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

Re: Request for Comment on Novel ETFs (Release No. 33-11426; File No. S7-2026-24)

Dear Ms. Countryman:

Jane Street Group, LLC (together with its affiliates, "Jane Street") appreciates the opportunity to respond to the Commission's Request for Comment on Novel ETFs (the "Request").[1] Jane Street has been making markets in exchange-traded funds ("ETFs") since 2000, and today is a registered market maker in most U.S.-listed ETFs and a lead market maker for roughly 20 percent of them. The firm quotes ETFs continuously on exchanges, transacts with a wide range of counterparties in the over-the-counter market, and, as an authorized participant ("AP"), creates and redeems ETF shares directly with issuers.

The Request highlights the growth of the ETF market since the Commission adopted the Exchange-Traded Funds rule ("ETF Rule") in 2019,[2] and notes that market participants have raised questions regarding certain issues associated with "Novel ETFs" (e.g., ETFs holding or employing crypto assets, commodity-focused instruments, single-stock strategies, heightened leverage, blockchain-enabled opportunities, private assets, event contracts, and/or a combination of any of these instruments or strategies).

This letter focuses on concerns raised in the Request about secondary market trading and the smooth functioning of the ETF creation/redemption mechanism, and includes some observations that apply to all ETFs — not just to those that are deemed novel. While the ETF Rule introduced a well-calibrated regulatory framework for covered ETFs, certain enhancements could further promote fairness, efficiency, and competitiveness in the ETF market.

Jane Street provides the following observations:

- Some conditions for an efficient, competitive ETF market are especially important regardless of underlying asset class or strategy.

[1] Request for Comment on Novel ETFs, Securities Act Release No. 33-11426, 91 Fed. Reg. 40,647 (July 2, 2026).
[2] Exchange-Traded Funds, 84 Fed. Reg. 57,162 (Oct. 24, 2019) (codified at 17 C.F.R. pts. 210, 232, 239, 270 & 274).

- ETFs have helped democratize investor access to asset classes that were previously accessible mostly to professionals and larger institutions. In many cases, the conditions for arbitrage were suboptimal at first.

- An accessible creation/redemption mechanism enables the arbitrage and risk management that ultimately keeps ETF prices tethered to fair value.

- Accessibility is primarily the responsibility of the ETF, but APs play an important role in facilitating access for non-AP liquidity providers. Requiring ETFs to launch with at least two APs would help ensure that all liquidity providers can create and redeem freely.

- ETFs span a wide variety of exposures and strategies, and should have the flexibility to tailor certain creation/redemption policies and procedures to their unique characteristics.

- Addressing how competitive pressures impact the registration process may encourage funds to launch with efficient structures.

- Timely and symmetrical disclosures about material changes to the fund can instill confidence and result in better outcomes for investors.

Portfolio-Related Conditions (Request Question 5)

Question 5 requests input on portfolio-related conditions as they relate to the functioning of the ETF arbitrage mechanism and secondary trading, the maintenance of orderly and efficient markets, and other structural and operational considerations. In response, Jane Street offers the following observations.

ETF product innovation and the arbitrage mechanism

Over the last three decades, several waves of ETF product innovation have improved investors' access to markets and reduced their costs. International ETFs gave investors exposure to overseas markets cheaply and in their own time zone. Fixed income ETFs enhanced intraday liquidity and price transparency for markets that were heavily intermediated and opaque. More recently, options-based ETFs and crypto ETFs opened up markets and strategies that investors had struggled to access due to high costs and complexity.

During each of these waves of innovation, market participants had to contend with imperfect conditions for ETF arbitrage. International ETFs trade when their underlying markets are closed, for example, requiring market makers to find novel ways to price the ETFs and hedge their positions. Liquidity mismatch, in which the underlyings are significantly less liquid than the ETF itself, is common in some segments of the fixed income ETF market. In other cases, an ETF's underlying assets can be complex or difficult to price, or transparency in the underlying market can be poor.

Amid these challenges, competitive forces spurred market makers to find ways to price and provide liquidity in ETFs taking into account the liquidity of the underlyings. In some cases, overall liquidity improved over time, due in part to the preferences of ETF market participants shaping the underlying markets. Fixed income markets, for example, became more electronic and transparent as fixed income ETFs reached scale, and portfolio trading in bonds developed in ways that complemented ETF creation and redemption. Thus, while there may be potential challenges that should be monitored, initially imperfect arbitrage conditions in a new asset class may not, by themselves, be a reason to keep that asset class out of the ETF wrapper.

Access to the creation/redemption mechanism

That said, a creation/redemption mechanism that is accessible even in times of stress or volatility is necessary for the efficient arbitrage that is core to the smooth functioning of an ETF. An ETF that suspends creations becomes, in effect, a closed-end fund, and its price can decouple from the value of its holdings to the detriment of investors.

Access to the creation/redemption mechanism is aided by APs that can facilitate creations and redemptions on behalf of liquidity providers. As noted in Jane Street's comment letter on the ETF Rule proposal, ETFs listing with only one AP run a greater risk of the ETF price diverging from its intrinsic value.[3] Jane Street continues to believe a requirement that ETFs list with at least two APs would be sensible and not overly burdensome. It's worth noting that the vast majority of ETFs contract with multiple APs, and AP availability is generally not an issue.

