December 5, 2023

Ms. Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549–1090

Re: Disclosure of Order Execution Information (File No. S7-29-22); Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders (File No. S7-30-22); Regulation Best Execution (File No. S7-32-22); Order Competition Rule (File No. S7-31-22)

Nearly a year ago, the Securities and Exchange Commission (the "Commission") issued four proposals to radically redesign the U.S. equity market. Unfortunately, we remain extremely concerned that the Commission intends to proceed with these ill-conceived proposals without – as required by law – addressing the serious flaws extensively detailed in the record. For example, the Commission proposed to significantly alter how retail orders are executed without identifying specific problems with current market practices or providing compelling evidence that retail investors would actually benefit from these changes. Furthermore, the Commission has thus far refused to consider the interplay among, and cumulative impact of, these overlapping proposals – instead attempting to consider each in isolation. As we detailed in our earlier letters,[1] there are myriad conflicts across this bundle of proposals that will give rise to adverse unintended consequences that the Commission must consider. Such substantive concerns cannot be dismissed with a mere assessment of whether or not the compliance periods for various rules overlap.

We urge the Commission to refrain from taking unsupported actions that harm investors and damage overall market quality, efficiency, competition, and liquidity. Below, we reiterate key concerns with the Commission's apparent course of action with respect to each of the four proposals.

I. <u>Disclosure of Order Execution Information</u>

<u>Sequencing</u>

We reiterate that it would be arbitrary and capricious – and inconsistent with the Commission's stated objectives – for the Commission to finalize sweeping market structure changes without first improving the execution quality information (upon which the Commission relies) by finalizing and fully implementing the Rule 605 proposal.

First, the Commission cannot complete a credible economic analysis for any of the other three proposals without *correctly analyzing complete and accurate execution quality data*. In particular, the Commission acknowledged that current Rule 605 execution quality data significantly underreports the amount of price improvement received by retail investors since it does not take

[1] Please also see our more detailed comment letters submitted on March 31, 2023.

into account size improvement.[2] In addition, retail broker-dealers will produce detailed stock-by-stock execution quality metrics for the first time under the Rule 605 proposal. Therefore, finalizing the Rule 605 proposal is critical to enable the Commission to accurately assess retail execution quality under the current market structure.

Without accurately assessing current retail execution quality (including reviewing execution quality reports from retail broker-dealers), it is impossible for the Commission to conclude that fundamental changes to retail order execution practices are warranted, as contemplated by the "Best Execution" and "Order Competition" proposals. Finalizing the Rule 605 proposal will also provide the Commission with additional data to evaluate the validity of assumptions made in the economic analysis of the "Minimum Pricing Increments and Access Fees" proposal. For example, analyzing Rule 605 execution quality data for stocks that have quoted spreads wider than the minimum quoting increment demonstrates that the minimum quoting increment is not the driver of off-exchange retail trading (contrary to assertions made by the Commission), as wholesale broker-dealers provide far superior execution quality even in stocks that are not constrained by the minimum quoting increment at all.[3] The data provided pursuant to an updated Rule 605 should be the primary *input* in determining whether the other proposals are necessary.

It is also important to note that, without complete and accurate execution quality data, academic research frequently understates retail execution quality and, therefore, cannot be used to justify the other Commission proposals. In our prior comment letters, we detailed various reasons why this repeatedly occurs, including (a) failing to consider size improvement, (b) misclassifying retail orders, (c) conflating retail orders and institutional orders executed by the same firm, and (d) failing to separate out orders executed on external venues.[4] Therefore, finalizing the Rule 605 proposal is critical to fostering more accurate equity market structure research generally.[5]

Second, it would be arbitrary, capricious, and irresponsible for the Commission to implement fundamental changes to market structure while, at the same time, materially modifying the metrics for measuring execution quality. Doing so would make it extremely challenging to isolate the true effect of any such market structure change. For example, total retail price improvement may be

[2] 88 FR 3786 (Jan. 27, 2023) at 3871, available at: https://www.govinfo.gov/content/pkg/FR-2023-01-20/pdf/2022-27614.pdf. *See also* Statement on Proposed Amendments Regarding Order Execution Quality, Chair Gary Gensler (Dec. 14, 2022), available at: https://www.sec.gov/news/statement/gensler-order-execution-quality-20221214 ("Current Rule 605 disclosures have not kept up with our markets and provide investors with an incomplete picture of execution quality.").

