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VIA ELECTRONIC SUBMISSION

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Proposed Rescission of the Trade-Through Rule and the Locked and Crossed Markets Provisions of Regulation NMS (Release No. 34-105655; File No. S7-2026-20; RIN 3235-AN50)

Dear Ms. Countryman:

The Long-Term Stock Exchange, Inc. ("LTSE") respectfully submits these comments on the proposal by U.S. Securities and Exchange Commission (the "Commission" or the "SEC") to rescind Rule 611 (the Order Protection Rule, or "OPR") and Rule 610(e) (the locked and crossed markets provision) of Regulation NMS ("Reg NMS"), together with related defined terms in Rule 600(b) and certain conforming amendments (the "Proposal").[1] LTSE is a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934 (the "Act" or "Exchange Act"). LTSE takes no position on the proposed rescission of Rule 610(e), and these comments are directed to Rule 611.

While LTSE appreciates the Commission's objectives of reducing unnecessary market complexity and fostering competition where legacy regulations are no longer necessary, we respectfully submit that rescinding Rule 611 is neither warranted nor consistent with the Commission's statutory obligations. As discussed below, Rule 611 remains essential to investor protection, and its bright-line protections cannot be adequately replaced by subjective best-execution obligations. Removing trade-through protections would disincentivize the display of limit orders, directly undermining public price discovery and the core mandates of Exchange Act Section 11A.

Furthermore, the Proposal rests on unsubstantiated assumptions regarding exchange proliferation and the costs associated with intermarket connectivity. The Commission has not established an adequate empirical basis for concluding that rescinding Rule 611 would produce

1 *See* Securities Exchange Act Release No. 105655, 91 FR 36656 (June 17, 2026) (S7-2026-20).

the anticipated benefits without undermining inter-exchange competition and public price discovery. Separately, as discussed below, the Proposal does not satisfy the Commission's obligations under Section 23(a)(2) because it would impose costs on competition and market participants without adequately demonstrating that those costs are necessary or appropriate in furtherance of the Exchange Act. LTSE therefore urges the Commission to reconsider the proposed full rescission and instead pursue targeted modernizations—such as appropriate block-trade exemptions—that address identified concerns while preserving Rule 611's core protections.

LTSE also responds to the Commission's request for comment on the SIP revenue allocation formula and urges the Commission to reject proposals that would devalue quoting activity or exclude smaller exchanges from the National Best Bid and Offer (the "NBBO"), measures that would degrade public price discovery without reducing market data costs for the industry.

I. The Commission Should Not Rescind Rule 611

In adopting Rule 611, the Commission designed intermarket price protection to advance two objectives that remain central to the national market system: encouraging the display of non-marketable limit orders, which enhances price discovery, liquidity, and market depth; and reducing the incidence of investor market orders and marketable limit orders being executed at prices inferior to displayed, accessible quotations.[2]

The Proposal's threshold argument is that modern equity market interconnection has rendered the 2005-era linkage rationale obsolete.[3] Even accepted on its own terms, that premise only addresses one of the rule's justifications. Improved connectivity may make superior prices easier to reach, but it does nothing to preserve the incentive to display the limit orders that establish those prices in the first place – and it is that incentive, rather than the mechanics of reaching a displayed quotation, that Rule 611 was principally designed to protect. Enhanced linkages have made compliance with Rule 611 easier, not unnecessary. The distinction matters because the decision to post a displayed limit order depends on the assurance that the order will not be bypassed by an execution at an inferior price.

The Proposal's remaining premises are empirical, and each is unsupported: first, that existing best-execution obligations provide an adequate substitute for Rule 611's intermarket trade-through protections; second, that the OPR caused the proliferation of national securities exchanges; and third, that the OPR has materially increased exchange-connectivity costs and market complexity for trading participants. As discussed below, the available evidence does not support these premises, and the Proposal does not adequately explain how rescinding Rule 611 would address the concerns identified by the Commission.

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2 *See* Securities Exchange Act Release No. 51808, 70 FR 37496, 37511, 37517 (June 29, 2005) (S7-10-04) ("Reg NMS Adopting Release").

3 Proposal at 36657.

A. The best-execution framework lacks the necessary rigor to replace Rule 611 and would need to be substantially fortified to prioritize price before Rule 611 could be safely withdrawn.

The Commission asserts that, given the "highly automated and interconnected nature of our equity markets today, Rule 611 is not needed to backstop a broker's duty of best execution to seek the most favorable terms for customer orders reasonably available under the circumstances."[4] But Rule 611 and best execution serve different regulatory functions and do not deliver the same results. Rule 611 establishes an objective, *ex ante* market-structure requirement that protects superior displayed quotations across trading venues. By contrast, best execution is a principles-based obligation applied retrospectively (*ex post*) that depends on broker judgment and does not require an order to be routed to the venue displaying the best price.

Under FINRA Rule 5310, members must exercise "reasonable diligence" to obtain a price "as favorable as possible under prevailing market conditions," while considering a range of factors bearing on execution quality.[5] The rule therefore permits broker-dealers to weigh price against other considerations, including execution speed, likelihood of execution, transaction size, and accessibility. It therefore does not impose Rule 611's order-level protection against trading through superior displayed quotations. The Commission has not demonstrated that these materially different obligations will produce equivalent protections.

This distinction is particularly important because displayed quotations are central to price discovery. In adopting Reg NMS, the Commission described publicly displayed, automated limit orders as "the most transparent and accessible source of liquidity in the equity markets."[6] Rule 611 therefore protects not only investors from inferior executions, but also the displayed market on which competitive price discovery depends.

The Commission's own recent regulatory history further undermines its reliance on best execution as a substitute for Rule 611After proposing Regulation Best Execution in 2022[7], which would have marked the first Commission-level best execution rule, the Commission withdrew the proposal in 2025.[8] The prevailing framework therefore remains principally grounded in FINRA Rule 5310, an industry-standard rule that the Commission now suggests can fill the void left by intermarket price protections. The Proposal fails to demonstrate that replacing mandatory intermarket quote protection with best-execution obligations will produce equivalent incentives, execution outcomes, or investor protection. Absent such analysis, the Commission has not

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4 Proposal at 36657.

