

# SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104172]

## **Order Granting Temporary Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 and Rules 610(f) and 612(d) of Regulation NMS, from Compliance with Rule 600(b)(89)(i)(F), Rule 610(c), Rule 610(d) and Rule 612 of Regulation NMS, as Amended**

October 31, 2025.

### **I. Introduction**

On September 18, 2024, the Securities and Exchange Commission (“SEC” or “Commission”) adopted Regulation NMS: Minimum Pricing Increments, Access Fees and Transparency of Better Priced Orders,<sup>1</sup> which among other things: (1) amended Rule 612 of Regulation NMS to establish a minimum pricing increment of \$0.005 for bids, offers, orders and indications of interest that are priced equal to or greater than \$1.00 per share in certain NMS stocks;<sup>2</sup> (2) reduced the level of the access fee caps under Rule 610(c) of Regulation NMS to \$0.001 per share for protected quotations and other best bids and offers in NMS stocks priced at \$1.00 or more per share and 0.1 percent of the quotation price for protected quotations and other best bids and offers in NMS stocks priced less than \$1.00 per share,<sup>3</sup> and adopted Rule 610(d) of Regulation NMS<sup>4</sup> to require all exchange fees and rebates to be determinable at the time of

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<sup>1</sup> Securities Exchange Act Release No. 101070 (Sept. 18, 2024), 89 FR 81620 (Oct. 8, 2024) (“Adopting Release”).

<sup>2</sup> 17 CFR 242.612.

<sup>3</sup> 17 CFR 242.610(c).

<sup>4</sup> 17 CFR 242.610(d).

execution; and (3) accelerated the implementation of the round lot<sup>5</sup> and odd-lot information<sup>6</sup> definitions in Rule 600(b) of Regulation NMS and added information about the best odd-lot order to the definition of odd-lot information.<sup>7</sup>

The Commission adopted compliance dates for the amendments, setting the dates upon which the rules must be implemented. The specific compliance dates are:<sup>8</sup>

- Rules 600(b)(89)(i)(F)<sup>9</sup> and 612<sup>10</sup> (amended minimum pricing increment): The first business day of November 2025.
- Rules 600(b)(89)(iv),<sup>11</sup> 600(b)(93),<sup>12</sup> and 603(b)(3)<sup>13</sup> (with respect to the requirement that the effective national market system plans to disseminate consolidated information shall provide for the dissemination of all consolidated information for an individual NMS stock through an exclusive securities information processor (“SIP”), and that the exclusive SIPs must represent quotation sizes in such consolidated information in terms of the number of shares,

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<sup>5</sup> 17 CFR.242.600(b)(93).

<sup>6</sup> 17 CFR 242.600(b)(69).

<sup>7</sup> 17 CFR 242.600(b)(69)(iii).

<sup>8</sup> See Adopting Release, *supra* note 1 at 81679-81681.

<sup>9</sup> 17 CFR 242.600(b)(89)(i)(F).

<sup>10</sup> 17 CFR 242.612.

<sup>11</sup> 17 CFR 242.600(b)(89)(iv). Rule 600(b)(89)(iv) requires the primary listing exchanges to provide information required under Rule 600(b)(89)(i)(E) and (F) to the applicable plan processor for dissemination. The Adopting Release set the compliance date for the primary listing exchanges and applicable plan processors to comply with Rule 600(b)(89)(i)(E), which requires an indicator of the applicable round lot size, and Rule 600(b)(89)(i)(F), which requires an indicator of the applicable minimum pricing increment, on the first business day of November 2025. As discussed below, the Commission is providing temporary exemptive relief from the compliance date for Rule 600(b)(89)(i)(F) until the first business day of November 2026.

<sup>12</sup> 17 CFR 242.600(b)(93).

<sup>13</sup> 17 CFR 242.603(b)(3).

rounded down to the nearest multiple of a round lot): The first business day of November 2025.

- For Rule 610<sup>14</sup> (amended access fee caps and the requirement that all exchange fees and rebates be determinable at the time of execution): The first business day of November 2025.
- For Rules 600(b)(69)<sup>15</sup> and 603(b)(3)<sup>16</sup> (with respect to the requirement that every national securities exchange on which an NMS stock is traded and national securities association must make available to the exclusive SIP all data necessary to generate odd-lot information, and the collection, consolidation and dissemination of odd-lot information by the exclusive SIPs): The first business day of May 2026.