[3] Market Lens: Unlevel Playing Field? What 605s Can Tell Us About Tick Sizes, Citadel Securities (Sept. 8, 2022), available at https://www.citadelsecurities.com/wp-content/uploads/sites/2/2022/09/Market-Lens-September-2022.pdf.

[4] *See* Citadel Securities Letter at 7-8, available at: https://www.sec.gov/comments/s7-31-22/s73122-20164211-334052.pdf.

[5] A recent example of how current Rule 605 data leads to inaccurate research is: "Who Is Minding the Store? Order Routing and Competition in Retail Trade Execution," Huang, X., Jorion P., Lee J., and Schwarz C. (Nov. 10, 2023), available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4609895. Among the fundamental errors in methodology, the paper (i) calculates average E/Q using a share-weighted method that leads to inaccurate results, (ii) focuses solely on oddlots while attempting to make broad generalizations regarding retail execution quality, and (iii) fails to explain why the retail broker-dealers using a "proportional" routing method achieve the best overall execution quality even though the paper alleges they are ignoring execution quality in routing decisions.

underreported by *up to 80%* in the current Rule 605 execution quality data.[6] Therefore, a sudden increase in reported price improvement should be expected once the Rule 605 proposal is implemented. Such a material change to the economic baseline must occur before implementing fundamental market structure changes that will further affect reported price improvement statistics.

Finalization Process

While there is broad consensus in favor of the effort to improve the execution quality information made available to investors and the Commission, commenters have provided numerous revisions that must be made to the initial proposal in order to achieve this regulatory objective.[7] Given the technical nature of these revisions, and the importance of ensuring that this overhaul of Rule 605 results in accurate, clear, and accessible information, we strongly urge the Commission to provide market participants with an opportunity to review and comment on the proposed changes prior to finalization. Doing so would be consistent with standard Commission practice (and the requirements of the Administrative Procedure Act) of issuing a re-proposal where material changes are made that require highly technical feedback from market participants (such as the final technical definitions and related formulas).

II. Minimum Pricing Increments and Access Fees

Minimum Quoting Increments

The Commission received nearly-universal criticism of its proposal to dramatically decrease the minimum quoting increment to as low as 1/10 and 2/10 of a cent for many stocks.[8] As we previously noted, the creation of arbitrarily small quoting increments will materially reduce displayed liquidity, fuel investor panic in turbulent markets, and make it harder for companies to raise capital.

To the extent the Commission decides to pivot to change the minimum quoting increment to, for example, 1/2 of a cent for a more limited number of stocks, the Commission must re-propose the rule. Such a fundamental pivot requires a new period of notice and comment. While the Commission may argue that this "two-tiered alternative" was one of the many alternatives briefly listed at the end of the proposing release that the Commission considered – *but ultimately decided against proposing*,[9] this does not provide sufficient basis for hurriedly adopting an alternative final rule. In particular, the economic analysis of this alternative spans less than a page in the Federal Register, and the description of the alternative lacks key details that must be specified in order for market participants to receive sufficient notice and the opportunity to meaningfully comment, as required by law.

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[6] *See* Battalio, Robert H. and Jennings, Robert H., Why Do Brokers Who Do Not Charge Payment for Order Flow Route Marketable Orders to Wholesalers? (Dec. 14, 2022) at 20, available at: https://ssrn.com/abstract=4304124.

[7] *See* https://www.sec.gov/comments/s7-29-22/s72922.htm.

[8] *See* https://www.sec.gov/comments/s7-30-22/s73022.htm.

[9] 87 FR 80266 (Dec. 29, 2022) at 80343, available at: https://www.govinfo.gov/content/pkg/FR-2022-12-29/pdf/2022-27616.pdf ("Minimum Pricing Increments and Access Fees").

For example, there is inadequate discussion of the universe of stocks that would be subject to a 1/2 of a cent minimum quoting increment under this approach, and there is no analysis of the liquidity impact on such stocks. Commenters have detailed the correlation between the minimum quoting increment and the size available to trade at the national best bid and offer ("NBBO") for a given stock – as the minimum quoting increment decreases, the size at the NBBO also materially decreases. In our prior letter, we provided data showing that reducing the minimum quoting increment to 1/2 of a cent may decrease the size at the NBBO by over 80%.[10] As a result, it is important that the Commission take into account liquidity – and not just quoted spread – when determining whether a 1/2 of a cent minimum quoting increment is appropriate to apply to a given stock. This point was stressed by numerous commenters,[11] and cannot be ignored by the Commission. Commenters suggested various criteria that could be used to assess available liquidity,[12] and the Commission must request additional comment from market participants on this important issue. It is important to note that including additional criteria – other than quoted spread – as part of the framework for determining the minimum quoting increment for a given stock does not increase overall complexity for market participants. Instead, the opposite is true given that a more sophisticated framework should be expected to isolate those stocks that would truly benefit from a lower minimum quoting increment and reduce the number of stocks that bounce back-and-forth between quoting increment buckets.