5 *See* FINRA Rule 5310(a)(1) and Supplementary Material .09.

6 *See* Reg NMS Adopting Release, *supra* note 2, at 37517.

7 *See* Securities Exchange Act Release No. 96496 (Dec. 14, 2022), 88 FR 5440 (Jan. 27, 2023).

8 *See* Securities Exchange Act Release No. 103247 (June 12, 2025), 90 FR 25531 (June 15, 2025).

established that best execution is an adequate substitute for the concrete price protections afforded to investors by the current regulatory regime.[9]

LTSE urges the Commission to retain intermarket price protections until best execution rules and guidance are updated to mandate prioritizing the best available displayed prices. That strengthening should be a condition precedent to rescission of the OPR. Without this prerequisite, the Proposal would replace an objective, *ex-ante* price-protection mandate with a substantially more flexible diligence standard that permits bypassing superior prices without demonstrating that the two regimes will provide equivalent protections to investors or equivalent incentives for exchanges to compete through displayed liquidity. Such a shift would likely consolidate order flow toward dominant venues, effectively re-establishing the competitive advantages of incumbency through the very regulatory ambiguity the Commission aims to eliminate, thereby directly undermining a core goal of the Exchange Act as discussed below.

B. The OPR is not the catalyst for exchange proliferation; moreover, the Commission has not articulated why it focuses on exchange counts when the number of Alternative Trading Systems has expanded more significantly.

The assertion that OPR has led to exchange proliferation has been repeated so often that some treat it as an established fact. LTSE has tested this proposition and remains unconvinced. The Proposal asserts that "Rule 611 has distorted incentives in the U.S. equity markets by providing new exchanges with protected quotation status at their inception, essentially guaranteeing that market participants must connect to them and subscribe to their market data feeds and this has led to a proliferation of exchanges."[10] LTSE does not dispute that exchanges can derive nontrivial revenue from the market data associated with their protected quotes. But the Commission has not provided evidence that new exchanges have been established *primarily for the purpose of* generating such market data revenue. LTSE submits that the growth in exchange platforms in the last 20 years is better understood as a product of market innovation and competition, precisely the forces that Congress sought to foster, rather than as a consequence of regulatory arbitrage or opportunity.

The new exchanges launched since the Reg NMS reforms of 2005 generally follow one of two paths: (1) existing electronic communication networks ("ECNs") that transitioned to exchange status, and (2) newly established trading platforms. There is no evidence that venues following the first path transitioned to exchange status for the purpose of collecting SIP revenue from protected quotes. For example, consider two such exchanges: Cboe EDGA Exchange, Inc. ("EDGA") and Cboe EDGX Exchange, Inc. ("EDGX"). These venues originated as ECNs operated by Direct Edge, which was later acquired by BATS Global Markets, Inc. ("BATS Global Markets") in 2014 and subsequently acquired by Cboe Holdings, Inc. in 2017. When Direct

[9] FINRA is currently reviewing its best execution guidance as part of its FINRA Forward rule modernization. *See* Fin. Indus. Regul. Auth., Regulatory Notice 26-15, Request for Comment on Proposed Amendments to FINRA Rule 5310 (Best Execution and Interpositioning) (July 2026), available at: https://www.finra.org/sites/default/files/2026-07/Regulatory-Notice-26-15.pdf.

[10] Proposal at 36666.

Edge announced its transition from ECN to exchange status in 2010, its CEO asserted that, "as well as improving technology and ability to launch new products, the migration to exchange status would also allow the firm to reduce clearing fees by using NSCC."[11] In another example, BATS Global Markets launched its second exchange, Cboe BYX Exchange, Inc. ("BYX"), to offer differentiated "inverted" pricing from Cboe BZX Exchange, Inc. ("BZX").[12]

Six new exchanges launched since 2005 followed the second path: LTSE; MIAX PEARL, LLC ("MIAX Pearl"); MEMX LLC ("MEMX"), 24X Exchange, LLC ("24X"); Texas Stock Exchange, LLC; and Green Impact Exchange, LLC. LTSE was the first of these venues, announced *eleven* years after Reg NMS, and was established to create a public market designed for trading the stocks of companies organized to sustain long-term thinking.[13] MEMX announced in 2019 its intention to create the first member-owned exchange, with a commitment to "represent the interests of its founders' collective client base, comprised of retail and institutional investors on U.S. market structure issues."[14] The other newly established exchanges likewise launched with differentiated missions and business models unrelated to collecting SIP revenue from protected quotes. These examples provide no evidentiary basis for the Commission's assertion that protected quotation status has driven the formation of new exchanges.

Since the passage of OPR under Reg NMS, the number of U.S. stock exchanges grew from 8 (plus Nasdaq) to 18. During that same time, the number of Alternative Trading Systems ("ATSs") grew from 32 in 2005, to 67 in Jan 2009,[15] to 81 in June 2026.[16] As the SEC notes, "Rule 611 effectively lowered barriers to entry for exchanges by giving all exchanges, no matter their trading volume or other competitive distinctions, an opportunity to display a protected quotation, and thus avail themselves of guaranteed market data and connectivity revenue as market participants are effectively required to connect, directly or indirectly, to their markets."[17] LTSE

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11 *See Direct Edge Completes Exchange Transition*, The TRADE (July 21, 2010), available at: https://www.thetradenews.com/direct-edge-completes-exchange-transition/.

12 *See* BATS Global Markets, *BATS Goes Live With Second US Equities Exchange, BYX* (press release) (Oct. 15, 2010), available at: Cboe press release PDF**.**

13 *See* Eric Ries, *The Long-Term Stock Exchange Opens for Business*, Long-Term Stock Exchange (Sept. 9, 2020), available at: https://ltse.com/insights/the-long-term-stock-exchange-opens-for-business.

14 Members Exchange, *Announcement: Introducing MEMX* (Jan. 7, 2019), available at: https://memx.com/insights/introducing-memx.

