

for implementation on July 18, 2022, in Docket No. PI2022–3.² Accompanying the Notice is a library reference, which contains a copy of the Postal Service’s SPM Plan, revised March 18, 2024 (both redline and clean versions).³ The Postal Service intends to implement its proposed modifications “no earlier than 30 days after the filing of this Notice with the Commission.” Notice at 2.

The Postal Service explains that the two principal changes it is proposing are related to the measurement of Single-Piece First-Class Mail. *Id.* at 1. Specifically, the Postal Service proposes to: “(1) apply a data-driven approach to collection box density and origin proportion referential data; and (2) enhance SPM to align First Mile samples and retail pieces to their relative service standard service standard and apply these profiles to corresponding census originating volume.” *Id.* The Postal Service also proposes “other minor revisions, including word choice and grammar.” *Id.*

The Postal Service states that SPM currently relies on “collection box density referential data to determine sampling targets and origin proportion referential data to align collection samples and retail pieces to Single-Piece First-Class Mail originating volume.” *Id.* at 3. Collection box density data are based on the results of a Collection Box Density Test performed by mail carriers once a year, which, the Postal Service contends, does not capture seasonal variations in the data. *Id.* The data are also currently input manually, which the Postal Service maintains is “subject to potential data input error.” *Id.* The Postal Service states that “deficiencies in the accuracy and representativeness of this data were validated through

² On July 18, 2022, the Commission approved the Postal Service’s proposed modifications to the Service Performance Measurement Plan, except for the proposed change to the critical entry times (CET) for Periodicals because the Postal Service was first required to file a request for an advisory opinion pursuant to 39 U.S.C. 3661(b) and in accordance with 39 CFR part 3020. Docket No. PI2022–3, Order Directing the Postal Service to Request an Advisory Opinion Prior to Implementing its Proposed Change to the Critical Entry Times for Periodicals and Approving the Other Proposed Revisions to Market Dominant Service Performance Measurement Plan, July 18, 2022, at 26–27 (Order No. 6232). As directed on September 2, 2022, the Postal Service filed the request for an advisory opinion from the Commission. Docket No. N2022–2, United States Postal Service’s Request for an Advisory Opinion on Changes in the Nature of Postal Services, September 2, 2022. On November 30, 2022, the Commission provided its written advisory opinion. Docket No. N2022–2, Advisory Opinion on Changes to the Critical Entry Times for Certain Categories of Periodicals, November 30, 2022.

³ Library Reference USPS–LR–PI2024–1/1, March 18, 2024.

sample randomized collection box inspections conducted in 2024 that showed large variations in the observed collection box density relative to the referential data.” *Id.* Therefore, the Postal Service proposes using “return address information as an alternative data source to improve the accuracy of density reference data in First Mile measurement.” *Id.* at 4.

Similarly, the Postal Service states that origin proportion referential data is currently “determined by estimating the origin volume proportion that a ZIP Code represents of its district for a given mail product by using USPS delivery point data as a proxy for where volume originates.” *Id.* The Postal Service states that this “proxy approach does not accurately reflect the decline in mail volume and changes in customer behavior in the past decade,” because it “gives weight equally to all delivery points during volume proportioning, which does not reflect the reality that geographies where businesses are located may have more volumes but less delivery points.” *Id.* The Postal Service therefore proposes replacing the existing origin proportion referential data with return address data captured by mail processing equipment. *Id.* at 5. For both collection box density and origin proportion referential data, the Postal Service states that it intends to automate the generation and integration of return address data into the SPM system each quarter. *Id.*

With respect to aligning First Mile samples and retail pieces to their relative service standard, the Postal Service states that “[c]urrently, there is one combined First Mile profile across all service standards, which is then equally applied to the census originating volume data for each service standard.” *Id.* The Postal Service states that “a more granular measurement and reporting approach is needed to ensure the accuracy and representativeness of SPM First Mile calculations.” *Id.* Therefore, the Postal Service proposes to “update the SPM system to create separate First Mile profiles by service standard and align to corresponding census originating volume for that service standard.” *Id.* at 5–6.

Interested persons are invited to comment on the Postal Service’s proposed modifications to its SPM Plan and related measurement changes. Comments are due April 3, 2024. The Commission does not anticipate the need for reply comments at this time. The Commission intends to evaluate the comments received and use those suggestions to help carry out its service performance measurement responsibilities under Title 39 of the

United States Code. Material filed in this docket will be available for review on the Commission’s website, <http://www.prc.gov>. The Commission appoints Nikki Brendemuehl to represent the interests of the general public (Public Representative) in this docket.

It is ordered:

1. Docket No. PI2024–1 is established for the purpose of considering the Postal Service’s proposed revisions to its Service Performance Measurement Plan for Market Dominant products and related measurement changes.

