



## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104308; File No. SR-ISE-2025-36]

### **Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Exchange’s Pricing Schedule at Options 7, Sections 3 and 4**

December 4, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 21, 2025, Nasdaq ISE, LLC (“ISE” 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 Pricing Schedule at Options 7, Section 3, Regular Order Fees and Rebates, and Options 7, Section 4, Complex Order Fees and Rebates.<sup>3</sup>

This fee change shall be effective on November 13, 2025.

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/ise/rulefilings>, and at the principal office of the Exchange.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> On November 13, 2025, the Exchange filed SR-ISE-2025-33. On November 20, 2025, the Exchange withdrew SR-ISE-2025-33 and filed SR-ISE-2025-35. Subsequently, on November 21, 2025, the Exchange withdrew SR-ISE-2025-35 and filed this proposal.

## 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

ISE proposes to amend the Pricing Schedule at Options 7, Section 3, Regular Order Fees and Rebates, to amend note 15 of Options 7, Section 3. Further, the Exchange proposes to amend Options 7, Section 4, Complex Order Fees and Rebates, to amend: (1) Priority Customer<sup>4</sup> Complex Tiers 8-10 for Select Symbols;<sup>5</sup> and (2) note 17 of Options 7, Section 4. Each change is described below.

#### **Priority Customer Rebates**

The Exchange proposes to amend Options 7, Section 4, Complex Order Fees and Rebates. Today, the Exchange offers tiered complex order Priority Customer rebates for Select Symbols and Non-Select Symbols<sup>6</sup> based on the Priority Customer Complex Tier achieved.<sup>7</sup> The

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<sup>4</sup> A "Priority Customer" is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq ISE Options 1, Section 1(a)(37). Unless otherwise noted, when used in this Pricing Schedule the term "Priority Customer" includes "Retail" as defined below. See Options 7, Section 1(c).

<sup>5</sup> "Select Symbols" are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Interval Program. See Options 7, Section 1(c).

<sup>6</sup> "Non-Select Symbols" are options overlying all symbols excluding Select Symbols. See Options 7, Section 1(c).

<sup>7</sup> Priority Customer Complex Tiers are based on Total Affiliated Member or Affiliated Entity Complex Order Volume (Excluding Crossing Orders and Responses to Crossing Orders) Calculated as a Percentage of Customer Total Consolidated Volume. All Complex Order volume executed on the Exchange, including volume executed by Affiliated Members, is included in the volume calculation, except for volume executed as Crossing Orders and Responses to Crossing Orders. Affiliated Entities may aggregate their Complex Order volume for purposes of calculating Priority Customer Rebates. The Appointed OFP would receive the rebate associated with the qualifying volume tier based on aggregated volume. See Options 7, Section

tiered complex order Priority Customer rebates for Select Symbols and Non-Select Symbols are presently as follows:

**Priority  
Customer Rebates**

<b>Priority Customer Complex Tier</b>	<b>Total Affiliated Member or Affiliated Entity Complex Order Volume (Excluding Crossing Orders and Responses to Crossing Orders) Calculated as a Percentage of Customer Total Consolidated Volume</b>	<b>Rebate for Select Symbols</b>	<b>Rebate for Non-Select Symbols</b>
Tier 1	0.000% - 0.200%	(\$0.25)	(\$0.50)
Tier 2	Above 0.200% - 0.400%	(\$0.30)	(\$0.60)
Tier 3	Above 0.400% - 0.550%	(\$0.40)	(\$0.80)
Tier 4	Above 0.550% - 0.750%	(\$0.45)	(\$0.85)
Tier 5	Above 0.750% - 1.000%	(\$0.46)	(\$0.90)
Tier 6	Above 1.000% - 1.350%	(\$0.48)	(\$0.95)
Tier 7	Above 1.350% - 1.750%	(\$0.54)	(\$1.00)
Tier 8	Above 1.750% - 2.750%	(\$0.55)	(\$1.10)
Tier 9	Above 2.750% - 4.500%	(\$0.56)	(\$1.12)
Tier 10	Above 4.500%	(\$0.57)	(\$1.15)

The above rebates are provided per contract per leg if the order trades with Non-Priority Customer<sup>8</sup> orders in the complex order book.