15 *See* U.S. Sec. & Exch. Comm'n, *Alternative Trading System (ATS) List* (Jan. 30, 2009), available at: https://www.sec.gov/files/data/frequently-requested-foia-documentalternative-trading-system-ats-list/atslist0109.pdf.

16 *See* U.S. Sec. & Exch. Comm'n, *Alternative Trading System (ATS) List* (June 30, 2026), available at: https://www.sec.gov/files/data/alternative-trading-system-ats-list/atslist063026.pdf.

17 Proposal at 36666. Importantly, lowering the barriers for entry advances the purposes of the Exchange Act, and specifically Section 11A(a)(1)(C)(ii). *See infra* at note 44.

does not suggest that OPR is the cause of ATS proliferation because ATSs lack the cited revenue opportunity. And yet only one ATS launched since 2005 eventually transitioned to an exchange (Investors Exchange LLC). If OPR created new opportunities for trading platforms to collect SIP revenue, why have so few ATSs capitalized on this opportunity? Perhaps ATS operators find it more profitable to run dark pools (foregoing SIP market data revenue) which, while not contributing to price discovery via displayed quotes, often trade at prices reflected in the displayed quotes published by exchanges.[18] The Commission is concerned about fragmented trading and draws a connection to the increased number of exchanges and ATSs. Yet the Commission seems focused solely on fixing "exchange proliferation" while largely overlooking "ATS proliferation," despite exchanges contributing more public pricing information and ATSs now executing more than half of industry share volume.[19]

C. OPR does not require participants to connect to all exchanges, and the Proposal has not demonstrated that rescinding Rule 611 would reduce connectivity costs.

LTSE questions whether the focus on exchange proliferation rather than ATS proliferation rests on an unsupported assumption that Rule 611 requires all market participants to establish connections to all exchanges. It plainly does not. The SEC's own research shows that most broker-dealers do not connect to every exchange, and many do not connect directly to any exchanges. According to a presentation by the Staff of the Division of Trading and Markets at the Commission's first Trade-Through Prohibitions Roundtable, 68% of the 1,124 broker-dealers that trade NMS stocks had outsourced their execution functions to other broker-dealers, substantially reducing or eliminating the costs associated with complying with Rule 611.[20] Of the remaining 362 broker-dealers that had not outsourced their execution functions, approximately 40% traded exclusively on off-exchange venues.[21] Those firms likewise would not be expected to incur the connectivity costs associated with accessing every national securities exchange to comply with Rule 611. Of the remaining 223 broker-dealers that traded on exchanges, only 22 traded on all 16 national securities exchanges.[22] <u>Accordingly, fewer than 2% of the 1,124 broker-dealers that traded NMS stocks connected to every exchange. Moreover, more than 90% of broker-dealers trading on exchanges complied with Rule 611 without maintaining connectivity to every exchange</u>.

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18 *See* Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3594, 3612 (Jan. 21, 2010) (S7–02–10) ("Concept Release on Equity Market Structure").

19 *See* Proposal at 36659 (noting off-exchange trading now "regularly exceed[s] 50% of overall volume").

20 *See* U.S. Sec. & Exch. Comm'n, *Roundtable on Trade-Through Prohibitions: Transcript* 22-23 (Sept. 18, 2025), available at: https://www.sec.gov/files/Trade_Through_Prohibitions_Roundtable_Transcript.pdf (hereinafter "first OPR roundtable") (statement of Dan Mathisson on behalf of the Division of Trading and Markets) ("Outsourcing execution reduces or eliminates the cost of complying with Rule 611.").

21 *Id.*

22 *Id.*

The Commission's own data therefore contradict its apparent premise that Rule 611 imposes widespread exchange-connectivity costs on broker-dealers.[23] Instead, the record indicates that only a very small fraction of broker-dealers incurs the expense of connecting to every exchange, while the overwhelming majority satisfy their Rule 611 obligations through outsourced execution, limited exchange connectivity, or off-exchange trading. The Commission has not demonstrated that exchange connectivity costs constitute an unwarranted systemic burden justifying regulatory intervention. Nor has it explained how rescinding Rule 611 would reduce those costs for the overwhelming majority of broker-dealers that already comply without maintaining connectivity to every national securities exchange.

Further, the Proposal asserts that a firm's commercial and competitive incentives should result in the firm routing orders to execute against the best price at an away market when consistent with the duty of best execution, rather than being required to do so by Rule 611. How can both premises be true—that rescinding OPR will result in fewer exchange connections, while best-execution obligations will require firms to route to exchanges with the best prices?

Regarding the cost of connecting to all 16 exchanges, the Proposal references an OPR roundtable participant who estimated that the increased costs to the industry as a whole for connectivity, market data, and options regulatory fees associated with small venues, i.e., equity venues with less than 2% market share and options venues with less than 4% market share, are approximately $375 million annually.[24] LTSE disputes this estimate as it relates to equities exchanges and believes that a substantial portion of these costs likely relate to options exchanges. LTSE analyzed the membership and connectivity costs associated with the 10 equity exchanges with less than 2% market share (see Appendix). Our analysis excludes market data fees because the majority of trading firms subscribe to the SIP feeds, and receiving quote data from these smaller exchanges through the SIP does not impose an incremental market data cost. Based on this analysis, LTSE estimates the annual connectivity and membership costs associated with these 10 exchanges in aggregate at approximately $1 million per trading firm. Across the industry, this amounts to approximately $22 million for the 22 broker-dealers that connect to all exchanges. Of course, that expense is effectively shared with the 762 broker-dealers who outsource their execution functions to those broker-dealers.

The Proposal also asserts that rescinding Rule 611 would reduce the structural complexity that has characterized the U.S. equity markets since its adoption in 2005, thereby lowering costs for market participants while fostering innovation and competition.[25] The Commission further contends that rescinding Rules 611 and 610(e) would reduce the prevalence of order types

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23 *See* Proposal at 36666, text accompanying n.142.