After the Commission issued the Adopting Release, between September 18, 2024 and October 30, 2024, petitions seeking review of certain of the amended rules were filed in the U.S. Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”).<sup>17</sup> In addition, certain petitioners filed a motion with the Commission to stay the effect of the amendments to Rules 610 and 612 of Regulation NMS pending resolution of their petition for review to the D.C. Circuit. On December 12, 2024, the Commission issued an order granting a partial stay of the effect of the amendments to Rules 600(b)(89)(i)(F), 610(c) and 612 pending the completion of judicial

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<sup>14</sup> 17 CFR 242.610.

<sup>15</sup> 17 CFR 242.600(b)(69).

<sup>16</sup> 17 CFR 242.603(b)(3).

<sup>17</sup> *We the Investors et al., v. SEC*, No. 24-1302 (D.C. Cir. Filed Sept. 18, 2024); *We the Investors et al., v. SEC*, No. 24-1303; (D.C. Cir. Filed Sept. 18, 2024); *We the Investors et al., v. SEC*, 24-1319 (D.C. Cir. Filed Oct. 8, 2024); *Cboe Global Markets., et al., v. SEC*, No. 24-1350 (D.C. Cir., filed Oct. 30, 2024). These actions were consolidated. *See Cboe Global Markets, Inc., et al v. SEC*, No. 24-1350 (D.C. Cir.) Doc. Nos. 2084891, 2086101.

review.<sup>18</sup> On October 14, 2025, the D.C. Circuit issued an opinion denying the petition for review.<sup>19</sup>

In light of the denial of the petition for review, and in anticipation of an end to the partial stay upon the completion of judicial review as well as concerns about the ability of market participants to comply with certain amendments by the dates set forth in the Adopting Release as discussed below, the Commission is granting temporary exemptive relief from the compliance dates for Rules 600(b)(89)(i)(F), 610 and 612. For the reasons discussed below, the temporary exemptive relief from the compliance dates will be until as follows:

- Rules 600(b)(89)(i)(F) and 612 implementing the amended minimum pricing increment: Until the first business day of November 2026.
- Rule 610(c) implementing the amended access fee caps: Until the first business day of November 2026.
- Rule 610(d) implementing the requirement that exchange fees be determinable at the time of execution: Until the first business day of February 2026.

The Commission is also providing temporary exemptive relief to the exchanges from the requirement to file proposed rule changes to amend any exchange rules to reflect the round lot definition in Rule 600(b)(93) of Regulation NMS<sup>20</sup> until 30 calendar days following the end of the lapse in appropriations as discussed below.

## **II. Discussion and Temporary Exemptive Relief**

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<sup>18</sup> See Securities Exchange Act Release No. 101899 (Dec. 12, 2024) (Order Granting Partial Stay). The Commission did not stay amendments to Rule 610(d), Rule 603(b), and the definitions of round lot and odd-lot information in Rule 600(b).

<sup>19</sup> *Boe Global Markets, Inc., et al v. SEC*, No. 24-1350 (D.C. Cir. Oct. 14, 2025).

<sup>20</sup> 17 CFR 242.600(b)(93).

Section 36(a)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) authorizes the Commission, by rule, regulation, or order, to exempt, conditionally or unconditionally, any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Exchange Act, or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.<sup>21</sup> Rule 610(f) of Regulation NMS similarly authorizes the Commission, by order, to exempt from the provisions of the rule, either unconditionally or on specified terms and conditions, any person, security, quotations, orders, or fees, or any class or classes of persons, securities, quotations, orders, or fees, if the Commission determines that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.<sup>22</sup> Rule 612(d) of Regulation NMS also authorizes the Commission, by order, to exempt from the provisions of the rule, either unconditionally or on specified terms and conditions, any person, security, quotation, or order, or any class or classes of persons, securities, quotations, or orders, if the Commission determines that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.<sup>23</sup>

**a. Rules 600(b)(89)(i)(F), 610(c), and 612 of Regulation NMS**

Because of the D.C. Circuit’s denial of the petition for review, and in anticipation of the end of the partial stay, the Commission is providing temporary exemptive relief pursuant to section 36(a)(1) of the Exchange Act<sup>24</sup> and Rules 610(f)<sup>25</sup> and 612(d)<sup>26</sup> of Regulation NMS to

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<sup>21</sup> 15 U.S.C. 78mm(a)(1).

<sup>22</sup> 17 CFR 242.610(f).

<sup>23</sup> 17 CFR 242.612(d).

<sup>24</sup> 15 U.S.C. 78mm(a)(1).

<sup>25</sup> 17 CFR 242.610(f).

