

change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.⁵ On April 23, 2018, the Division, for the Commission pursuant to delegated authority, instituted proceedings under Section 19(b)(2)(B) of the Exchange Act⁶ to determine whether to approve or disapprove the proposed rule change.⁷ On July 18, 2018, the Division, for the Commission pursuant to delegated authority, extended the period for consideration of the proposed rule change.⁸ On August 22, 2018, the Division, for the Commission pursuant to delegated authority,⁹ disapproved the proposed rule change.¹⁰

On August 23, 2018, the Secretary of the Commission notified NYSE Arca that, pursuant to Commission Rule of Practice 431,¹¹ the Commission would review the Division's action pursuant to delegated authority and that the Division's action pursuant to delegated authority was stayed until the Commission orders otherwise.¹² On October 4, 2018, the Commission issued a scheduling order allowing the filing of additional statements.¹³

⁵ See Securities Exchange Act Release No. 82795, 83 FR 9768 (Mar. 7, 2018).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 83094, 83 FR 18603 (Apr. 27, 2018).

⁸ See Securities Exchange Act Release No. 83661, 83 FR 35040 (July 24, 2018).

⁹ 17 CFR 200.30-3(a)(12).

¹⁰ See Securities Exchange Act Release No. 83912, 83 FR 43912 (Aug. 28, 2018) (“Delegated Order”).

¹¹ 17 CFR 201.431.

¹² See Letter from Secretary, Commission, to Eugene Schlanger, Counsel, NYSE Group, Inc., dated Aug. 23, 2018, available at <https://www.sec.gov/rules/sro/nysearca/2018/34-83912-letter-from-secretary.pdf>.

¹³ See Securities Exchange Act Release No. 84370, 83 FR 51531 (Oct. 11, 2018).

On June 17, 2020, NYSE Arca withdrew the proposed rule change (SR-NYSEArca-2018-02).¹⁴

Under Commission Rule of Practice 431(a), the Commission may “affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, any action made pursuant to” delegated authority.¹⁵ We find that, in light of the NYSE Arca’s withdrawal of the proposed rule change, it is appropriate to set aside the Delegated Order.

Accordingly, IT IS ORDERED that the August 22, 2018, order disapproving by delegated authority NYSE Arca’s proposed rule change number SR-NYSEArca-2018-02, be, and it hereby is, set aside.

By the Commission.

J. Matthew DeLesDernier,
Assistant Secretary.

¹⁴ See letter from David De Gregorio, Senior Counsel, NYSE Arca, to Secretary, Commission, dated June 17, 2020, available at <https://www.sec.gov/comments/sr-nysearca-2018-02/srnysearca201802-7415693-219417.pdf>.

¹⁵ 17 CFR 201.431(a).