

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): May 9, 2024**



**AGNC INVESTMENT CORP.**

**(Exact name of registrant as specified in its charter)**

**Delaware**  
(State or Other Jurisdiction of  
Incorporation or Organization)

**001-34057**  
(Commission File Number)

**26-1701984**  
(I.R.S. Employer  
Identification No.)

**7373 Wisconsin Avenue, 22nd Floor  
Bethesda, Maryland 20814**  
(Address of principal executive offices)

**Registrant's telephone number, including area code:  
(301) 968-9300**

**N/A**  
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

<b>Title of Each Class</b>	<b>Trading Symbol(s)</b>	<b>Name of Exchange on Which Registered</b>
Common Stock, par value \$0.01 per share	AGNC	The Nasdaq Global Select Market
Depository shares of 7.000% Series C Fixed-to-Floating Rate Cumulative Redeemable Preferred Stock	AGNCN	The Nasdaq Global Select Market
Depository shares of 6.875% Series D Fixed-to-Floating Rate Cumulative Redeemable Preferred Stock	AGNCM	The Nasdaq Global Select Market
Depository shares of 6.50% Series E Fixed-to-Floating Rate Cumulative Redeemable Preferred Stock	AGNCO	The Nasdaq Global Select Market
Depository shares of 6.125% Series F Fixed-to-Floating Rate Cumulative Redeemable Preferred Stock	AGNCP	The Nasdaq Global Select Market
Depository shares of 7.75% Series G Fixed-Rate Reset Cumulative Redeemable Preferred Stock	AGNCL	The Nasdaq Global Select Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging Growth Company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

### **Item 8.01. Other Events**

As previously reported on October 12, 2023, AGNC Investment Corp., a Delaware corporation (the “Company”) entered into separate sales agreements (the “Original Sales Agreements”) with each of Goldman Sachs & Co. LLC, Barclays Capital Inc., BTIG, LLC, Citigroup Global Markets Inc., Citizens JMP Securities, LLC, J.P. Morgan Securities LLC, Keefe, Bruyette & Woods, Inc., Morgan Stanley & Co. LLC, RBC Capital Markets, LLC, UBS Securities LLC, Virtu Americas LLC, and Wells Fargo Securities, LLC (each, an “Agent” and collectively, the “Agents”), to implement a new “at the market” common stock issuance program under which the Company may, from time to time to or through any of the Agents, acting as agent and/or principal, offer and sell shares of its common stock, par value \$0.01 per share (the “Common Stock”). Under the Original Sales Agreements, an aggregate offering price of \$788,030,592.22 of Common Stock has been offered and sold through May 9, 2024 (the “Sold Securities”).

On May 9, 2024, the Company entered into separate amendments to the Original Sales Agreements with each of the Agents to increase the aggregate offering price of Common Stock available for issuance under the Original Sales Agreements by an amount equal to the aggregate offering price of the Sold Securities (“Amendment No. 1 to the Sales Agreements” and, together with the Original Sales Agreements, each, a “Sales Agreement” and collectively, the “Sales Agreements”). As a result of Amendment No. 1 to the Sales Agreements, the Company may, but has no obligation to, issue and sell under the Sales Agreements shares of Common Stock having an aggregate offering price of up to \$1,250,000,000 (the “Shares”).

Shares sold under the Sales Agreements, if any, will be issued pursuant to the Company's automatic shelf registration statement on Form S-3ASR (File No. 333-279249), filed with the Securities and Exchange Commission on May 9, 2024 (the “Registration Statement”), including the prospectus, dated May 9, 2024 and the prospectus supplement, dated May 9, 2024, as the same may be amended or supplemented.