24 *See* Proposal at 36666, n. 140 (citing representative of Citadel Securities).

25 *See* Proposal at 36657.

designed to avoid locking or crossing quotations, thereby simplifying market structure.[26] LTSE respectfully disagrees with these anticipated outcomes.

First, the vast majority of order types have nothing to do with OPR or locked and crossed markets. To test the Proposal's premise, LTSE reviewed the order-type rules of three exchanges spanning the range of complexity in the industry, i.e., LTSE, BZX, and NYSE Arca, Inc. ("Arca"), and classified an order type as attributable to Rules 611 and 610(e) only where it would serve no function absent those rules. At each exchange, exactly two order types qualify: the Intermarket Sweep Order, which operationalizes the exceptions to the Rule 611 trade-through prohibition, and a single locked-and-crossed mechanism that prevents a displayed order from locking or crossing a protected quotation under Rule 610(e).[27] This result is consistent regardless of the number of order types: two of 14 enumerated order types on LTSE, two of approximately 22 on BZX, and two of approximately 25 on Arca. All other order types and modifiers, including reserve, non-displayed, midpoint, pegged, add-liquidity-only, discretionary, auction-only, and time-in-force instructions, serve commercial functions independent of intermarket price protection and would remain fully functional if Rules 611 and 610(e) were repealed tomorrow.

Two points follow. First, if Rules 611 and 610(e) were the principal drivers of order-type complexity, as the Proposal contends, one would expect the number of rule-driven order types to increase with the size and sophistication of each exchange's menu. It does not: the count is fixed at two, whether an exchange offers 14 order types or 25. Second, these two regulatory mechanisms are implemented differently across exchanges: LTSE and BZX reprice orders through display-price sliding while Arca routes orders to other markets. This variation confirms that the rules address two discrete regulatory functions, rather than generating the proliferation of order types described in the Proposal. In reality, the growth in order types over the last two decades reflects competitive innovation, as exchanges have introduced new order types to accommodate specific trading strategies and business models. By contrast, the Proposal asserts that these rules drove order-type proliferation without identifying a single order type attributable to that proliferation or quantifying the claimed effect. Rescinding Rules 611 and 610(e) would retire two well-understood order types; it would not meaningfully simplify the order landscape because the overwhelming majority of order types exist for reasons that have nothing to do with the rules the Commission proposes to rescind.

II. <u>The SIP Revenue Allocation Formula is not broken and should not be used as a tool to reduce the number of exchanges</u>

The Proposal requests feedback on the SIP Revenue Allocation Formula ("RAF"). It notes that

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26 *See* Proposal at 36665, n. 124 (citing commenters that assert "this increase in order types *stems directly from Rule 611*" and 610(e) among other regulatory requirements (*emphasis added*)).

27 Counts reflect each separately enumerated order type, modifier, and time-in-force instruction in LTSE Rule 11.190, BZX Rule 11.9, and NYSE Arca Rule 7.31. The BZX and Arca totals are approximate; the point holds under any reasonable counting convention.

some commenters have criticized the formula's quoting component, arguing that it has contributed to exchange proliferation and subsidizes exchanges that quote but rarely trade, thereby providing minimal value to market participants. The Proposal also notes that certain members of the CT Plan LLC filed Amendment No. 3 to the CT Plan on June 2, 2026, proposing to impose a limit on the ratio of revenue distributed to each individual member that is attributable to its quoting activity relative to the revenue that such member receives.

When the Commission developed the RAF in 2005, it identified specific quoting and trading behaviors that the formula was intended to encourage–namely, rewarding market participants that contribute directly to public price discovery by displaying quotes at the NBBO.[28] None of the OPR-related criticisms of the RAF challenge those core statutory objectives. Instead critics rely on two novel and economically flawed premises: first, that quotations that do not result in executed trades contribute nothing to price discovery; and second, that NBBO-setting quotations displayed on small or non-dominant exchanges do not contribute to price discovery. Both premises fundamentally misapprehend the mechanics of equity price formation. Displayed quotations, regardless of whether they result in an immediate execution or where they reside, establish the lower and upper bounds of prevailing market value, constrain bid-ask spreads, and serve as the pricing baseline for off-exchange and dark execution venues. By discounting unexecuted limit orders and quotes posted on emerging or non-dominant venues, the Commission disregards the structural function that displayed liquidity plays in price discovery and directly undermines the mandates of Exchange Act Section 11A.

Amendment No. 3 to the CT Plan states that "quotes are useful for price discovery because they represent offers to trade at displayed prices. When quoting activity ceases to bear a meaningful relationship to trading, however, it becomes less useful for price discovery and more likely to be associated with gaming activity that distorts market data...."[29]

LTSE disputes both the unsupported claim that quoting without trading is indicative of gaming activity and the premise that such quoting contributes less meaningfully to price discovery. There are numerous legitimate, structural reasons why displaying quotes may not yield a proportional volume of executed trades. First, no statutory or regulatory rule guarantees that the venue that first establishes a new NBBO will receive the resulting execution. An exchange may frequently set or narrow the NBBO without receiving an execution simply because competing venues quickly update their quotes or match the price off-exchange. Second, modern smart order routers (SORs) often incorporate routing logic that favor dominant, highly liquid venues or primary listing exchanges, regardless of which venue first displayed the superior price. Third, many SORs prioritize routing to venues displaying the largest quoted size to minimize transaction costs for large orders. Consequently, the absence of an immediate execution on a price-setting venue reflects automated routing preferences and market structure dynamics—not

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28 *See* Securities Exchange Act Release No. 105680 (June 12, 2026), 91 FR 36634, 36635 (June 17, 2026) (File No. 4-757) (Notice of Filing of the Third Amendment to the Limited Liability Company Agreement of CT Plan LLC to Adopt Revenue Allocation Formula Revisions).

29 *Id.*

low-quality or "gaming" quotes. The clearest illustration is an exchange that alone quotes at National Best Bid while the resulting trade executes at that price on an ATS: the exchange supplies the price and receives no execution, and the execution volume therefore measures none of what its quotation contributed.

