12 E 49th Street, 11th Floor, New York, NY 10017
+1 646 866 7140
info@aima.org

aima.org

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549-1000

Submitted electronically via the SEC's Online Form

March 31, 2023

Dear Ms. Countryman,

Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders (File No. S7-30-22)

The Alternative Investment Management Association ("AIMA")[1] appreciates the opportunity to respond to the Securities and Exchange Commission's ("SEC" or "Commission") proposed rule to amend certain rules of Regulation National Market System ("Reg NMS") under the Securities Exchange Act of 1934, as amended (the "Exchange Act") to adopt variable minimum pricing increments for quoting and trading of NMS stocks, reduce the access fee caps and enhance the transparency of other priced orders (the "Proposed Rule").[2]

---

1 AIMA, the Alternative Investment Management Association, is the global representative of the alternative investment industry, with around 2,100 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than $2.5 trillion in hedge fund and private credit assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programs and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. AIMA set up the Alternative Credit Council (ACC) to help firms focused in the private credit and direct lending space. The ACC currently represents over 250 members that manage $600 billion of private credit assets globally. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialized educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors). For further information, please visit AIMA's website, www.aima.org.

2 SEC, "Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders", 87 Fed. Reg. 80266 (Dec. 29, 2022) (the "Proposing Release").

AIMA's members are active participants in the securities markets, deploying sophisticated investment and trading strategies for the benefit of the institutional investors (pension funds, endowments, charities and others) that are their underlying beneficiaries. We therefore have a strong interest in ensuring that the market operates as effectively as possible, particularly in light of technological developments that have significantly changed the way in which market participants access liquidity and execute their investment and trading strategies.

We outline below several recommendations for improving the Proposed Rule.

1. AIMA supports a more tailored reduction in tick sizes with respect to the quoting of stocks.

We believe that that the one-cent minimum quoting increment is too large for certain stocks that are "tick constrained" and exhibit a high degree of liquidity. For those stocks only, we therefore agree that a smaller half-penny quoting increment would be economically meaningful, and that the current minimum quoting increment is constraining the ability of market participants to trade consistent with the principles of supply and demand.[3]

We also agree with the Commission that it would be desirable to replace what the Commission characterizes as the "one-size-fits-all tick approach" with one that includes variable tick sizes for NMS stocks that reflect the differences in their trading characteristics.[4] It is, however, worth emphasizing that this is not a straightforward matter and that the calibration exercise for such a model will need to be approached with great care to ensure (i) that it is not unduly complex to implement and (ii) that the increments, and the set of securities subject to a particular increment, are appropriately calibrated and do not undermine liquidity formation. Specifically, we believe that moving the minimum quoting increment to as low as 1/10th of a penny would have a number of negative consequences, including fragmenting displayed liquidity across too many prices points, impairing the current effectiveness of order execution algorithms, allowing certain traders to game/gain queue priority by making *de minimis* improvements to resting bids/offers and exacerbating concerns around flickering quotes.

We would further stress that we believe that any move to reduce tick sizes should focus on the quoting increment only, and not on the trading increment. We note that the Commission is proposing that the variable minimum pricing increments of rule 612 would apply to all trading—on exchanges, Alternative Trading Systems and over-the-counter markets. This would mean that all quotes and orders, regardless of price, would be required to be executed in the applicable minimum pricing increments set forth by proposed rule 612(c) or (d), subject to the specified exceptions set forth in proposed rule 612(e).

We do not share the Commission's view that this "would promote competition and innovation, while preserving most meaningful price improvement opportunities."[5] On the contrary, we believe this would harm investor choice and limit the potential for investors to obtain the best possible price for

[3] *Id.* at 80278.
[4] *Id.* at 80269.
[5] *Id.* at 80283.

their orders. Accordingly, we believe that any changes to the tick size regime should exclusively address quoting practices.

2. The SEC should take a more measured approach to changes to the tick size regime.

Despite our view that the tick size framework could be improved, we do not believe that the framework put forward in the Proposed Rule is sufficiently calibrated and could therefore be detrimental to the price formation process if implemented as proposed. This reflects a variety of concerns that have been expressed to us by our members, including: the significant reduction in the minimum tick for some stocks; the scope of securities that would be subject to particular tick sizes; and the lack of consideration of larger tick sizes for certain higher priced stocks.

For these reasons, we instead call for a more considered process to update the tick size framework that takes into account the points addressed below.

i. The need for a more comprehensive cost-benefit analysis and more effective prioritization of rulemaking.