Sales, if any, of Shares under the Sales Agreements may be made in ordinary brokers’ transactions, to or through a market maker, on or through the Nasdaq Global Select Market or any other market venue where the securities may be traded, in the over-the-counter market, in privately negotiated transactions (including block transactions), or through a combination of any such methods of sale. The Agents may also sell Shares by any other method permitted by law. Each Agent will make all sales on a best efforts basis using commercially reasonable efforts consistent with its normal trading and sales practices, on mutually agreed terms between each Agent and the Company. The compensation payable to each Agent for sales of Shares pursuant to its respective Sales Agreement will be up to 1.0% of the gross sales price for any Shares sold through it as agent under the applicable Sales Agreement.

The offering of Shares pursuant to the Sales Agreements will terminate upon the earlier of (1) the sale of all of the Shares or (2) the termination of the Sales Agreements by the Agents or the Company upon 10 days’ notice. The form of Amendment No. 1 to the Sales Agreements is filed as Exhibit 1.1 to this Current Report on Form 8-K. The description of Amendment No. 1 to the Sales Agreements does not purport to be complete and is qualified in its entirety by reference to the form of Amendment No. 1 to the Sales Agreements filed herewith as an exhibit to this Current Report on Form 8-K and incorporated herein by reference.

This Current Report on Form 8-K shall not constitute an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation, or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

### **Item 9.01. Financial Statements and Exhibits.**

On May 9, 2024, Skadden, Arps, Slate, Meagher & Flom LLP delivered an opinion (the “Opinion”) to the Company in connection with the Company’s sale of the Shares from time to time to or through the Agents. The Opinion is being filed herewith, and thereby automatically incorporated by reference into the Registration Statement, in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act of 1933.

(d) Exhibits.

---

**Exhibit No. Description**

- 1.1 [Form of Amendment No. 1 to the Sales Agreements](#)
  - 5.1 [Opinion of Skadden, Arps, Slate, Meagher & Flom LLP](#)
  - 23.1 [Consent of Skadden, Arps, Slate, Meagher & Flom LLP \(included in Exhibit 5.1 hereto\)](#)
  - 104 Cover Page Interactive Data File (embedded within the Inline XBRL document).
-

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: May 10, 2024

**AGNC INVESTMENT CORP.**

By: /s/ Kenneth L. Pollack

Kenneth L. Pollack

Executive Vice President, Chief Compliance Officer, General Counsel and Secretary

**AGNC INVESTMENT CORP.  
SHARES OF COMMON STOCK  
(\$0.01 PAR VALUE PER SHARE)**

**AMENDMENT NO. 1 TO  
SALES AGREEMENT**

May 9, 2024

[NAME OF AGENT]  
[ADDRESS OF AGENT]

Ladies and Gentlemen:

This Amendment No. 1 (this “**Amendment**”) to the Sales Agreement (as defined below) is entered into as of the date first written above (the “**Effective Date**”) by AGNC Investment Corp., a Delaware corporation (the “**Company**”), and [ • ] (the “**Agent**”), in order to amend that certain Sales Agreement, dated October 12, 2023 (the “**Sales Agreement**”), relating to the offer and sale of shares of the Company’s common stock, par value \$0.01 per share, having an aggregate offering price of up to \$1,250,000,000 (the “**Shares**”) from time to time through the Agent, acting as agent and/or principal.

The parties wish to amend the Sales Agreement through this Amendment to increase the aggregate offering price of Shares that may be sold by the Company under the Sales Agreement and the Alternative Sales Agreements. The Company has also entered into separate amendments to the Alternative Sales Agreements, dated as of the Effective Date, with each of the Alternative Agents.

Section 1. **Definitions.** Unless otherwise specified herein, capitalized terms used in this Amendment and not otherwise defined shall have the meanings assigned to such terms in the Sales Agreement.

Section 2. **Representation and Warranty.** The Company represents and warrants to the Agent that this Amendment has been duly authorized, executed and delivered by, and is a valid and binding agreement of, the Company.