<sup>26</sup> 17 CFR 242.612(d).

provide time to allow affected entities to come into compliance. The Commission is providing temporary exemptive relief until the first business day of November 2026: (1) pursuant to section 36(a)(1) of the Exchange Act and Rule 610(f) of Regulation NMS, trading centers<sup>27</sup> from complying with Rule 610(c), as amended in the Adopting Release; (2) pursuant to section 36(a)(1) of the Exchange Act and Rule 612(d) of Regulation NMS, national securities exchanges, national securities associations, alternative trading systems, brokers and dealers, from complying with Rule 612 as amended in the Adopting Release; and (3) pursuant to section 36(a)(1) of the Exchange Act, primary listing exchanges and applicable plan processors from complying with Rule 600(b)(89)(i)(F) of Regulation NMS as adopted in the Adopting Release. Market participants may not have started the necessary systems changes in light of the litigation and partial stay. Accordingly, temporary exemptive relief from the compliance date for these rules is necessary to provide relevant market participants with time to make the necessary systems changes and comply with regulatory requirements discussed below. The exemption until the first business day of November 2026 is consistent with the protection of investors because it will provide sufficient time for facilitating an orderly transition to the new and amended rules.

In the Adopting Release, the Commission considered the systems changes necessary to implement the amendments to Rules 600(b)(89)(i)(F) and 612<sup>28</sup> and considered the date by which the Time Weighted Average Quoted Spread<sup>29</sup> can be calculated during an Evaluation Period.<sup>30</sup> In addition, the Commission adopted a compliance date for the amendments to Rule 610 to coincide with the compliance date for Rules 600(b)(89)(i)(F) and 612. The Commission

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<sup>27</sup> 17 CFR 242.600(b)(106).

<sup>28</sup> See Adopting Release, *supra* note 1 at 81680.

<sup>29</sup> 17 CFR 242.612(a)(2).

<sup>30</sup> 17 CFR 242.612(a)(1). See Adopting Release, *supra* note 1 at 81680.

also stated that the exchanges will have to file proposed rule changes pursuant to section 19(b) of the Exchange Act<sup>31</sup> and Rule 19b-4<sup>32</sup> thereunder to amend their fee schedules to reflect the lower access fee caps.<sup>33</sup> In determining the temporary exemptive relief from the compliance date, the Commission has considered the systems changes necessary to implement the new minimum pricing increment, including the minimum pricing increment indicator, and the rule filing requirements under section 19(b) of the Exchange Act and Rule 19b-4 thereunder for implementing the amended access fee caps.

**b. Rule 610(d) of Regulation NMS**

As discussed above, Rule 610(d) of Regulation NMS, which prohibits exchanges from imposing, or permitting to be imposed, any fee, rebate or other remuneration for the execution of an order in an NMS stock that cannot be determined at the time of execution,<sup>34</sup> has a compliance date of the first business day of November 2025, *i.e.*, November 3, 2025. In the Adopting Release, the Commission stated that national securities exchanges will have to file proposed rule changes pursuant to section 19(b) of the Exchange Act and Rule 19b-4 thereunder to adjust any fee or rebate that is not determinable at the time of execution.<sup>35</sup>

Effective October 1, 2025 and until further notice, due to a lapse in appropriations, the Commission is operating in accordance with its plan for operating during a shutdown.<sup>36</sup> While

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<sup>31</sup> 15 U.S.C. 78s.

<sup>32</sup> 17 CFR 240.19b-4.

<sup>33</sup> *See* Adopting Release, *supra* note 1 at 81680.

<sup>34</sup> 17 CFR. 242.610(d).

<sup>35</sup> *See* Adopting Release, *supra* note 1 at 81680.

<sup>36</sup> *See* SEC Operational Status, available at <https://www.sec.gov> (stating “[d]ue to a lapse in appropriations, the SEC is currently operating in accordance with the agency’s plan for operating during a shutdown. Effective Wednesday, October 1, 2025 and until further notice, the agency will have a very limited number of staff members available.”) (last accessed Oct. 23, 2025).

the Electronic Form Filing System (“EFFS”) for self-regulatory organization (“SRO”) proposed rule changes remains functional and able to accept submissions,<sup>37</sup> under Rule 19b-4, any day on which the Commission is not open for regular business as a result of a lapse in appropriations (or for certain other reasons) is not a “business day” as that term is used in section 19 of the Exchange Act and Rule 19b-4 thereunder.<sup>38</sup> As a result, any SRO proposed rule change submitted through EFFS on a day on which the Commission is not open for regular business will have as its filing date the next business day after the Commission opens for regular business (e.g., the next business day after a shutdown has ended).