Separately, the Commission has acknowledged that any reduction in minimum quoting increments will increase overall message traffic, given the new price levels that will be

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[10] Citadel Securities Letter at 5, available at: https://www.sec.gov/comments/s7-30-22/s73022-20164212-334052.pdf.

[11] *See, e.g.,* BlackRock at 5, available at: https://www.sec.gov/comments/s7-32-22/s73222-20163995-333998.pdf ("BlackRock recommends that in addition to the time weighted quoted spread, the Commission should incorporate other factors for designating tick sizes, such as the average quoted size, ratio of average quoted size to average traded size, daily traded volume, or stock price."); State Street at FN 5, available at: https://www.sec.gov/comments/s7-31-22/s73122-20162728-332114.pdf ("In our Joint Industry Letter, we recommended defining tick constrained symbols through an objective, multi-factor approach that considers quoted spreads and displayed liquidity, similar to that recently suggested by Cboe, rather than applying tick reform to an expansive universe of securities."); Vanguard at FN 9, available at: https://www.sec.gov/comments/s7-31-22/s73122-20162793-332197.pdf ("We agree with the ICI that the Commission should consider applying sub-penny tick sizes only to stocks with a time weighted average quoted spread of $0.011 or less that also have large quoted display size and relatively high levels of liquidity during an evaluation period to ensure that adequate liquidity exists to support narrower tick increments."); Invesco at 3, available at: https://www.sec.gov/comments/s7-31-22/s73122-20162774-332174.pdf ("Invesco suggests that the Commission define "tick-constrained stocks" as those that trade with an average spread of $0.011 or less for the majority of the trading session and for which there is a balance or near equilibrium of multiple bids and offers at the top of the central order book during that time."); ICI at 6, available at: https://www.sec.gov/comments/s7-30-22/s73022-20162791-332193.pdf ("In determining which stocks qualify as "tick-constrained," we recommend that the Commission adopt a more precise definition via additional qualifying metrics"); CBOE at 3, available at: https://www.sec.gov/comments/s7-31-22/s73122-20162799-332207.pdf ("we started with the complete universe of NMS securities, and applied three constraints – quoted spread, quote-size-to-trade-size ratio, and notional turnover ratio – to arrive at a group of securities that are quantifiably tick-constrained."); Schwab at 6, available at: https://www.sec.gov/comments/s7-32-22/s73222-20162957-332913.pdf ("We define "tick-constrained" to mean symbols that have an average quoted spread of 1.1 cents or less and a reasonable amount of available liquidity at the NBBO.").

[12] *See, e.g.,* Citadel Securities Letter at 30, available at: https://www.sec.gov/comments/s7-30-22/s73022-20164212-334052.pdf.

introduced.[13] However, the Commission has completely failed to consider whether such increase in overall message traffic will increase the Consolidated Audit Trail ("CAT") operating budget, given that message traffic has been identified as a key cost driver.[14] In light of the Commission's approval of a CAT funding model that will allocate at least 77% – and up to 100% – of total CAT costs to market participants,[15] the Commission must assess the impact of this proposal on the CAT budget and the total CAT costs expected to be borne by market participants (and take this into account when determining how many stocks should be subject to a smaller minimum quoting increment), as this could easily increase industry costs by tens of millions of dollars (if not more) annually.

Minimum Trading Increments

We remain perplexed by the Commission's continued desire to – for the first time – impose a minimum market-wide trading increment, thereby constraining the prices at which investors may trade. The Commission lacks the statutory authority to do so,[16] as well as any policy rationale, given that data clearly demonstrates that the Commission is incorrect in asserting that the minimum quoting increment provides off-exchange market centers with a competitive advantage. If the Commission were correct, one would expect to observe exchanges providing better execution quality in wider-spread stocks (resulting in less off-exchange trading), as on-exchange liquidity providers are not constrained by the minimum quoting increment. In fact, the opposite is true and the Commission has no response.[17]

Separately, we note that the "two-tiered alternative" for minimum quoting increments discussed above is explicitly premised on the Commission "not amend[ing] rule 612 to apply to trading situations."[18] Therefore, adopting a minimum trading increment in addition to a minimum quoting increment of 1/2 of a cent would represent a combination of multiple different alternatives, further highlighting that market participants have not been provided with adequate notice regarding the actual policy changes being considered by the Commission, and must be granted another opportunity to comment via a re-proposal.