Section 3. **Amendments to the Sales Agreement.**

(a) On and after the Effective Date, “\$1,250,000,000” in the Sales Agreement shall remain available as the aggregate offering price of Shares that may be sold by the Company under the Sales Agreement and the Alternative Sales Agreements, after giving effect to any prior issuances before the Effective Date.

(b) All references to the Sales Agreement or in any other document executed or delivered in connection therewith shall, from the date hereof, be deemed a reference to the

Sales Agreement as amended by this Amendment. Notwithstanding anything to the contrary contained herein, this Amendment shall not have any effect on offerings or sales of Shares prior to the Effective Date or on the terms of the Sales Agreement, and the rights and obligations of the parties thereunder, insofar as they relate to such offerings or sales, including, without limitation, the representations, warranties and agreements (including the indemnification and contribution provisions), as well as the definitions of “Registration Statement,” “Base Prospectus,” “Prospectus Supplement” and “Prospectus” contained in the Sales Agreement prior to the Effective Date.

Section 4. **Applicable Law**. This Amendment and any claim, controversy or dispute arising hereunder or related hereto shall be governed by, and construed in accordance with, the laws of the State of New York without regard to its choice of law provisions.

Section 5. **Headings**. The Section headings herein are for convenience only and shall not affect the construction hereof.

Section 6. **Counterparts**. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Amendment. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

**[Signature Pages Follow]**

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement by and between the Agent and the Company in accordance with its terms.

Very truly yours,

**AGNC INVESTMENT CORP.**

By: /s/ Bernice Bell

Name: Bernice Bell

Title: Executive Vice President and  
Chief Financial Officer

**[Signature Page to  
Amendment No. 1 to Sales Agreement]**

**Accepted as of the date hereof:**

**[•]**

By: \_\_\_  
Name:  
Title:

**[Signature Page to  
Amendment No. 1 to Sales Agreement]**



[LETTERHEAD OF SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP]

May 9, 2024

AGNC Investment Corp.  
7373 Wisconsin Ave, 22nd Floor  
Bethesda, Maryland 20814

Re: AGNC Investment Corp. Common Stock At-the-Market Offering Program

Ladies and Gentlemen:

We have acted as special United States counsel to AGNC Investment Corp., a Delaware corporation (the “Company”), in connection with the Company’s sale of up to \$1,250,000,000 aggregate offering price of shares (the “Securities”) of common stock of the Company, par value \$0.01 per share (the “Common Stock”), pursuant to (a) the Sales Agreement, dated October 12, 2023, by and between the Company and Goldman Sachs & Co. LLC (the “Original GS Sales Agreement”), as amended by that certain Amendment No. 1 to Sales Agreement, dated as of May 9, 2024, by and between the Company and Goldman Sachs & Co. LLC (the “Amended GS Sales Agreement”, and together with the Original GS Sales Agreement the “GS Sales Agreement”), (b) the Sales Agreement, dated October 12, 2023, by and between the Company and Barclays Capital Inc. (the “Original Barclays Sales Agreement”), as amended by that certain Amendment No. 1 to Sales Agreement, dated as of May 9, 2024, by and between the Company and Barclays Capital Inc. (the “Amended Barclays Sales Agreement”, and together with the Original Barclays Sales Agreement the “Barclays Sales Agreement”), (c) the Sales Agreement, dated October 12, 2023, by and between the Company and BTIG, LLC (the “Original BTIG Sales Agreement”), as amended by that certain Amendment No. 1 to Sales Agreement, dated as of May 9, 2024, by and between the Company and BTIG, LLC (the “Amended BTIG Sales Agreement”, and together with the Original BTIG Sales Agreement the “BTIG Sales Agreement”), (d) the Sales Agreement, dated October 12, 2023, by and between the Company and Citigroup Global Markets Inc. (the “Original Citigroup Sales Agreement”), as amended by that certain Amendment No. 1 to Sales Agreement, dated as of May 9, 2024, by and between the Company and Citigroup Global Markets Inc. (the “Amended Citigroup Sales Agreement”, and together with the Original Citigroup Sales Agreement the “Citigroup Sales Agreement”), (e) the Sales Agreement, dated October 12, 2023, by and between the Company and Citizens JMP Securities, LLC (the “Citizens Sales Agreement”), as amended by that certain Amendment No. 1 to Sales Agreement, dated as of May 9, 2024, by and between the Company and Citizens JMP

