



March 11, 2020

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

Re: ***SIFMA Comment Letter on the NYSE National Rule Proposal to Establish Fees for the NYSE National Integrated Feed: File No. SR-NYSENAT-2020-05***

Dear Ms. Countryman:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ submits this letter to comment on the above-referenced filing submitted to the U.S. Securities and Exchange Commission (“Commission”) to establish market data fees by NYSE National, Inc. (“NYSE National”).² Currently, there are no fees for use of the NYSE National Integrated Feed. This is NYSE National’s second attempt to establish these fees,³ which the Commission previously suspended.⁴ Considering NYSE National’s filing is largely the same as the initial filing, SIFMA’s concerns expressed in the previous comment letter remain.⁵

SIFMA believes that NYSE National still fails to provide the necessary information for the SEC to independently determine whether the fees meet the requirements of the Exchange Act, and in consequence, SIFMA requests the Commission to once again institute proceedings to determine whether to approve or disapprove the proposal. To show that the proposed rule change is consistent with applicable statutory requirements under the Securities Exchange Act of 1934 (“Exchange Act”),⁶ NYSE National must provide sufficient rationale for these fees by following

¹ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry’s nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

² See Securities Exchange Act Release No. 88211 (Feb. 14, 2020) (“Proposal”).

³ See Securities Exchange Act Release No. 87797 (Dec. 18, 2019).

⁴ See Securities Exchange Act Release No. 88109 (Jan. 31, 2020).

⁵ See Letter from Robert Toomey, SIFMA to Vanessa Countryman, SEC dated January 21, 2020.

⁶ See, e.g., 15 U.S.C. 78f(b)(4); 78f(b)(5); and 78f(b)(8).

the examples of necessary information set forth in the Staff Guidance on SRO Rule Filings Relating to Fees,⁷ or another acceptable means. Unlike other companies selling products based on market value, exchanges must meet a higher burden prescribed by the Exchange Act to charge fees to be afforded the benefits of being a registered national securities exchange. For the reasons previously stated,⁸ the Integrated Feed does not meet the requirements of the Exchange Act. In particular, the feed is not subject to competitive forces because there are no available substitutes to the exchange's depth-of-book products.⁹ Also, as shown by Professor Glosten, the competition for order flow under the "platform theory" does not constrain the cost of market data, but instead, results in supra-monopoly prices for market data products.¹⁰

The only novel argument in this filing is NYSE National's unpersuasive attempt to show an elasticity of demand for its Integrated Feed. In response to the fee increase, only five of the fifty-seven subscribers notified NYSE National of their intent to cancel their subscriptions prior to the fees going into effect.¹¹ Considering more than 91% of market data purchasers will continue to purchase NYSE National's Integrated Feed, despite the significant increase in cost, it's likely that these purchasers are basing their decision on something other than the perceived value of the market data.

Additionally, exchanges have yet to show an increase (or decrease) in their trading volume after reducing (or increasing) its price of market data. In fact, NYSE National does not even state the anticipated impact on order flow from losing these subscribers to its Integrated Feed. Considering that competitive forces have not constrained the cost of market data, NYSE National should provide additional information on the cost.

* * *

SIFMA greatly appreciates the Commission's consideration of the issues raised above and would be pleased to discuss these comments in greater detail. If you have any questions or need any additional information, please contact me (at [REDACTED] or [REDACTED]).

⁷ SEC's Division of Trading and Markets, *Staff Guidance on SRO Rule Filings Relating to Fees* ("Staff Guidance") (May 21, 2019).

⁸ See SIFMA Letter.

⁹ *Id.*

¹⁰ See Letter from Robert Toomey, SIFMA to Vanessa Countryman, dated Jan. 13, 2020. See also Lawrence R. Glosten, *Economics of the Stock Exchange Business: Proprietary Market Data* (Jan. 2020).

¹¹ Proposal at 4-5.

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Sincerely,

A handwritten signature in black ink that reads "Ellen Greene". The signature is written in a cursive, slightly slanted style.

Ellen Greene
Managing Director
Equities & Options Market Structure

cc: The Honorable Jay Clayton, Chairman
The Honorable Hester M. Peirce, Commissioner
The Honorable Elad L. Roisman, Commissioner
The Honorable Allison Herren Lee, Commissioner

Brett Redfearn, Director, Division of Trading and Markets