proposed change to adopt a new pricing tier is designed to attract additional order flow (particularly Firm and Broker Dealer orders) to the Exchange. The Exchange believes that the proposed changes to the FBD Posting Incentive would continue to encourage market participants to direct a variety of order flow to the Exchange, including Firm and Broker Dealer execution volume to the Exchange. Greater liquidity benefits all market participants on the Exchange and increased Firm and Broker Dealer transactions would increase opportunities for execution of other trading interest. The proposed change would be available to all similarly-situated market participants (including those that handle Firm and Broker Dealer order flow), and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

The Exchange believes that the proposed change to adopt an additional incentive for Market Makers would encourage competition, including by attracting additional liquidity to the Exchange, which would continue to make the Exchange a more competitive venue for, among other things, order execution and price discovery. The Exchange does not believe that the proposed change would impair the ability of any market participants or competing order execution venues to maintain their competitive standing in the financial markets. Further, the incentive would not impose an unfair

burden on non-Market Markers because such market participants are not subject to the burdens and heightened obligations that apply to Market Makers.

*Intermarket Competition.* The Exchange operates in a highly competitive market in which market participants can readily favor one of the 17 other competing option exchanges if they deem fee levels at a particular venue to be excessive.

In such an environment, the Exchange must continually adjust its fees and credits to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.<sup>21</sup> Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in October 2025, the Exchange had 10.09% market share of executed volume of multiply-listed equity and ETF options trades.<sup>22</sup>

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

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>23</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>24</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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

<sup>21</sup> The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics>.

<sup>22</sup> Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.*, the Exchange's market share in multiply-listed equity and ETF options decreased from 12.55% in October 2024 to 10.09% for the month of October 2025.

<sup>23</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>24</sup> 17 CFR 240.19b-4(f)(2).

investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>25</sup> of the Act to determine whether the proposed rule change 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-NYSEARCA-2025-83 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-NYSEARCA-2025-83. 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-NYSEARCA-2025-83 and should be submitted on or before December 31, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

**Sherry R. Haywood,**  
Assistant Secretary.

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<sup>25</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>26</sup> 17 CFR 200.30-3(a)(12).

<sup>20</sup> See Reg NMS Adopting Release, *supra* note 15, at 37499.