Securities, LLC (the “Amended Citizens Sales Agreement”, and together with the Original Citizens Sales Agreement the “Citizens Sales Agreement”), (f) the Sales Agreement, dated October 12, 2023, by and between the Company and J.P. Morgan Securities LLC (the “Original J.P. Morgan Sales Agreement”), as amended by that certain Amendment No. 1 to Sales Agreement, dated as of May 9, 2024, by and between the Company and J.P. Morgan Securities LLC (the “Amended J.P. Morgan Sales Agreement”, and together with the Original J.P. Morgan Sales Agreement the “J.P. Morgan Sales Agreement”), (g) the Sales Agreement, dated October 12, 2023, by and between the Company and Keefe, Bruyette & Woods, Inc. (the “Original Keefe Sales Agreement”), as amended by that certain Amendment No. 1 to Sales Agreement, dated as of May 9, 2024, by and between the Company and Keefe, Bruyette & Woods, Inc. (the “Amended Keefe Sales Agreement”, and together with the Original Keefe Sales Agreement the “Keefe Sales Agreement”), (h) the Sales Agreement, dated October 12, 2023, by and between the Company and Morgan Stanley & Co. LLC (the “Original MS Sales Agreement”), as amended by that certain Amendment No. 1 to Sales Agreement, dated as of May 9, 2024, by and between the Company and Morgan Stanley & Co. LLC (the “Amended MS Sales Agreement”, and together with the Original MS Sales Agreement the “MS Sales Agreement”), (i) the Sales Agreement, dated October 12, 2023, by and between the Company and RBC Capital Markets, LLC (the “Original RBC Sales Agreement”), as amended by that certain Amendment No. 1 to Sales Agreement, dated as of May 9, 2024, by and between the Company and RBC Capital Markets, LLC (the “Amended RBC Sales Agreement”, and together with the Original RBC Sales Agreement the “RBC Sales Agreement”), (j) the Sales Agreement, dated October 12, 2023, by and between the Company and UBS Securities LLC (the “Original UBS Sales Agreement”), as amended by that certain Amendment No. 1 to Sales Agreement, dated as of May 9, 2024, by and between the Company and UBS Securities LLC (the “Amended UBS Sales Agreement”, and together with the Original UBS Sales Agreement the “UBS Sales Agreement”), (k) the Sales Agreement, dated October 12, 2023, by and between the Company and Virtu Americas LLC (the “Original Virtu Sales Agreement”), as amended by that certain Amendment No. 1 to Sales Agreement, dated as of May 9, 2024, by and between the Company and Virtu Americas LLC (the “Amended Virtu Sales Agreement”, and together with the Original GS Sales Agreement the “Virtu Sales Agreement”) and (l) the Sales Agreement, dated October 12, 2023, by and between the Company and Wells Fargo Securities, LLC (the “Original Wells Fargo Sales Agreement”), as amended by that certain Amendment No. 1 to Sales Agreement, dated as of May 9, 2024, by and between the Company and Wells Fargo Securities, LLC (the “Amended Wells Fargo Sales Agreement”, and together with the Original Wells Fargo Sales Agreement the “Well Fargo Sales Agreement” and, together with the GS Sales Agreement, the Barclays Sales Agreement, the BTIG Sales Agreement, the Citigroup Sales Agreement, the Citizens Sales Agreement, the J.P. Morgan Sales Agreement, the Keefe Sales Agreement, the MS Sales Agreement, the RBC Sales Agreement, the UBS Sales Agreement and the Virtu Sales Agreement, the “Sales Agreements”).