Create/redeem flexibility is valuable

The ETF Rule addressed two constraints related to ETF creation/redemption. First, it permitted the use of custom baskets, subject to appropriate policies and procedures, for any ETF covered by the rule.[4] Second, it allowed covered ETFs to choose whatever creation unit size they deem optimal.[5] At the same time, the Commission refrained from requiring that ETFs

[3] Jane Street Capital, LLC, Comment Letter on Proposed Rule on Exchange-Traded Funds (Oct. 1, 2018), https://www.sec.gov/comments/s7-15-18/s71518-4467045-175801.pdf (hereinafter "Jane Street 2018 Letter"). As noted in the Jane Street 2018 Letter, "When an ETF has a single authorized participant, this arrangement can lead to price distortions if that authorized participant effectively refuses to process creation or redemption orders from other liquidity providers at reasonable prices. This may result in excessive deviations between NAV and the secondary market price of the ETF, even when plenty of liquidity providers are present." *Id.* at 6.

[4] ETF Rule, *supra* note 2.

[5] ETF Rule, *supra* note 2. At the SEC's 2018 Roundtable on Market Structure for Thinly-Traded Securities, market participants including Jane Street spoke to the benefits of allowing ETFs to choose an optimal creation unit size. Transcript of Roundtable on Market Structure for Thinly-Traded Securities, U.S. Sec. & Exch. Comm'n (Apr. 23, 2018), available at https://www.sec.gov/spotlight/equity-market-structure-roundtables/thinly-traded-securities-rountable-042318-transcript.txt.

publish their holdings before accepting creation/redemption orders, which would have constrained market makers' ability to manage risk by submitting orders on a "T-1" basis.[6]

These accommodations enabled ETFs to tailor their creation/redemption policies to the specific challenges posed by their underlyings and their secondary market liquidity profiles. Market makers in turn were able to create and redeem more efficiently, with competitive forces ensuring that their savings were passed through to end investors in the form of tighter ETF bid-ask spreads.

Competitive Pressures (Request Question 17)

The Commission has also solicited feedback on important considerations regarding competitive pressures and first-mover incentives (Question 17). A registration framework that generally incentivizes issuers to file quickly may lead to situations where the issuer has not investigated all of the needs of an efficiently structured ETF. This may lead to listings that are not as competitive as they otherwise could be. Review of the registration framework to reduce rushed registrations could encourage ETFs to solicit feedback and support from a wider range of market makers on fund structure and liquidity provision.

Changes to ETF Disclosure (Request Question 26)

The Commission asks in Question 26 under Section IV of the Request whether it should consider changes to the ETF disclosure regime for Novel ETFs. Section IV pertains to the registration process and Rule 485, but disclosures related to an ETF's holdings and its creation/redemption mechanism after the ETF has begun trading also deserve scrutiny.

Material fund information should be disseminated market-wide

By way of background, the ETF Rule's requirement that covered ETFs disclose their portfolio holdings daily on a public website laid important groundwork for efficient arbitrage.[7] Knowing the precise weightings of the portfolio holdings that the ETF uses to compute its net asset value ("NAV") allows market makers to provide liquidity and keep the ETF's price tethered to its intrinsic value. In addition to these daily portfolio disclosures, Jane Street also emphasizes the importance of market-wide transparency in disclosures about whether an ETF's arbitrage mechanism is functioning properly and about the ETF's portfolio holdings.

As discussed in the Jane Street 2018 Letter, Jane Street continues to recommend that funds be required to avoid selective disclosures and to instead inform all market participants of

[6] The Jane Street 2018 Letter further describes how international ETFs in particular benefit from market makers' ability to submit creation/redemption orders on a T-1 basis.

[7] Many ETFs were already voluntarily disclosing their portfolio holdings on a daily basis, but the requirement to disclose ensured that all covered ETFs were held to the same standard.

any significant disclosures in a suitable public manner.[8] In some cases, selective disclosure may even produce a chilling effect in which market makers widen out their markets because they have less confidence in their fair value for the ETF. When an ETF has suspended creations or redemptions, for example, due to a NAV that is zero or negative, all market participants need to be promptly alerted so that they can adjust their pricing. In addition, listing exchanges can reduce the odds of investors transacting at stale prices by promptly halting trading upon notification that an ETF's value is negative or that its operations have been materially impaired.

Conclusion

ETFs have a remarkable track record of providing investors with low-cost, efficient access to newer asset classes and investment strategies. The ETF market generally functions well and has continued to grow. The ETF Rule introduced several meaningful improvements to the ETF registration and launch process and should continue to evolve as a framework to support ongoing market developments. The secondary market and structural challenges that sometimes arise when providing liquidity in a newer segment of the ETF market can be overcome if the core conditions for arbitrage are preserved, monitored, and strengthened.

Respectfully submitted,

/s/ Andreas Roy

Jane Street Group, LLC

cc:
The Honorable Paul S. Atkins, Chairman
The Honorable Hester M. Peirce, Commissioner
The Honorable Mark T. Uyeda, Commissioner
Brian Daly, Director, Division of Investment Management
Jamie Selway, Director, Division of Trading and Markets

[8] *See* Jane Street 2018 Letter, at 2-4. We note that certain exchanges already require prompt, market-wide disclosure of material events including creation/redemption suspensions and material NAV restatements. *See*, *e.g.*, NYSE Regulation, Annual Compliance Guidance Letter for NYSE, NYSE Arca, and NYSE Texas Listed ETPs (Jan. 22, 2026), available at https://www.nyse.com/publicdocs/nyse/regulation/nyse-arca/NYSE_Arca_Listed_ETP_Compliance_Guidance_Letter.pdf.