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[13] *See, e.g.,* Minimum Pricing Increments and Access Fees at FN 628.

[14] *See, e.g.,* 88 FR 62638 (Sept. 12, 2023) at FN 1070, available at: https://www.govinfo.gov/content/pkg/FR-2023-09-12/pdf/2023-19525.pdf ("CAT Funding Approval Order").

[15] This takes into account FINRA passing-on its portion to market participants and the potential for exchanges to do the same. CAT Funding Approval Order at 62684.

[16] *See* Citadel Securities Cover Letter, available at: https://www.sec.gov/comments/s7-30-22/s73022-20163091-333078.pdf.

[17] Market Lens: Unlevel Playing Field? What 605s Can Tell Us About Tick Sizes, Citadel Securities (Sept. 8, 2022) at page 3, available at https://www.citadelsecurities.com/wp-content/uploads/sites/2/2022/09/Market-Lens-September-2022.pdf (based on a review of the top 50 stocks with average quoted spreads of 20 cents or more, data shows that Citadel Securities provided retail investors with more than 13 cents of price improvement per share, compared to less than 4 cents of price improvement per share on exchange). *See also* Proposal at 80336, FN 644 and Barardehi, Yashar and Bernhardt, Dan and Da, Zhi and Warachka, Mitch, Internalized Retail Order Imbalances and Institutional Liquidity Demand (Nov. 18, 2021) at page 5, available at: https://ssrn.com/abstract=3966059 (finding that "about 35% of off-exchange transactions featuring sub-penny prices are executed at prices more than 1¢ inside the NBBO.").

[18] Minimum Pricing Increments and Access Fees at 80341.

Access Fees

The "Minimum Pricing Increments and Access Fees" proposal requires that all exchange fees and rebates be determinable at the time of execution in order to "help broker-dealers make better order routing decisions."[19] In particular, the Commission stated that this requirement was intended to increase transparency around exchange volume-based fee tiers where currently "the exact fee or rebate for an order cannot be determined until the end of the month."[20]

However, the Commission recently proposed to separately prohibit exchanges from offering volume-based transaction pricing altogether for agency-related orders.[21] Clearly, these two proposals are inextricably linked. It is nonsensical for the Commission, in one proposal, to require that volume-based fee tiers be revised such that they are forward-looking and known at the time of execution, while, in another proposal, to prohibit volume-based fee tiers entirely. The Commission must withdraw these inconsistent proposals, put forward a coherent policy position with respect to volume-based fee tiers, and issue that proposal for public comment. At the moment, the various interlocking proposals are so contradictory and indeterminate that the public has not had a reasonable opportunity to comment on what the Commission is actually proposing.

In addition, all of the feedback provided in response to the "Minimum Pricing Increments and Access Fees" proposal was specifically provided on the basis that volume-based fee tiers *were explicitly not being prohibited*. Now that the Commission has issued a new proposal that changes its stance on this topic, it must withdraw the current "Minimum Pricing Increments and Access Fees" proposal and publish an analysis assessing the cumulative effect of the two proposals that allows commenters to consider the broader implications (and the Commission's analysis of those implications) of prohibiting volume-based transaction pricing for certain orders. Market participants must be provided with a new opportunity to comment on the "Minimum Pricing Increments and Access Fees" proposal in light of this significant development.

For example, we have previously detailed why the Commission's proposal to significantly reduce the access fee cap constitutes a risky, ill-conceived, and poorly designed experiment given that the Commission failed to fully consider the consequences of doing so, such as the impact on exchange competition and liquidity provision.[22] To the extent the Commission may also prohibit volume-based transaction pricing that supports exchange competition and liquidity provision (something no one was aware of when commenting on the "Minimum Pricing Increments and Access Fees" proposal), the implications of changing the access fee cap from the current 30% ratio become that much more significant. The Commission must provide market participants with the opportunity to comment on these cumulative effects before modifying the access fee cap in any manner.