2. Interested persons may submit written comments on any or all aspects of the Postal Service’s proposals no later than April 3, 2024.

3. Nikki Brendemuehl is designated to represent the interests of the general public (Public Representative) in this docket.

4. The Secretary shall arrange for publication of this Notice in the **Federal Register**.

By the Commission.

Erica A. Barker,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99800; File No. SR–GEMX–2024–08]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Cabinet Proximity Option Fee To Establish a Reservation Fee for Cabinets With Power Densities Greater Than 10kW

March 20, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on March 13, 2024, Nasdaq GEMX, LLC (“GEMX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange’s Cabinet Proximity Option

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

Fee at General 8, Section 1, as described further below.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/gemx/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change³ is to amend the Exchange's Cabinet Proximity Option Fee at General 8, Section 1(d) by establishing a reservation fee for cabinets with power densities greater than 10 kilowatts ("kW").⁴

The Exchange currently offers a Cabinet Proximity Option program where, for a monthly fee, customers can obtain an option for future use on available, unused cabinet space in proximity to their existing equipment. Cabinets reserved under the Cabinet Proximity Option program are unused cabinets that customers reserve for future use and can be converted to a powered cabinet at the customer's request. Under the program, customers can reserve up to maximum of 20 cabinets that the Exchange endeavors to provide as close as reasonably possible to the customer's existing cabinet space, taking into consideration power availability within segments of the data center and the overall efficiency of use of data center resources as determined by the Exchange. Should reserved data

³ The Exchange initially filed the proposed pricing change on March 1, 2024 (SR-GEMX-2024-06). The instant filing replaces SR-GEMX-2024-06, which was withdrawn on March 13, 2024.

⁴ On February 26, 2024, the Exchange filed a proposal to offer the Exchange's Cabinet Proximity Option program for cabinets with power densities greater than 10 kW. See Securities Exchange Act Release No. 34-99646 (February 29, 2024), 89 FR 16064 (March 6, 2024) (SR-GEMX-2024-04).

center space be needed for use, the reserving customer will have three business days to formally contract with the Exchange for full payment for the reserved cabinet space or it will be reassigned. In making determinations to require exercise or relinquishment of reserved space as among numerous customers, the Exchange will take into consideration several factors, including: proximity between available reserved cabinet space and the existing space of a customer seeking additional space for actual cabinet usage; a customer's ratio of cabinets in use to those reserved; the length of time that a particular reservation(s) has been in place; and any other factor that the Exchange deems relevant to ensure overall efficiency in use of the data center space.⁵

The applicable monthly fees for the Cabinet Proximity Option program are in General 8, Section 1(d). The Cabinet Proximity Option fee is \$1,055/month⁶ per medium or low density cabinets and \$1,583/month⁷ per medium/high or high density cabinets.⁸ The Exchange proposes to establish a Cabinet Proximity Option fee of \$3,000 for cabinets with power densities greater than 10 kW.⁹ As such, the Exchange proposes to amend its fee schedule at General 8, Section 1(d) to reflect the addition to the existing Cabinet Proximity Option fees.

The proposed Cabinet Proximity Option fee of \$3,000 would only be charged to those customers that voluntarily choose to reserve cabinets with power densities greater than 10 kW. Such option is available to all customers. Similar to other fees related

⁵ See Securities Exchange Act Release No. 34-62397 (June 28, 2010), 75 FR 38860 (July 6, 2010) (SR-NASDAQ-2010-019). In 2017, the Exchange synchronized its options for connecting to the Exchange with that of its sister exchanges and adopted uniform colocation services, including the Cabinet Proximity Option program. See Securities Exchange Act Release No. 34-81902 (October 19, 2017), 82 FR 49453 (October 25, 2017) (SR-GEMX-2017-48).

⁶ On March 1, 2024, the Exchange increased the fee from \$1,000 to \$1,055. See SR-GEMX-2024-05 (not yet published).

⁷ On March 1, 2024, the Exchange increased the fee from \$1,500 to \$1,583. See SR-GEMX-2024-05 (not yet published).

⁸ Low density cabinets are cabinets with power densities less than or equal to 2.88 kW. Medium density cabinets are cabinets with power densities greater than 2.88 kW and less than or equal to 5 kW. Medium/High density cabinets are cabinets with power densities greater than 5 kW and less than or equal to 7 kW. High density cabinets are cabinets with power densities greater than 7 kW and less than 10 kW. See General 8, Section 1(a).