First, we query whether the Commission is, at this stage, able to complete a meaningful cost-benefit analysis of its four separate equity market structure proposals given the high degree of interlinkages among them, let alone other far-reaching changes to market regulation that are contemplated by the dozens of rulemakings that have been made alongside this Proposed Rule over the prior 12-plus months. Collectively, we believe that many of the outstanding proposed rules (and invariably more to come), if adopted as suggested, will fundamentally alter the baseline for trading activity in securities markets, making it difficult to assess how the changes to the tick size framework will impact liquidity and the wider price formation process. In line with this, we also suggest that the Commission should take a more considered approach to prioritization of some of the reforms that have been contemplated.

For example, the implementation of the round lot order definition within the Market Data Infrastructure rule should take precedent, as should finalization of the SEC's proposed rule on Disclosure of Order Execution Information.[6] Together, these changes have the potential to further enhance equity market functioning with far lower risk and operational burden than the proposed changes to the tick size regime and should therefore be given priority. Once implemented, they would also provide a much more informed economic baseline against which to assess the other proposals.

ii. The need for an approach that is informed by data from exchanges.

As noted above, our members have expressed a number of concerns about the proposed calibration of the variable pricing increments put forward in the Proposed Rule. We note that a number of exchanges, who have extensive experience with analyzing quoting activity, have put forward

6 SEC, "Disclosure of Order Execution Information", [88 Fed. Reg. 3786](88 Fed. Reg. 3786) (Jan. 10, 2023).

recommendations with respect to the calibration of quoting increments, as well as the universe of symbols that would benefit from changes to the minimum quoting increment.[7] We therefore recommend that the Commission pay close attention to feedback from exchanges about the likely impact of the proposed changes.

iii. The need for a pilot exercise or, at a minimum, a phased approach to implementation.

We acknowledge that the Commission's 2016 Tick Size Pilot[8] for small- and mid-size capitalized stocks to test larger quoting and trading increments was considered to have resulted in deteriorating market quality for stocks that became tick-constrained under the pilot. For us, this does not imply that a pilot program is not a worthwhile exercise. Indeed, we believe that piloting potential changes would be a rational way of testing their calibration and impact on market quality, while making it more straightforward to adapt the tick size model, pause or reverse its implementation, and test alternative approaches.

If the Commission concludes that a further pilot program is not viable, we would, at a minimum, suggest that it phase in new tick size categories in a far more cautious way than set out in the Proposed Rule. It would be a preferable and sensible approach to only reduce the pricing increment for a stock in a series of graduated steps, analyzing the impact of each successive change, and then determining whether to proceed, pause or reverse the prior change. This is far preferable to moving hastily to implement a very small tick size that could lead to liquidity being spread across too many economically insignificant quoting increments.[9] A phased approach would also make it easier to adjust the set of securities that would be subject to each tick size band, again starting with the premise that the range of securities subject to the smallest tick size should not be overly expansive in the initial phase of implementation.

3. We support a reduction in access fee caps commensurate with the reduction in tick sizes.

We support the suggestion in the Proposed Rule that access fee caps should be reduced in conjunction with the reduction of the minimum pricing increments under rule 612 to help ensure that the access fee caps do not become too large in relation to the minimum pricing increments.[10] We note, however, that the approach set out in the Proposed Rule for fee cap changes does not align in a linear way with proposed tick size changes (notably for the 1/10th and 2/10th penny tick size buckets), and while we do not support such narrow tick sizes in the first instance, we question the basis for allowing the access fee to account for a larger percentage of the quoted spread.

---

7 *See* comment letters and analysis from CBOE, *available at* https://www.sec.gov/comments/s7-30-22/s73022-20158236-326301.pdf NASDAQ, *available at:* https://www.nasdaq.com/articles/the-tick-spreads-that-help-stocks-trade-best and NYSE, *available at* https://www.sec.gov/comments/s7-31-22/s73122-20159561-327567.pdf.

8 *See* SEC, Notice, Order Approving the National Market System Plan to Implement a Tick Size Pilot Program, 80 Fed. Reg. 27514 (May, 13, 2015).

9 Proposing Release, *supra* note 2, at 80280.

10 *Id.* at 80290.

+++

We would be happy to elaborate further on any of the points raised in this letter. For further information, please contact Daniel Austin, Director of U.S. Policy and Regulation, by email at [redacted].

Yours sincerely,

Jiří Król
Deputy CEO, Global Head of Government Affairs
AIMA

Cc: The Honorable Gary Gensler, Chair
The Honorable Hester M. Peirce, Commissioner
The Honorable Caroline A. Crenshaw, Commissioner
The Honorable Mark T. Uyeda, Commissioner
The Honorable Jaime Lizárraga, Commissioner
Dr. Haoxiang Zhu, Director, Division of Trading and Markets