Due to the current lapse in appropriations, the exchanges’ proposed rule changes required to adjust their fee schedules to comply with the requirements of Rule 610(d)<sup>39</sup> may not be considered filed by November 3, 2025. Since the filing date for any proposed rule changes needed to comply with Rule 610(d) is currently uncertain, the Commission is providing additional time for national securities exchanges to comply with Rule 610(d). Accordingly, pursuant to section 36(a)(1) of the Exchange Act<sup>40</sup> and Rule 610(f) of Regulation NMS,<sup>41</sup> the Commission is providing temporary exemptive relief from the compliance date for Rule 610(d) of Regulation NMS until the first business day of February 2026.

The exemption for exchanges from the requirement that their fees and rebates be determinable at the time of execution as required by Rule 610(d) of Regulation NMS is

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<sup>37</sup> See SEC Announcement, Division of Trading and Markets Actions During Government Shutdown, available at <https://www.sec.gov/newsroom/whats-new/division-trading-markets-actions-during-government-shutdown-october-2025> (last reviewed or updated: Sept. 30, 2025).

<sup>38</sup> 17 CFR 240.19b-4(b)(2).

<sup>39</sup> 17 CFR 242.610(d).

<sup>40</sup> 15 U.S.C. 78mm(a)(1).

<sup>41</sup> 17 CFR 242.610(f).

necessary because the exchanges are unable to file the required proposed rule changes to amend their fee schedules to comply with Rule 610(d) due to the lapse in appropriations. The exemption is consistent with the protection of investors because it will ensure that proposed changes to exchange fee schedules are filed in a manner that is consistent with section 19 of the Exchange Act and Rule 19b-4 thereunder.

**c. Round Lot Implementation**

As discussed above, the implementation of the round lot definition as set forth in Rule 600(b)(93) of Regulation NMS is required to be completed on the first business day of November 2025, *i.e.*, November 3, 2025. The Commission understands that market participants have been preparing for this implementation and will be prepared to implement the new round lot definition as required on November 3, 2025.<sup>42</sup>

In the Adopting Release, the Commission stated that it calculated the round lot compliance date based on two main factors – the systems changes and testing that would be necessary to implement the round lot definition and the time exchanges may need to amend any exchange rules to reflect the new round lot definition. Although the Commission understands that market participants are prepared to implement the round lot definition on November 3, 2025, as required, the Commission also understands that certain exchanges may not have been able to file proposed rule changes pursuant to section 19(b) of the Exchange Act and Rule 19b-4 thereunder to amend their round lot definitions that are reflected in exchange rules prior to the lapse in appropriations.

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<sup>42</sup> See *e.g.*, CTA Plan Announcements available at <https://www.ctaplan.com/announcements#110000952157>; Equity Trader Alert #2025-76, Nasdaq Reporting Updates for SEC Round Lot Changes available at <https://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2025-76>; and NYSE Group: Changes to Round Lots and Tier Calculations effective Nov. 3, 2025 available at <https://www.nyse.com/trader-update/history#110000951664>.

Therefore, pursuant to section 36(a)(1) of the Exchange Act,<sup>43</sup> the Commission is providing temporary exemptive relief to exchanges from the requirement to file proposed rule changes to amend their rules to reflect the round lot definition in Rule 600(b)(93) of Regulation NMS until 30 calendar days following the end of the lapse of appropriations. The exemption is appropriate because the proposed rule changes needed to reflect the new round lot definition may not be considered filed by November 3, 2025, due to the lapse in appropriations. The exemption is consistent with the protection of investors because it provides investors with notice that exchange rules may not reflect the round lot definition required under Rule 600(b)(93) of Regulation NMS and that exchange rules will be updated shortly after the lapse in appropriations ends to the extent necessary.

### **III. Conclusion**

Accordingly, *IT IS HEREBY ORDERED*, pursuant to Rules 610(f) and 612(d) of Regulation NMS and section 36(a)(1) of the Exchange Act, that the Commission grants exemptive relief, as set forth in this order, from compliance with Rules 600(b)(89)(i)(F), 610(c), and 612, as amended in the Adopting Release until the first business day of November 2026.

*IT IS FURTHER ORDERED*, pursuant to section 36(a)(1) of the Exchange Act and Rule 610(f) of Regulation NMS, that the Commission grants exemptive relief as set forth in this order, from compliance with Rule 610(d) of Regulation NMS until the first business day of February 2026.

*IT IS FURTHER ORDERED*, pursuant to section 36(a)(1) of the Exchange Act, that the Commission grants exemptive relief as set forth in this order, from compliance with the requirement of exchanges to file proposed rule changes to amend exchange rules to reflect the

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<sup>43</sup> 15 U.S.C. 78mm(a)(1).

round lot definition as set forth in Rule 600(b)(93) of Regulation NMS until 30 calendar days following the end of the lapse in appropriations.

By the Commission.

**Vanessa A. Countryman,**

*Secretary.*