When adopting Reg NMS, the SEC explicitly acknowledged that displayed quotations convey immense market value even when they do not immediately result in an executed trade. This principle is foundational to the design of the OPR. As the Commission emphasized in the Reg NMS Adopting Release, promoting price discovery and protecting displayed limit orders serve to "promote greater depth and liquidity for NMS stocks and thereby minimize investor transaction costs."[30] The Commission further explained that "displayed limit orders are a critically important element of efficient price discovery" because they establish real-time valuation and provide market transparency on a going forward basis by indicating the precise prices at which trades can be effected in the future.[31] By contrast, trade reports merely "look backward at the prices of trades that have already occurred, which may or may not be still available."[32] Discounting the value of unexecuted quotations displayed by non-dominant exchanges directly repudiates this foundational Commission finding, mistaking backward-looking execution volume for forward-looking price formation.

When the SEC revised the RAF in 2005 to increase the SIP revenue allocated to quoting activity from 0% to 50%, it similarly recognized that, in the prior formula, "quotations are accorded no value even if they were fully accessible and established the NBBO for a substantial period of time, thereby providing price discovery for trades occurring at other markets that internalize orders with reference to the NBBO price."[33]

Nearly every Proposal commenter, whether supporting or opposing rescission of OPR, has recognized the importance of maintaining and, ideally, strengthening the integrity of the NBBO. The NBBO's integrity is deeply and inextricably linked to the RAF, because the RAF rewards quotations that contribute to the NBBO.[34] That connection is important: the very quotations that

30 *See* Reg NMS Adopting Release, *supra* note 2, at 37510.

31 *Id.* at 37517.

32 *Id.*

33 *Id.* at 37563.

34 The NBBO is also foundational for measuring market quality. It seems nonsensical that the Commission would update its measures of order execution quality in 2024 (*see* Securities Exchange Act Release No. 99679 (Mar. 6, 2024), 89 FR 26428 (Apr. 15, 2024) (S7–29–22) (adopting amendments to Rule 605)) and only two years later degrade the NBBO, which anchors so many of the required reporting metrics. The following spread and midpoint calculations are based on the NBB, NBO, and/or NBBO: average quoted spread (17 CFR 242.600(b)(12)); average midpoint (17 CFR 242.600(b)(9)); average effective spread (17 CFR 242.600(b)(8)); average percentage effective spread (17 CFR 242.600(b)(10)); average realized spread (17 CFR 242.600(b)(13)); average percentage realized spread (17 CFR 242.600(b)(11)); effective over quoted spread. Additionally, the following quote comparison and price improvement metrics are calculated using the NBB or NBO: the cumulative number of shares executed at the quote (17

the Commission has historically recognized as contributing to price discovery, even when they do not themselves execute, are the quotations that the RAF is designed to reward.

Certain commenters have advocated a misguided approach to amending the RAF[35] that would devalue quotes by shifting SIP revenue allocation away from quotes and toward trading activity. This is a blunt mechanism that would produce negative consequences that LTSE hopes are unintended. First, it would affect all exchanges, not just small exchanges, which could lead them to reduce the scale of their various incentive programs designed to encourage NBBO quoting. That, in turn, could reduce the number of displayed quotations across exchanges, diminishing public price discovery. At the same time, the approach would increase the relative rewards allocated to ATSs, whose contribution to public price discovery is primarily through their executions rather than displayed quotations. Moreover, in thinly-traded stocks, the current displayed quote may be far more relevant to price discovery than a trade that occurred several days earlier. The proposed amendment to the RAF therefore risks harming investors while benefitting large, incumbent exchanges[36] and ATSs, by weakening NBBO integrity and eroding price discovery.

Another even more troubling suggestion, is to exclude small exchanges from the NBBO and from the SIP revenue allocation.[37] By design, excluding a subset of competitive quotations that set or match the NBBO suppresses the visibility of those quotations, removes material information from the public quotation stream, and deprives investors of actionable price information. Such an approach contradicts the Commission's stated commitment to preserving price discovery, as well as an explicit statutory mandate under Section 11A of the Exchange Act

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CFR 242.605(a)(1)(ii)(H)); for shares executed at the quote, the share-weighted average period from the time of order receipt to the time of order execution (the cumulative number of shares of covered orders executed outside the quote (17 CFR 242.605(a)(1)(ii)(I)); the cumulative number of shares of covered orders executed outside the quote (17 CFR 242.605(a)(1)(ii)(J)); for shares executed outside the quote, the share-weighted average amount per share that prices were outside the quote (17 CFR 242.605(a)(1)(ii)(K)); for shares executed outside the quote, the share-weighted average period from the time of order receipt (17 CFR 242.605(a)(1)(ii)(L)); for executions of covered orders, the percentage of shares executed at the quote or better (17 CFR 242.605(a)(2)(iv)); for executions of covered orders, the share-weighted average percentage price improvement, calculated using the cumulative amount that prices were executed outside the quote (17 CFR 242.605(a)(2)(vi)).

35 As one Citadel representative suggested, "one thing that we think could help along these lines is revisiting the split of the SIP revenue allocation between trades and quotes and shifting it more towards trading activity." First OPR roundtable, *supra* note 20, at 71. Similarly, a Hudson River Trading representative suggested that "one area that we could explore and should explore is if we want to reward displayed orders on markets that execute, we have a market data revenue sharing formula that currently just rewards those quotes." *Id.* at 179.

