Americans for Financial Reform Education Fund

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

August 17, 2026

Re: The Trade-Through Rule and Locked and Crossed Markets Provisions of Regulation NMS, File Number S7-2026-20

Via Email to Rule-Comments@sec.gov

Dear Secretary Countryman:

Americans for Financial Reform Education Fund (AFREF)[1] objects to the Securities and Exchange Commission (SEC) effort to repeal Rule 611 (the "Order Protection Rule") and Rule 610(e) (the "Prohibition on Locked and Crossed Markets") and urges the SEC to revise or rescind the proposal.[2]

The SEC and Congress created the National Market System to electronically link key trading centers around the country to provide investors with confidence that their stock orders would be "executed at the best available price — no matter where that price exists in the system."[3] Regulation NMS was a natural extension of that effort to transition to the modern, computerized world.

The SEC proposes to weaken two rules that are critical to providing best execution for investors. The Order Protection Rule provides a backstop to best execution to protect investors while the Prohibition on Locked and Crossed Markets ensures all market participants and regulators actually know what the best prices actually are at any given time.

The rules have saved investors billions of dollars annually

Prior to the adoption of the Order Protection Rule, trade-throughs, where investors receive pricing for trades that are at worse prices than available, were extremely common. After its adoption, trade-throughs became far rarer — for trades both on- and off-exchange. As a result of the dramatic decrease in trade-throughs, investors have saved billions of dollars annually.

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[1] AFREF is a nonpartisan and nonprofit coalition founded by more than 200 civil rights, consumer, labor, business, investor, faith-based, and civic and community groups and is dedicated to advocating for policies that shape a financial sector that serves workers, communities and the real economy, and provides a foundation for advancing economic and racial justice.
[2] Securities and Exchange Commission (SEC). The Trade-Through Rule and Locked and Crossed Markets Provisions of Regulation NMS. 91 Fed. Reg. 116. June 17, 2026 at 36656 et seq.
[3] Cook, G. Bradford. Chairman SEC. "Democracy in the Markets." Address before the Economic Club of Chicago. April 25, 1973 at 5.

That said, only orders of 100 shares or more could qualify for protection. And as stock trading has become increasingly in share sizes of less than 100 shares, the SEC decided to expand the Order Protection Rule for some higher-priced stocks.
The SEC implemented those changes just last year. The Order Protection Rule was expanded to orders of smaller share sizes in several stocks. Trade-throughs in these newly protected order sizes immediately declined, both on- and off-exchange. Smaller retail investors started saving millions of dollars.

The Commission is putting brokers and crypto intermediaries over investors

The Commission is proposing to repeal the Order Protection Rule purportedly because the markets are sufficiently interconnected and competitive to render the rule unnecessary. The SEC is also proposing to repeal the Prohibition on Locked and Crossed Markets. The SEC argues that the rules subsidize the creation of unnecessary exchanges and costs for brokers. The SEC also contends that the rules somehow increase trading costs for the largest investors, who might seek to trade large blocks of shares at one time.

Those purported justifications do not withstand scrutiny. The rules that the SEC is seeking to repeal do not compel brokers to connect to exchanges. Nor do the rules set connectivity or data costs. FINRA Rule 5310, not the Order Protection Rule, lays out brokers' best execution obligations and determines what venues they need to survey and access.[4] The law requires the SEC to make sure that exchange's rules are "reasonable," "equitably allocated," non-discriminatory, and not unduly burdensome on competition.[5] If the SEC is concerned with brokers' costs, it could reasonably use these authorities. It has chosen not to do so.

Instead, the SEC has proposed to allow brokers to selectively route and execute their customers' orders at prices that are decidedly worse than the best available in the markets. That's not in investors' best interests, but it very well might be in their brokers'. Brokers could bypass venues that might provide better prices for their customers,[6] but generate higher profits for themselves through conflicted fee arrangements or payments for order flow.

Some of the largest institutional investors might be able to protect themselves from the worst of these risks through the exercise of costly transaction cost analysis, sophistication, and market power. However, smaller institutions and ordinary retail investors will be unable to identify abuses, much less have the power to stop them. The SEC's analysis ignores both the new costs of investors seeking to protect themselves and the additional costs of their deteriorating trade pricing.

The crypto industry currently operates without an order protection rule or locked and crossed market prohibitions. And the absence of these rules is a key factor in why profits for brokers and market makers — per dollar traded —are much, much higher in trading crypto assets than stocks.

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[4] Financial Industry Regulatory Authority, Inc. (FINRA). Best Execution and Interposting Rule 5310. May 9, 204.
[5] 15 USC §78f(b)(4)-(5).
[6] The details of whether, and under what circumstances this could happen if the Order Protection Rule is repealed would depend upon the SEC's not-yet-analyzed determinations on how to define the National Best Bid and Offer, the extent to which FINRA revises its Rule 5310, and more.

Conflicted retail brokers, market makers, and crypto brokers are eager to tap into the demand for U.S. stocks, and extract crypto-like profit margins.

The proposed rule would empower this fleecing of investors in two ways: it would lower the standards in stock trading to make them effectively parallel those in crypto; it would also enable the widespread adoption of "tokenized" stock trading that could be essentially divorced from the prices, data feeds, access requirements, profit constraints, and other investor protections of the stock market.

While brokers and intermediaries could pad their margins if the rules are repealed, investors will simply be saddled with greater risks of trading at terrible prices, and greater costs if they seek to protect themselves.

The proposed repeal of Rules 611 and 610(e) is nothing more than the SEC looking to boost the profits of a handful of politically connected market intermediaries like Robinhood[7] at the expense of the millions of people and other businesses invested in our markets.

The Commission should rescind the proposal.

Sincerely,

Americans for Financial Reform Education Fund

[7] See, e.g., Patomak Global Partners. [Press release]. "Former SEC Commissioner Dan Gallagher joins Patomak Global Partners as President." January 4, 2016.