At this time, the Exchange proposes to amend Priority Customer Complex Tiers 8-10 for Select Symbols.

Currently, the Priority Customer Complex Tier 8 Rebate for Select Symbols is \$0.55 per contract for Total Affiliated Member or Affiliated Entity Complex Order Volume (Excluding Crossing Orders and Responses to Crossing Orders) Calculated as a Percentage of Customer Total Consolidated Volume (hereinafter “TCV”) of above 1.750% to 2.750%. The Exchange proposes to amend the qualifying TCV to above 1.750% to 2.25% and increase the Priority

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4, note 16. As set forth in Options 7, Section 1(c), an Appointed OFP is an Order Flow Provider who has been appointed by a Market Maker for purposes of qualifying as an Affiliated Entity.

<sup>8</sup> “Non-Priority Customers” include Market Makers, Non-Nasdaq ISE Market Makers (FarMMs), Firm Proprietary / Broker-Dealers, and Professional Customers. See Options 1, Section 1(c).

Customer Complex Tier 8 Rebate for Select Symbols from \$0.55 to \$0.56 per contract. The Exchange is not proposing to amend the \$1.10 Rebate for Non-Select Symbols for Tier 8.

Currently, the Priority Customer Complex Tier 9 Rebate for Select Symbols is \$0.56 per contract for TCV above 2.750% to 4.500%. The Exchange proposes to amend the qualifying TCV to above 2.25% to 4.500% and increase the Priority Customer Complex Tier 9 Rebate for Select Symbols from \$0.56 to \$0.58 per contract. The Exchange is not proposing to amend the \$1.12 Rebate for Non-Select Symbols for Tier 9.

Currently, the Priority Customer Complex Tier 10 Rebate for Select Symbols is \$0.57 per contract for TCV above 4.500%. The Exchange proposes to increase the Priority Customer Complex Tier 10 Rebate for Select Symbols from \$0.57 to \$0.59 per contract. The Exchange is not proposing to amend the qualifying TCV or the \$1.15 Rebate for Non-Select Symbols for Tier 10.

Increasing the Priority Customer Complex Tiers 8 through 10 rebates for Select Symbols while also amending the qualifying TCV so that volume that currently qualifies for Tier 8 would qualify for Tier 9 would permit Members to receive increased rebates if they send the same amount of complex order flow as they do today. Further, some Members may also qualify for a higher tier. Overall, the Exchange believes that the proposed changes to Priority Customer Complex Tiers 8 through 10 for Select Symbols will attract more complex order flow to ISE because Members may be incentivized to send more complex orders to ISE to receive the increased rebates.

#### **Note 15 of Options 7, Section 3 and Note 17 of Options 7, Section 4**

Today, note 15 of Options 7, Section 3 states that Members that execute more than 0.10% of Regular Order<sup>9</sup> Non-Select Symbol Priority Customer Volume (excluding Crossing Orders<sup>10</sup>

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<sup>9</sup> A “Regular Order” is an order that consists of only a single option series and is not submitted with a stock leg. See Options 7, Section 1(c).

<sup>10</sup> A “Crossing Order” is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (PIM) or submitted as a Qualified Contingent Cross order. For

and Responses to Crossing Orders<sup>11</sup>) calculated as a percentage of Customer Total Consolidated Volume per day in a given month receive an additional rebate of \$0.18 per contract. Members that meet the foregoing volume requirement are also eligible to receive the Section 4 Priority Customer Complex Order rebates in Select Symbols and Non-Select Symbols that apply to one tier higher than the tier for which they currently qualify, except Members that already qualify for the highest Priority Customer Complex Tier in Section 4 will instead receive an additional rebate of \$0.01 per contract in Select Symbols and Non-Select Symbols.

Today, note 17 of Options 7, Section 4 states that, Members that execute more than 0.10% of Regular Order Non-Select Symbol Priority Customer Volume (excluding Crossing Orders and Responses to Crossing Orders) calculated as a percentage of Customer Total Consolidated Volume per day in a given month are eligible to receive the Priority Customer Complex Order rebates in Select Symbols and Non-Select Symbols that apply to one tier higher than the tier for which they currently qualify, except Members that already qualify for the highest Priority Customer Complex Tier will instead receive an additional rebate of \$0.01 per contract in Select Symbols and Non-Select Symbols.