36 If SIP revenue is re-allocated from quotes to trades, then exchanges who trade the most get the largest rewards.

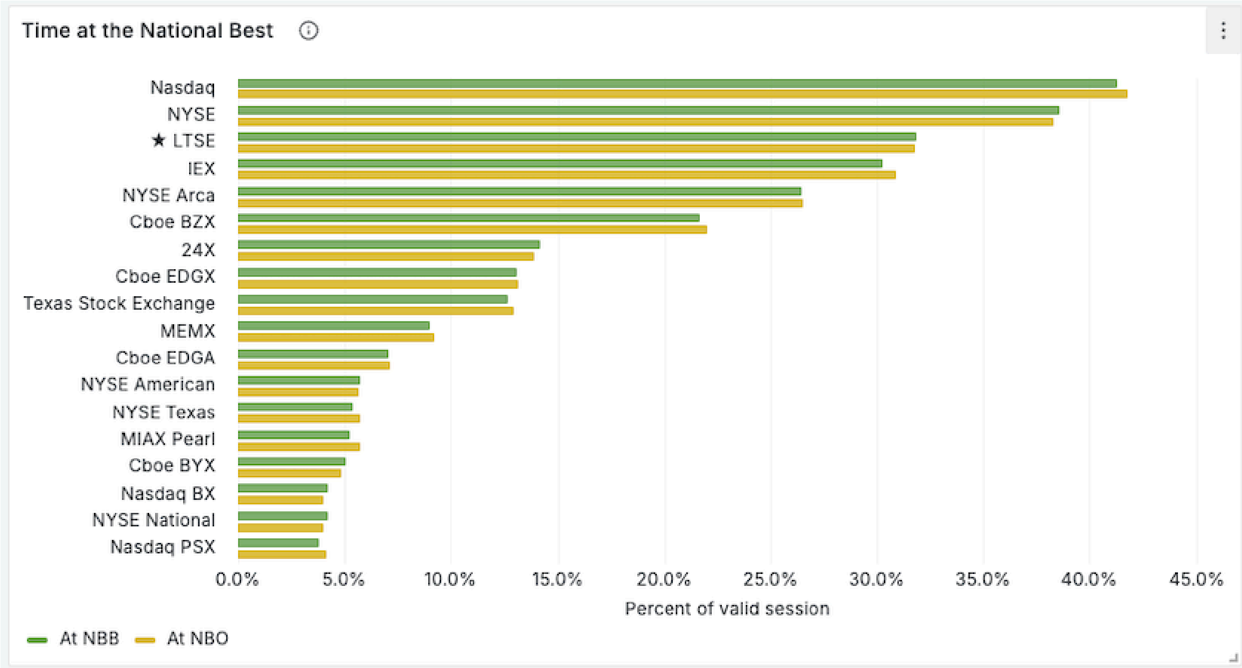
37 As one Citadel representative suggested, "[a]nother change could be introducing a minimum volume threshold before participating in SIP revenue." First OPR roundtable, *supra* note 20, at 71).

to facilitate the availability of information with respect to quotations and transactions to investors.

This approach also overlooks the security-specific nature of price discovery. Market-share rankings vary substantially from security to security. An exchange with a small aggregate market share may nevertheless establish the NBBO in a particular security. There is no principled basis for affording that exchange's quotation less visibility or compensation merely because the exchange has a small share of overall market volume. Doing so would effectively condition the value of a quotation on the size of the venue displaying it, rather than on the information the quotation provides to the market.

Those who argue that small exchanges, as defined by market share, are a detriment to U.S. market structure conflate trading activity with quoting activity and improperly reduce an exchange's role to a singular measure. A small exchange may simply quote a smaller subset of securities than a large exchange, but within those securities the small exchange may be a significant contributor to the NBBO. Evaluating market share across all symbols, as volume-threshold arguments do, disproportionately lowers the measured market shares of exchanges that focus on a smaller subset of securities. It also provides an outsized benefit to primary listing exchanges, which capture significant trading volume through their monopolistic operation of opening and closing auctions. To illustrate why aggregate market share is a poor proxy for an exchange's contribution to price discovery, LTSE analyzed approximately 400 securities in which LTSE is consistently at the NBBO for a significant portion of the trading day.[38] The chart below ranks each exchange by the amount of time it spent at the NBBO during the regular trading session from May 1 - August 3, 2026, across those approximately 400 securities.

[38] Other exchanges could produce comparable results for the securities on which their quoting is concentrated. That is the point: overall market share obscures security-level contributions to price discovery.



Note that LTSE is the third-largest contributor to the NBBO, and even the largest exchanges (Nasdaq and NYSE) were at the NBBO for less than half the regular trading session, on average. If LTSE's quotations were excluded from the NBBO because of its overall market share, investors and the issuers of these securities would have been harmed. Given LTSE's contributions to price discovery, excluding LTSE and other small exchanges from SIP revenue would be inequitable.

Further, this approach is impossible to reconcile with the Congressional directive that the Commission assure fair competition among exchanges. The overtly anti-competitive suggested changes to the RAF combined with the negative effects of the Proposal risk stifling intermarket competition.[39] LTSE urges the Commission to reject any initiative that would effectively select winners and losers among trading venues.

Lastly, commenters have repeatedly raised concerns about the cost of consolidated market data to subscribers.[40] Amending the RAF would not reduce overall market data costs for the industry, as many have long demanded. Rather, it would simply redistribute market data revenue among venues, reducing the allocation to venues that do not meet an arbitrary quote-to-trade

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39 LTSE would be especially concerned if a goal of reducing market data revenue to small exchanges is to force them to shutter. That is well beyond the SEC's mandate and the authority granted to the agency by Congress.

40 *See, e.g.*, Letter from Ellen Greene, Managing Dir., SIFMA, to Vanessa A. Countryman, Secretary, SEC, re: File No. 4-757 (Feb. 5, 2024); Letter from Kristina V. DePardo, Senior Vice President, Fidelity Brokerage Services LLC, to Vanessa A. Countryman, Secretary, SEC, re: File No. 4-757 (May 14, 2024) (raising explicit concerns regarding the cumulative cost burden of market data fees on retail and institutional subscribers).

ratio—again choosing winners and losers. The winners of this approach would not be investors, but rather ATSs that do not contribute displayed quotations and larger incumbent exchanges that already receive proportionally greater rewards for their contributions to price discovery through both quoting and trading. The losers will be investors and small exchanges. LTSE does not believe it is appropriate or warranted to amend the RAF as various commenters have suggested.