⁹ Currently, the Exchange offers Super High Density Cabinets with power densities greater than 10 kW and less than or equal to 17.3 kW. See General 8, Section 1(a). In addition, the Exchange intends to offer cabinets with new power densities in the future, including power densities greater than 17.3 kW.

to cabinet and power usage, the Cabinet Proximity Option fee is incremental, with higher fees being imposed based on higher levels of cabinet and power allocation. The proposed Cabinet Proximity Option fee of \$3,000 for cabinets with power densities greater than 10 kW is comparable to pricing for "PNU cabinets"¹⁰ available to customers of co-location facilities of the New York Stock Exchange LLC ("NYSE"), which charges a monthly fee of \$360 per kW for PNU cabinets.¹¹

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹³ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

First, the proposal is reasonable because the proposed fee is comparable to NYSE's monthly fee of \$360 per kW for PNU cabinets.¹⁴ As noted above, NYSE offers "PNU cabinets," which are reserved cabinets that are not active and can be converted to powered, dedicated cabinets when the user requests.¹⁵ The Exchange's proposal would establish a flat \$3,000 Cabinet Proximity Option fee for cabinets with power densities greater than 10 kW. Under NYSE's fee schedule, a reservation for a cabinet with power density equal to 10 kW would be \$3,600 (*e.g.*, 10 kW x \$360). Because NYSE's PNU cabinet fees are charged on a per kW basis, PNU cabinet fees for cabinets with power densities greater than 10 kW would be more than

¹⁰ Similar to the Exchange's Cabinet Proximity Option program, the New York Stock Exchange offers "PNU cabinets," which are reserved cabinets that are not active and can be converted to powered, dedicated cabinets when the user requests. Due to heightened demand for power and cabinets, NYSE established certain procedures related to PNU cabinet conversion and restrictions on new PNU cabinet offerings. NYSE adopted a policy that, if unallocated cabinet inventory is at or below 40 cabinets, new PNU cabinets are not offered. However, when the unallocated cabinet inventory is more than 40 cabinets, NYSE may continue to offer PNU cabinets. See Securities Exchange Act Release No. 34-90732 (December 18, 2020), 85 FR 84443 (December 28, 2020). See also Securities Exchange Act Release No. 34-91515 (April 8, 2021), 86 FR 19674 (April 14, 2021).

¹¹ See NYSE Connectivity Fee Schedule, available at https://www.nyse.com/publicdocs/Wireless_Connectivity_Fees_and_Charges.pdf.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

¹⁴ See NYSE Connectivity Fee Schedule, available at https://www.nyse.com/publicdocs/Wireless_Connectivity_Fees_and_Charges.pdf.

¹⁵ *Supra* note 10.

\$3,600 and increase as the power density of the cabinet increases. Therefore, the Exchange's proposal reflects a discounted price to reserve such cabinets as compared to NYSE's fees for comparable PNU cabinets.

Furthermore, the Exchange offers the Cabinet Proximity Option program as a convenience to customers, providing an option to reserve unused cabinet space in proximity to their existing equipment. No firms are required to reserve cabinets via the Cabinet Proximity Option program. Clients may simply order cabinets without utilizing reservations. The proposed Cabinet Proximity Option fee of \$3,000 would only be charged to those customers that voluntarily choose to reserve cabinets with power densities greater than 10 kW and such option is available to all customers.

The Exchange believes substitutable products and services are available to market participants, including, among other things, other options exchanges that a market participant may connect to in lieu of the Exchange,¹⁶ connectivity to the Exchange via a third-party reseller of connectivity, and/or trading of options products within markets which do not require connectivity to the Exchange, such as the Over-the-Counter (OTC) markets. Market participants that wish to connect to the Exchange will continue to choose the method of connectivity based on their specific needs. Market participants that wish to connect to the Exchange but want to avoid or mitigate the effect of this proposed fee can choose to connect to the Exchange through a vendor (or order cabinets without reservations, as noted above).

In offering the Cabinet Proximity Option the Exchange incurs certain costs, including costs related to the data center, including maintaining an adequate level of power so that reserved cabinets can be available and powered on promptly at the request of customers.

If the Exchange is incorrect in its determination that the proposed fee reflects the value of the Cabinet Proximity Option for cabinets with power densities greater than 10 kW,

¹⁶ There are currently 17 exchanges offering options trading services. No single options exchange trades more than 14% of the options market by volume and only one of the 17 options exchanges has a market share over 10 percent. See Nasdaq, Options Market Statistics (Last updated January 11, 2024), available at <https://www.nasdaq.com/Trader.aspx?id=OptionsVolumeSummary>. This broad dispersion of market share demonstrates that market participants can and do exercise choice in trading venues. Further, low barriers to entry mean that new exchanges may rapidly enter the market and offer additional substitute platforms to further compete with the Exchange and the products it offers.

customers will not reserve such cabinets.

In summary, the proposal represents an equitable allocation of reasonable dues, fees and other charges because the proposed fee is less than NYSE's fee for a comparable service, customers have choices in how they connect to the Exchange, and reservations under the Cabinet Proximity Option program are optional and provided as a convenience to customers.