This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act of 1933 (the “Act”).

In rendering the opinion stated herein, we have examined and relied upon the following:

- (a) the registration statement on Form S-3ASR (File No. 333-279249) of the Company relating to the Securities and other securities of the Company filed on May 9, 2024, with the Securities and Exchange Commission (the “Commission”) under the Act allowing for delayed offerings pursuant to Rule 415 of the General Rules and Regulations under the Act (the “Rules and Regulations”), including the information deemed to be a part of the registration statement pursuant to Rule 430B of the Rules and Regulations (such registration statement being hereinafter referred to as the “Registration Statement”);
- (b) the prospectus, dated May 9, 2024 (the “Base Prospectus”), which forms a part of and is included in the Registration Statement;
- (c) the prospectus supplement, dated May 9, 2024 (the “Prospectus Supplement” and, together with the Base Prospectus, the “Prospectus”) relating to the offering of the Securities, in the form filed by the Company with the Commission pursuant to Rule 424(b) of the Rules and Regulations;
- (d) executed copies of each of the Sales Agreements;
- (e) an executed copy of a certificate of Kenneth L. Pollack, Executive Vice President, General Counsel, Chief Compliance Officer and Secretary of the Company, dated the date hereof (the “Secretary’s Certificate”);
- (f) a copy of the Company’s Amended and Restated Certificate of Incorporation (the “Certificate of Incorporation”), as amended and restated and in effect as of April 22, 2021 and as of the date hereof, certified by the Secretary of State of the State of Delaware as of the date hereof, and certified pursuant to the Secretary’s Certificate;
- (h) a copy of the Company’s Amended and Restated Bylaws, as amended and restated and in effect as of July 20, 2023 and as of the date hereof (the “Bylaws”), certified pursuant to the Secretary’s Certificate; and
- (i) copies of certain resolutions of the Board of Directors of the Company, adopted on September 13, 2023 and April 18, 2024, and copies of certain resolutions of the Pricing Committee of the Board of Directors of the Company, adopted on October 12, 2023 and May 9, 2024, certified pursuant to the Secretary’s Certificate.

We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such records of the Company and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company and others, and such other documents as we have deemed necessary or appropriate as a basis for the opinion stated below, including the facts and conclusions set forth in the Secretary’s Certificate and the factual representations and warranties set forth in the Sales Agreements.

In our examination, we have assumed the genuineness of all signatures, including electronic signatures, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photocopied copies, and the authenticity of the originals of such copies. As to any facts relevant to the opinions stated herein that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the Company and others and of public officials, including the factual representations and warranties set forth in the Sales Agreements. We have assumed that the issuance of the Securities does not violate or conflict with any agreement or instrument binding on the Company (except that we do not make this assumption with respect to the Certificate of Incorporation, the Bylaws or those agreements or instruments expressed to be governed by New York law which are listed in Part II of the Registration Statement or the Company's Annual Report on Form 10-K for the year ended December 31, 2023).

We do not express any opinion with respect to the laws of any jurisdiction other than the General Corporation Law of the State of Delaware (the "DGCL").

Based upon the foregoing and subject to the qualifications and assumptions stated herein, we are of the opinion that, the Securities have been duly authorized by all requisite corporate action on the part of the Company under the DGCL and when issued and sold in accordance with the Sales Agreements, will be validly issued, fully paid and nonassessable provided that the consideration therefor is not less than \$0.01 per share.

We hereby consent to the reference to our firm under the heading "Legal Matters" in the Prospectus. We also hereby consent to the filing of this opinion with the Commission as an exhibit to the Company's Current Report on Form 8-K being filed on May 10, 2024 and incorporated by reference into the Registration Statement. In giving this consent, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Act or the Rules and Regulations.

Very truly yours,

/s/ Skadden, Arps, Slate, Meagher & Flom LLP