At this time, the Exchange proposes to amend the qualifications for the incentives at note 15 of Options 7, Section 3 and note 17 of Options 7, Section 4 by increasing the volume thresholds from 0.10% to 0.25% of Regular Order Non-Select Symbol Priority Customer volume on ISE (excluding Crossing Orders and Responses to Crossing Orders) calculated as a percentage of Customer Total Consolidated Volume per day in a given month.

While the Exchange is increasing the volume threshold in the note 15 incentive at Options 7, Section 3, the Exchange is not amending the ability to receive an additional rebate of \$0.18 per contract, or to be eligible to receive the Section 4 Priority Customer Complex Order

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purposes of this Pricing Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders. See Options 7, Section 1(c).

<sup>11</sup> “Responses to Crossing Order” is any contra-side interest submitted after the commencement of an auction in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or PIM. See Options 7, Section 1(c).

rebates in Select Symbols and Non-Select Symbols that apply to one tier higher than the tier for which they currently qualify, or the additional rebate of \$0.01 per contract in Select Symbols and Non-Select Symbols for Members that already qualify for the highest Priority Customer Complex Tier in Section 4. The Exchange believes that the note 15 incentive will continue to attract Regular Order Non-Select Symbol Priority Customer order flow to the Exchange.

Further, while the Exchange is increasing the volume threshold in the note 17 incentive at Options 7, Section 4, the Exchange is not amending the ability to receive the Priority Customer Complex Order rebates in Select Symbols and Non-Select Symbols that apply to one tier higher than the tier for which they currently qualify, or the additional rebate of \$0.01 per contract in Select Symbols and Non-Select Symbols for Members that already qualify for the highest Priority Customer Complex Tier. The Exchange believes that the note 17 incentive will continue to attract Regular Order Non-Select Symbol Priority Customer order flow to the Exchange.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>13</sup> 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.

The Exchange's proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ ... As the SEC explained, ‘[i]n the U.S.

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<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(4) and (5).

national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ ....”<sup>14</sup>

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>15</sup>

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options security transaction services. The Exchange is only one of eighteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

### **Priority Customer Rebates**

The Exchange’s proposal to increase Priority Customer Complex Tiers 8 through 10 rebates for Select Symbols is reasonable because the increased rebates are designed to attract more complex order flow to ISE to the benefit of all market participants. Increasing the Priority

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<sup>14</sup> NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

<sup>15</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

Customer Complex Tiers 8 through 10 rebates for Select Symbols while also amending the qualifying TCV so that volume that currently qualifies for Tier 8 would qualify for Tier 9 would permit Members to receive increased rebates if they send the same amount of complex order flow as they do today. Further, some Members may also qualify for a higher tier. Overall, the Exchange believes that the proposed changes to Priority Customer Complex Tiers 8 through 10 for Select Symbols will attract more complex order flow to ISE because Members may be incentivized to send more complex orders to ISE to receive the increased rebates.

The Exchange's proposal to increase Priority Customer Complex Tiers 8 through 10 Rebates for Select Symbols is equitable and not unfairly discriminatory as the proposed changes are intended to increase Priority Customer complex order flow to ISE. Offering Priority Customer order rebates is equitable and not unfairly discriminatory as Priority Customer liquidity benefits all market participants. An increase in Priority Customer order flow enhances liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants that may interact with this order flow.

**Note 15 of Options 7, Section 3 and Note 17 of Options 7, Section 4**

The Exchange's proposal to amend the qualification for the incentive at note 15 of Options 7, Section 3 by increasing the volume threshold from 0.10% to 0.25% of Regular Order Non-Select Symbol Priority Customer volume on ISE (excluding Crossing Orders and Responses to Crossing Orders) calculated as a percentage of Customer Total Consolidated Volume per day in a given month is reasonable because while the Exchange is increasing the volume threshold in the note 15 incentive at Options 7, Section 3, the Exchange is not amending the ability to receive the Priority Customer Complex Order rebates in Select Symbols and Non-Select Symbols that apply to one tier higher than the tier for which they currently qualify, or the additional rebate of \$0.01 per contract in Select Symbols and Non-Select Symbols for Members that already qualify for the highest Priority Customer Complex Tier in Section 4. The Exchange

believes that the note 15 incentive will continue to attract Regular Order Non-Select Symbol Priority Customer order flow to the Exchange.