The Exchange believes that the proposed fee change is not unfairly discriminatory because the Cabinet Proximity Option fee is assessed uniformly across all market participants that voluntarily select the option, which is available to all customers. All customers have the choice of whether and how to connect to the Exchange and may order cabinets without utilizing reservations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Nothing in the proposal burdens inter-market competition because approval of the proposal does not impose any burden on the ability of other exchanges to compete. The Exchange operates in a highly competitive market in which market participants can determine whether or not to connect to the Exchange based on the value received compared to the cost of doing so. Indeed, market participants have numerous alternative exchanges that they may participate on and direct their order flow, as well as off-exchange venues, where competitive products are available for trading.

Nothing in the proposal burdens intra-market competition because the Cabinet Proximity Option program is available to any customer under the same fees as any other customer, and any customer that wishes to reserve a cabinet pursuant to the Cabinet Proximity Option program can do so on a non-discriminatory basis.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section

19(b)(3)(A)(ii) of the Act.¹⁷ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-GEMX-2024-08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-GEMX-2024-08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal

¹⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–GEMX–2024–08 and should be submitted on or before April 16, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–06335 Filed 3–25–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99790; File No. SR–NYSEAMER–2024–17]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Rule 7.31E

March 20, 2024.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b–4 thereunder,³ notice is hereby given that on March 6, 2024, NYSE American LLC (“NYSE American” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.31E to provide for the use of Day ISO Reserve Orders and make other conforming changes. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7.31E to provide for the use of Day ISO Reserve Orders and make conforming changes in Rule 7.11E (Limit Up-Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility) and Rule 7.37E (Order Execution and Routing).

Day ISO Orders

Rule 7.31E(e)(3) defines an Intermarket Sweep Order (“ISO”) as a Limit Order that does not route and meets the requirements of Rule 600(b)(38) of Regulation NMS. As described in Rules 7.31E(e)(3)(A) and subparagraphs (i) and (ii) thereunder, an ISO may trade through a protected bid or offer and will not be rejected or cancelled if it would lock, cross, or be marketable against an Away Market, provided that (1) it is identified as an ISO and (2) simultaneously with its routing to the Exchange, the ETP Holder that submits the ISO also routes one or more additional Limit Orders, as necessary, to trade against the full displayed size of any protected bids (for sell orders) or protected offers (for buy orders) on Away Markets.

Rule 7.31E(e)(3)(C) provides that an ISO designated Day (“Day ISO”), if marketable on arrival, will immediately trade with contra-side interest on the Exchange Book up to its full size and limit price. Any untraded quantity of a Day ISO will be displayed at its limit price and may lock or cross a protected quotation that was displayed at the time the order arrived.

Reserve Orders

Rule 7.31E(d)(1) provides for Reserve Orders, which are Limit or Inside Limit Orders with a quantity of the size

displayed and with a reserve quantity (“reserve interest”) of the size that is not displayed. The displayed quantity of a Reserve Order is ranked Priority 2—Display Orders, and the reserve interest is ranked Priority 3—Non-Display Orders. Both the display quantity and the reserve interest of an arriving marketable Reserve Order are eligible to trade with resting interest in the Exchange Book or to route to Away Markets. The working price of the reserve interest of a resting Reserve Order will be adjusted in the same manner as a Non-Displayed Limit Order, as provided for in Rule 7.31E(d)(2)(A).

As described in Rule 7.31E(d)(1)(A), the display quantity of a Reserve Order must be entered in round lots, and the displayed portion of a Reserve Order will be replenished when the display quantity is decremented to below a round lot. The replenish quantity will be the minimum display size of the order or the remaining quantity of the reserve interest if it is less than the minimum display quantity.

Rule 7.31E(d)(1)(B) provides that each time the display quantity of a Reserve Order is replenished from reserve interest, a new working time is assigned to the replenished quantity (each display quantity with a different working time is referred to as a “child” order), while the reserve interest retains the working time of the original order entry. In addition, when a Reserve Order is replenished from reserve interest and already has two child orders that equal less than a round lot, the child order with the later working time will rejoin the reserve interest and be assigned the new working time assigned to the next replenished quantity. If a Reserve Order is not routable, the replenish quantity will be assigned a display and working price consistent with the instructions for the order.

Rule 7.31E(d)(1)(C) provides that a Reserve Order must be designated Day and may only be combined with a Non-Routable Limit Order.

Rule 7.31E(d)(1)(D) provides that routable Reserve Orders will be evaluated for routing both on arrival and each time their display quantity is replenished.

Rule 7.31E(d)(1)(E) provides that a request to reduce the size of a Reserve Order will cancel the reserve interest before cancelling the display quantity, and, if the Reserve Order has more than one child order, the child order with the latest working time will be cancelled first.

Rule 7.31E(d)(1)(F) provides that, if the PBBO is crossed and the display quantity of a Reserve Order to buy (sell)

¹⁸ 17 CFR 200.30–3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.