III. <u>The Proposal is prohibited under Section 23(a)(2) of the Act because it does not demonstrate that its competitive burdens are necessary or appropriate to further the purposes of Section 11A of the Act</u>

Section 23(a)(2) of the Exchange Act expressly limits the Commission's rulemaking authority by providing that the Commission "shall not adopt any rule or regulation which would impose a burden on competition not necessary or appropriate in furtherance of the purposes of this chapter."[41] Unlike Section 3(f) of the Act,[42] which directs the Commission to consider whether its actions will promote efficiency, competition, and capital formation, Section 23(a)(2) affirmatively prohibits the Commission from adopting rules that impose unnecessary or inappropriate burdens on competition. It is not enough for the Commission simply to recognize that a proposed rule will affect competition; it must demonstrate that any resulting burden on competition is necessary or appropriate to further the purposes of the Exchange Act.

The relevant statutory purposes are set forth in Section 11A of the Act.[43] Congress directed the Commission to facilitate a national market system that promotes economically efficient execution of securities transactions, fair competition among brokers, dealers, and exchange markets, the broad availability of quotation information, and the execution of investor orders in the best market. Rule 611 has long served as a principal mechanism for advancing those objectives by protecting the best displayed quotations and encouraging trading centers to compete by displaying their best prices. Importantly, nothing in Section 11A authorizes the Commission to restructure the competitive landscape by weakening one class of national securities exchanges to benefit another. Quite the opposite: Congress specifically directed the Commission to foster competition among trading centers and among national securities exchanges,[44] not to pick winners and losers by determining which competitors should remain competitively viable.

Although it identifies compliance and routing costs associated with Rule 611, the Proposal does not establish that eliminating mandatory intermarket price protection will improve execution

41 15 U.S.C. § 78w(a)(2).

42 15 U.S.C. § 78c(f).

43 15 U.S.C. § 78k-1(a)(1)(C).

44 Section 11A(a)(1)(C)(ii) provides in pertinent part: "[i]t is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among…exchange markets…."

quality, strengthen competition, enhance quotation transparency, or otherwise advance the purposes of Section 11A. Nor does it adequately evaluate whether rescission would weaken incentives to display competitive quotations, impair price discovery, increase retail order internalization, shift trading toward undisplayed liquidity, or alter competition among exchanges, between exchanges and wholesalers, and between exchanges and ATSs. These are not peripheral considerations; they go to the core of the National Market System that Congress directed the Commission to promote.

More fundamentally, the Commission has failed to establish a sufficient basis for rescission. It identifies no market failure, structural deficiency, or deterioration in market quality requiring regulatory intervention.[45] Instead, it proposes to eliminate a foundational component of Reg NMS even though U.S. equity markets continue to exhibit deep liquidity, narrow spreads, robust competition among trading venues, and efficient price formation.[46] Section 23(a)(2) does not permit the Commission to impose burdens on competition merely because it believes an alternative market structure might produce incremental efficiencies. Where the existing market structure is functioning effectively, the Commission must explain why the competitive burdens imposed by rescission are necessary to further the purposes Congress identified in Section 11A. The Proposal does not make that showing.

Rescinding Rule 611 would undercut key Congressional objectives identified in Section 11A of the Act. Indeed, the Proposal itself predicts significant burdens on competition. It anticipates that broker-dealers will reduce connectivity to smaller independent exchanges, causing those exchanges to lose transaction volume, market-data revenues, and competitive significance.[47] At the same time, the Proposal acknowledges that rescission may increase order internalization and shift competitive advantage toward large wholesalers and dominant trading venues. In other

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45 This is contrary to Chairman Atkins' admonition that, before acting, the Commission "first must identify a problem to be solved and propose a resolution that is tailored to solve it—rather than create a solution in search of an unidentified problem." Remarks at the 12th Annual Conference on Financial Market Regulation, Chairman Paul S. Atkins (May 16, 2025) ("Chairman Atkins' May 2025 Speech"), available at: https://www.sec.gov/newsroom/speeches-statements/atkins-conference-financial-market-regulation-051625.

46 Members of the Commission and the staff have repeatedly declared the U.S. securities markets to be the envy of the world. *See*, *e.g.*, How We Howey, Commissioner Hester M. Peirce to the Securities Enforcement Forum (May 9, 2019), available at: https://www.sec.gov/newsroom/speeches-statements/peirce-how-we-howey-050919; Remarks at the Securities and Exchange Commission's 90th Anniversary Celebration, Commissioner Mark T. Uyeda (June 6, 2024), available at: https://www.sec.gov/newsroom/speeches-statements/uyeda-remarks-90thsec-060624; Remarks at the Investor Advisory Committee Meeting, Chairman Paul S. Atkins (Dec. 4, 2025), available at: https://www.sec.gov/newsroom/speeches-statements/atkins-remarks-iac-120425; transcript of the Commission's Roundtable on Trade-Through Prohibitions (Sept. 18, 2025) at 18 (Division of Trading and Markets Director Jamie Selway: "We look forward to hearing everyone's views on how to ensure our markets remain the envy of the world, for the benefit of the great, amorphous, myriad-minded investing public").

47 *See* Proposal at 36680–82.

words, the Proposal would not merely alter market structure; it would redistribute competitive advantages by disadvantaging smaller registered exchanges while benefiting larger incumbents. It chooses winners and losers. Yet the Commission offers no meaningful justification for these competitive burdens. Instead, it relies principally on anticipated reductions in connectivity and compliance costs. Those projected benefits, however, are uncertain. As the Proposal notes, Citadel Securities questioned whether meaningful connectivity and market-data savings would materialize given continuing best-execution obligations and the practical need to maintain broad market connectivity.[48] If the Proposal's principal economic justification is disputed by the very market participants expected to realize those efficiencies, the Commission has not adequately demonstrated that the acknowledged burdens on competition are necessary or appropriate for purposes of Section 23(a)(2) of the Act.