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[19] Minimum Pricing Increments and Access Fees at 80293.

[20] Minimum Pricing Increments and Access Fees at 80292.

[21] 88 FR 76282 (Nov. 6, 2023), available at: https://www.govinfo.gov/content/pkg/FR-2023-11-06/pdf/2023-23398.pdf.

[22] Citadel Securities Letter at 24, available at: https://www.sec.gov/comments/s7-30-22/s73022-20164212-334052.pdf.

III. Best Execution

There remains a complete lack of clarity regarding what the Commission intended by designating virtually all retail equities and options transactions as "conflicted transactions." Below, we set forth the substantive requirements that the Commission proposed applying to "conflicted transactions" and the fundamental unanswered questions with respect to each:

"Immaterial" Markets

The proposal states that:

> "The broker or dealer's best execution policies and procedures additionally shall address how the broker or dealer will ***obtain and assess information beyond that required by [the typical best execution standard]***, including additional information about price, volume, and execution quality, ***in identifying a broader range of markets beyond those identified as material potential liquidity sources***"

> "The broker or dealer's best execution policies and procedures additionally shall address how the broker or dealer will ***evaluate a broader range of markets, beyond those identified as material potential liquidity sources, that might provide the most favorable price for customer orders***, including a broader range of order exposure opportunities and markets that may be smaller or less accessible than those identified as material potential liquidity sources"[23]

These requirements appear to suggest that information that is not "reasonably accessible" and markets that are not "material liquidity sources" would need to be included as part of broker-dealer order routing decisions for retail orders.[24] In our prior comment letter,[25] we explained why this does not make any sense – to the extent the Commission believes that taking these actions would actually improve execution outcomes, then, by definition, these order routing practices should be part of the general best execution standard and applied to all customer orders, including those from institutional investors. Moreover, this line of reasoning implies that FINRA *already* should be requiring firms to access markets that are not "material liquidity sources" if this actually resulted in better execution outcomes. However, since it appears clear that better execution outcomes should not be expected, these requirements appear little more than an arbitrary, costly, and impractical penalty on firms handling retail orders, with no known or quantifiable benefit.

We have received feedback suggesting it was not the Commission's intent to require firms to consider immaterial liquidity sources when making order routing decisions. However, this only raises additional questions about *what is intended* by the provisions above, and what is the benefit

[23] 88 FR 5440 (Jan. 27, 2023) at 5555-56, available at: https://www.govinfo.gov/content/pkg/FR-2023-01-27/pdf/2022-27644.pdf ("Best Execution").

[24] *See id.* at 5467, fn. 192 and surrounding text ("For conflicted transactions, the broker-dealer, in accordance with its policies and procedures for conflicted transactions, would additionally evaluate some of the markets that it did not identify as material potential liquidity sources for non-conflicted transactions.").

[25] Citadel Securities Letter at 5-6, available at: https://www.sec.gov/comments/s7-32-22/s73222-20164210-334052.pdf.

of this additional standard beyond what is already provided for under existing rules and regulations.

Documenting Best Execution for "Conflicted Transactions"

The proposal states that:

> "The broker or dealer shall document its compliance with the best execution standard for conflicted transactions, including all efforts to enforce its best execution policies and procedures for conflicted transactions and ***the basis and information relied on for its determinations that such conflicted transactions would comply with the best execution standard***. Such documentation shall be done in accordance with written procedures. The broker or dealer shall also document any arrangement, whether written or oral, concerning payment for order flow, including the parties to the arrangement, all qualitative and quantitative terms concerning the arrangement, and the date and terms of any changes to the arrangement."[26]

While the rule text cited above does not provide any further detail regarding how to comply with this new documentation requirement for "conflicted transactions," the Proposal contains a number of "suggestions" regarding how a firm may do so. These include:

- "Suggesting" that retail broker-dealers could document the solicitation of "price improvement commitments" from wholesale broker-dealers.[27]
- "Suggesting" that retail broker-dealers could document attempting "to execute customer orders prior to sending them to a wholesaler."[28]

In our prior comment letter, we explained why these "suggestions" would involve fundamentally changing how retail orders are executed in the market, with enormous negative consequences for all retail investors.[29] For example, bypassing wholesale broker-dealers would not only mean foregoing significant price improvement, but also would require retail broker-dealers to incur significant costs relating to venue connectivity, membership and data, order routing systems, and venue trading fees (we estimated that retail broker-dealers would have incurred approximately $2.2 billion in exchange access fees alone during 2022 if marketable retail orders were required to be directly routed to exchanges).