The Exchange's proposal to amend the qualification for the incentive at note 15 of Options 7, Section 3 by increasing the volume threshold from 0.10% to 0.25% of Regular Order Non-Select Symbol Priority Customer volume on ISE (excluding Crossing Orders and Responses to Crossing Orders) calculated as a percentage of Customer Total Consolidated Volume per day in a given month is equitable and not unfairly discriminatory because the Exchange will apply the note 15 incentive uniformly to all similarly situated market participants. The Exchange believes that it is equitable and not unfairly discriminatory to offer the note 15 incentive to only Priority Customer orders because Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to amend the qualification for the incentive at note 17 of Options 7, Section 4 by increasing the volume threshold from 0.10% to 0.25% of Regular Order Non-Select Symbol Priority Customer volume on ISE (excluding Crossing Orders and Responses to Crossing Orders) calculated as a percentage of Customer Total Consolidated Volume per day in a given month is reasonable because while the Exchange is increasing the volume threshold in the note 17 incentive at Options 7, Section 4, the Exchange is not amending the ability to receive the Priority Customer Complex Order rebates in Select Symbols and Non-Select Symbols that apply to one tier higher than the tier for which they currently qualify, or the additional rebate of \$0.01 per contract in Select Symbols and Non-Select Symbols for Members that already qualify for the highest Priority Customer Complex Tier. The Exchange believes that

the note 17 incentive will continue to attract Regular Order Non-Select Symbol Priority Customer order flow to the Exchange.

The Exchange's proposal to amend the qualification for the incentive at note 17 of Options 7, Section 4 by increasing the volume threshold from 0.10% to 0.25% of Regular Order Non-Select Symbol Priority Customer volume on ISE (excluding Crossing Orders and Responses to Crossing Orders) calculated as a percentage of Customer Total Consolidated Volume per day in a given month is equitable and not unfairly discriminatory because the Exchange will apply the note 17 incentive uniformly to all similarly situated market participants. The Exchange believes that it is equitable and not unfairly discriminatory to offer the note 17 incentive to only Priority Customer orders because Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

**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. In terms of intra-market competition, the Exchange does not believe that its proposal will place any category of market participant at a competitive disadvantage.

**Priority Customer Rebates**

While the proposed changes to the complex order rebates described above apply directly to Priority Customer orders, the Exchange believes that the changes will ultimately fortify and encourage activity on the Exchange to the extent the proposed changes incentivize increased Priority Customer complex order flow to ISE. Offering Priority Customer rebates does not impose an undue burden on competition as Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in Priority Customer order flow enhances liquidity on the Exchange to the benefit of all market

participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants that may interact with this order flow.

**Note 15 of Options 7, Section 3 and Note 17 of Options 7, Section 4**

The Exchange's proposal to amend the qualifications for the incentives at note 15 of Options 7, Section 3 and note 17 of Options 7, Section 4 by increasing the volume thresholds from 0.10% to 0.25% of Regular Order Non-Select Symbol Priority Customer volume on ISE (excluding Crossing Orders and Responses to Crossing Orders) calculated as a percentage of Customer Total Consolidated Volume per day in a given month does not impose an undue burden on competition because the Exchange will apply the note 15 of Options 7, Section 3 and the note 17 of Options 7, Section 4 incentives uniformly to all similarly situated market participants. Offering the note 15 of Options 7, Section 3 and note 17 of Options 7, Section 4 incentives to only Priority Customer orders does not impose an undue burden on competition because Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the

ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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.<sup>16</sup> 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](mailto:rule-comments@sec.gov). Please include file number SR-ISE-2025-36 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.

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<sup>16</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to file number SR-ISE-2025-36. 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 filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal 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-ISE-2025-36 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2025-22302 Filed: 12/8/2025 8:45 am; Publication Date: 12/9/2025]

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<sup>17</sup> 17 CFR 200.30-3(a)(12).