Section 23(a)(2) requires more than an acknowledgment that some market participants will lose while others gain. It requires the Commission to justify why imposing those competitive burdens is necessary or appropriate to further the purposes Congress established in Section 11A of the Act.[49] The Proposal fails to meet this burden. Because it lacks both a demonstration of necessity and evidence that its restructuring of competition furthers the objectives of the Exchange Act, the proposed rescission would exceed the Commission's authority under Section 23(a)(2) of the Act.

IV. LTSE's suggested alternatives to rescission

If the Commission is not persuaded to retain Rule 611, LTSE urges the following.

A. The Commission should modify the rules rather than rescind them.

The Commission's concerns can be addressed without eliminating intermarket price protection, and the Commission has itself identified narrower paths. LTSE recommends the following, which retain the rule's investor-protection and price-discovery functions while targeting the specific harms described by the Commission:

- **Adopt a large-order exemption rather than rescind.** The Proposal's most concrete investor-facing concern is that Rule 611 requires institutional orders to access small displayed quotations, signaling trading intentions. A large-order or block exception[50]

48 *See* Proposal at 36666, n. 140.

49 As discussed above, the Proposal would disincentivize the submission of displayed limit orders and thus decrease price information available to brokers, dealers, and investors, which is inconsistent with Section 11A(a)(1)(D) of the Exchange Act.

50 The minimum threshold for this limited ability to ignore a superior-priced quotation should be the New York Stock Exchange Rule ("NYSE") 72(d).10 block order definition size, i.e., a single order for at least 10,000 shares or a total market value of $200,000 or more. In the case where a block-sized parent order is executed with multiple child orders, the exemption should be allowed based only on each child order size. *See* NYSE Rule 72(d), available here: https://nyseguide.srorules.com/rules/09013e2c8553e7a.

meets that concern directly—relieving large orders of the obligation to sweep small protected quotations—while preserving order protection for the retail-sized orders that benefit from it most. This is a targeted response where rescission is a blunt one.

- **Address the identified harms at their source.** Compliance with Rules 610 and 611 can be achieved using only a limited set of order types. To the extent that proliferating exchange order types contribute to market complexity, the Commission should address those order types directly rather than by rescinding the Exchange Act rules.
- **Condition any modification on strengthened best execution.** For the reasons stated in Part I.A, any modification that reduces order protection should be preceded by a best-execution standard that makes the best displayed price the primary obligation.

B. The Commission should reject the volume-threshold alternative in all events.

One alternative in the Proposal should be rejected outright rather than refined. Under the volume-threshold alternative, only venues whose overall trading volume exceeds a fixed threshold would be entitled to display protected quotations, so that a number of registered exchanges would lose protection notwithstanding that they satisfy every other requirement of exchange registration. That is not deregulation but is re-regulation; it inappropriately picks winners and losers by preserving mandatory routing to the largest venues while withdrawing it from smaller and newer ones. Thus it converts a rule of general application into a codified competitive advantage allocated by incumbency, which as discussed above is inconsistent with the pro-competition goals of the Exchange Act.

The Commission's own analysis provides ample basis for rejection. The Commission itself admits that this alternative would raise barriers to entry; would make market participants more likely to disconnect from smaller, unprotected exchanges; and would require a newly qualifying exchange to operate without a protected quotation for a period after first meeting the threshold—during which it would have less ability to attract the very volume needed to keep meeting it.[51] Section 23(a)(2) prohibits the Commission from adopting the volume-threshold because it entrenches incumbents by design and squarely targets challengers, imposing exactly the type of burden on competition that Congress proscribed.

V. Conclusion

The developments in today's equity markets that the Commission has identified deserve careful consideration and may warrant modernization of aspects of Rule 611. The Commission has not demonstrated, however, that those developments justify wholesale rescission of one of the central structural protections of Reg NMS; it has not shown that Rule 611 no longer serves the investor-protection and price discovery functions for which it was adopted, and its cost-benefit case is undercut by its own record. The SIP revenue allocation formula is not broken, and proposals to devalue quoting activity or to exclude smaller exchanges from the NBBO would

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[51] *See* Proposal at 36721.

degrade price discovery without lowering the cost of consolidated market data for a single subscriber.

LTSE respectfully suggests that the Commission follow the guidance of Chairman Atkins: "[i]n choosing when and how to regulate our markets we should be cognizant to measure twice and cut once. Otherwise, we risk damaging our markets and unnecessarily adding costs to issuers and investors."[52] Rescinding the rules on this record is neither prudent nor consistent with the Exchange Act.

Other alternatives would be far less harmful: adopt a large-order exemption rather than rescind; address proliferating order types directly rather through the Exchange Act rules; strengthen the best-execution standard, and analyze the effects of those changes, before any aspect of order protection is withdrawn; and reject the volume-threshold alternative in all events.

LTSE appreciates the opportunity to comment and would welcome the opportunity to discuss these matters with the Commission and its staff. If you have any questions, please feel free to contact Melanie Grace, General Counsel & Corporate Secretary, at (415) 483-5357 or melanie.grace@ltse.com.

Respectfully submitted,

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[52] Chairman Atkins' May 2025 Speech, *supra* note 45.

Appendix

Membership and Connectivity costs associated with exchanges with less than 2% market share, June 2026:

Exchange	Connectivity: 10GB physical port	Membership	Total Annual Costs
Nasdaq Texas, LLC	$18,500/month	$4,000/year + $1,000/month	$238,500
Nasdaq PHLX LLC	$18,500/month	Free	$222,000
MIAX Pearl, LLC	$15,000/month	$550/month	$186,600
Cboe BYX Exchange, Inc.	$8,500/month	$2,500/year	$104,500
Cboe EDGA Exchange, Inc.	$8,500/month	$2,500/year	$104,500
Long-Term Stock Exchange, Inc.	$5,500/month	$10,000/year	$76,000
24X National Exchange, LLC	$5,700/month	$200/month	$70,800
NYSE Texas, Inc.	N/A (co-location costs are shared across NYSE exchanges)	$7,200/year	$7,200
NYSE American LLC	N/A (co-location costs are shared across NYSE exchanges)	Free	$0
NYSE National, Inc.	N/A (co-location costs are shared across NYSE exchanges)	Free	$0