We have received feedback that that these are merely "suggestions" and are not required by the rule. However, once again, this only raises more questions about *what exactly is required*, particularly since these are the only examples provided and the Proposal's economic analysis appears to treat these "suggestions" as required when concluding that some retail broker-dealers

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[26] Best Execution at 5556.

[27] *Id.* at 5470.

[28] *Id.* at 5469.

[29] Citadel Securities Letter at 14-15, available at: https://www.sec.gov/comments/s7-32-22/s73222-20164210-334052.pdf.

will bypass wholesale broker-dealers in order to "de-conflict" and that the Proposal is "likely to reduce the share of retail customer order flow that is internalized."[30]

In seeking to supplant longstanding FINRA rules and guidance regarding best execution with an entirely new rule, the Commission has failed to answer a crucial question – is current market practice compliant with the Commission's new rule? If the answer is no, then the Commission must detail the concerns with current market practices, the precise changes to existing order routing practices that will be required, and the impact of those changes on investors and the overall market. As detailed above, the current Proposal fails to provide market participants with clarity regarding what exactly the Commission is proposing to require (and why such a requirement is necessary), thereby making it impossible to meaningfully comment. The Proposal also does not explain why it is beneficial for retail investors to jettison decades of market practice and interpretative guidance under existing FINRA best execution rules.[31] As a result, the Commission must, at a minimum, re-propose this rule and provide the necessary clarity.

IV. **Order Competition**

The Commission received extensive criticism of its proposal to require most retail orders to be routed to an untested and ill-considered exchange auction mechanism, including from institutional investors, academics, and even exchanges. This criticism detailed the grossly inaccurate economic analysis that was prepared in connection with the proposal, including the baseless assertion that retail investors would save an additional $1.5 billion annually.[32] For example, in our prior comment letter, we detailed numerous methodological flaws that permeated the Commission's comparison of on-exchange and off-exchange execution quality.[33] Further discussions with the Commission have not cast any doubt on these identified methodological flaws.

To the extent the Commission decides to pivot to, for example, making changes to exchange retail liquidity programs, the Commission must re-propose the rule. Such a fundamental pivot requires, by law, a new period of notice and comment and a revised economic analysis. Moreover, in no event should the Commission allow market centers to accept or rank orders, quotations, or indications of interest in pricing increments smaller than the minimum quoting increment. The Commission has consistently applied equivalent requirements to accepting, ranking, and displaying.[34] Modifying this approach to allow market centers to accept or rank at 1/10 of a cent increments would have a number of significant consequences, including preferencing non-

[30] Best Execution at 5530.

[31] *See* Letter from FINRA and MSRB (Feb. 7, 2023), available at: https://www.sec.gov/comments/s7-32-22/s73222-20156788-324933.pdf.

[32] 88 FR 128 (Jan. 3, 2023) at 130, available at: https://www.govinfo.gov/content/pkg/FR-2023-01-03/pdf/2022-27617.pdf ("Order Competition").

[33] Citadel Securities Letter at 5-16 and Appendices, available at: https://www.sec.gov/comments/s7-32-22/s73222-20164210-334052.pdf

[34] *See, e.g.,* 70 FR 37496 (June 29, 2005) at 37556 ("The Commission sees no purpose that would be served by allowing the broker-dealer to accept this sub-penny order, since Rule 612 would in any case prohibit the full order from being displayed or considered for ranking or execution purposes.").

displayed liquidity over displayed liquidity (as, in practice, there would be a different minimum quoting increment applicable to non-displayed liquidity).

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We continue to urge the Commission to reconsider these ill-conceived proposals that run counter to the Commission's mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. Instead, these proposals threaten to damage overall market quality and competition by introducing a baffling array of new costs and complexities for investors, including a completely untested auction mechanism that effectively licenses and encourages others to trade ahead of retail orders. The Commission must carefully assess the cumulative impact of these overlapping proposals and, as part of addressing the serious flaws extensively detailed in the record, at a minimum issue re-proposals where material changes are made in response to market participant feedback.

We thank the Commission for considering our comments.

Please feel free to contact the undersigned with any questions regarding these comments.

Respectfully,

/s/ Stephen John Berger

Managing Director

Global Head of Government & Regulatory Policy