

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT of 1934
Release No. 94242 / February 14, 2022

In the Matter of

New York Stock Exchange LLC, NYSE
American LLC, NYSE Arca, Inc., NYSE
Chicago, Inc., and NYSE National, Inc.

Regarding an Order Disapproving

Proposed Rule Changes, as Modified by Partial
Amendment No. 1, to Amend Each Exchange's
Fee Schedule to Add Two Partial Cabinet
Bundles Available in Co-location and Establish
Associated Fees

**Order Granting Petition for
Review and Scheduling Filing of
Statements**

This matter comes before the Securities and Exchange Commission ("Commission") on petition to review the disapproval, pursuant to delegated authority, of the New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (each an "Exchange," and together, the "Exchanges") of a proposed rule change by each Exchange to amend its fee schedule to add two partial cabinet bundles available in co-location and establish associated fees

On February 1, 2021 and February 2, 2021, as applicable, the Commission issued notice of filing of each proposed rule change with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")¹ and Rule 19b-4² thereunder.³ On March

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release Nos. 91034 (February 1, 2021), 86 FR 8443 (February 5, 2021) (SR-NYSE-2021-05); 91035 (February 1, 2021), 86 FR 8449 (February 5, 2021) (SR-NYSEAMER-2021-04); 91036 (February 1, 2021), 86 FR 8440 (February 5, 2021) (SR-NYSECHX-2021-01); and 91037 (February 1, 2021), 86 FR

18, 2021, pursuant to Section 19(b)(2) of the Exchange Act,⁴ the Commission designated a longer time period within which to act on the proposed rule changes.⁵ On May 6, 2021, proceedings were instituted under Section 19(b)(2)(B) of the Exchange Act⁶ to determine whether to approve or disapprove the proposed rule changes.⁷ On July 30, 2021, a longer time period was designated for Commission action on the proposed rule changes.⁸ On September 14, 2021, each Exchange filed an amendment to its proposed rule change.⁹ On September 30, 2021, after consideration of the record for the proposed rule changes, as modified by Partial Amendment No. 1, the Division of Trading and Markets (“Division”), pursuant to

8424 (February 5, 2021) (SR-NYSENAT-2021-01); 91044 (February 2, 2021), 86 FR 8662 (February 8, 2021) (SR-NYSEArca-2021-07).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release Nos. 91357 (March 18, 2021), 86 FR 15732 (March 24, 2021) (SR-NYSE-2021-05); 91358 (March 18, 2021), 86 FR 15732 (March 24, 2021) (SR-NYSEAMER-2021-04); 91360 (March 18, 2021), 86 FR 15764 (March 24, 2021) (SR-NYSEArca-2021-07); 91362 (March 18, 2021), 86 FR 15765 (March 24, 2021) (SR-NYSECHX-2021-01); and 91363 (March 18, 2021), 86 FR 15763 (March 24, 2021) (SR-NYSENAT-2021-01).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 91785 (May 6, 2021), 86 FR 26082 (May 12, 2021) (SR-NYSE-2021-05, SR-NYSEAMER-2021-04, SR-NYSEArca-2021-07, SR-NYSECHX-2021-01, SR-NYSENAT-2021-01).

⁸ See Securities Exchange Act Release Nos. 92532 (July 30, 2021), 86 FR 42911 (August 5, 2021) (SR-NYSE-2021-05, SR-NYSENAT-2021-01, SR-NYSEAMER-2021-04, SR-NYSECHX-2021-01); 92531 (July 30, 2021), 86 FR 42956 (August 5, 2021) (SR-NYSEArca-2021-07).

⁹ The Commission also received two comment letters from the Exchanges seeking to further justify the fees for the proposed bundles. See, letters dated July 6, 2021 and September 15, 2021 from Elizabeth K. King, Chief Regulatory Officer, ICE, General Counsel and Corporate Secretary, NYSE, to Vanessa Countryman, Secretary, Commission. Partial Amendment No. 1 and the Exchanges’ comment letters are available on the Commission’s website at: <https://www.sec.gov/comments/sr-nyse-2021-05/srnyse202105.htm>; <https://www.sec.gov/comments/sr-nyseamer-2021-04/srnyseamer202104.htm>; <https://www.sec.gov/comments/sr-nysearca-2021-07/srnysearca202107.htm>; <https://www.sec.gov/comments/sr-nysechx-2021-01/srnysechx202101.htm> <https://www.sec.gov/comments/sr-nyssenat-2021-01/srnyssenat202101.htm>.

delegated authority,¹⁰ issued an order disapproving the proposed rule changes, as modified by Partial Amendment No. 1 (“Disapproval Order”).¹¹

Pursuant to Rule 430 of the Commission’s Rules of Practice,¹² on October 7, 2021 the Exchanges filed a notice of intention to petition for review of the Disapproval Order, and on October 14, 2021 the Exchanges filed a petition for review of the Disapproval Order, followed by a corrected version on October 15, 2021. Pursuant to Rule 431(e) of the Commission Rules of Practice,¹³ a notice of intention to petition for review results in an automatic stay of the action by delegated authority.

Pursuant to Rule 431 of the Commission’s Rules of Practice,¹⁴ the Exchanges’ petition for review of the Disapproval Order is granted. Further, the Commission hereby establishes that any party to the action or other person may file a written statement in support of or in opposition to the Disapproval Order on or before [insert date 21 days from date of publication in the Federal Register].

For the reasons stated above, it is hereby:

ORDERED that the petition of the Exchanges for review of the Division’s action to disapprove the proposed rule changes, as modified by Partial Amendment No. 1, by delegated authority be GRANTED; and

It is further ORDERED that any party or other person may file a statement in support of or in opposition to the action made pursuant to delegated authority on or before insert date 21 days from date of publication in the Federal Register].

¹⁰ 17 CFR 200.30-3(a)(12).

¹¹ See Securities Exchange Act Release No. 93214 (September 30, 2021), 86 FR 55672 (October 6, 2021) (SR-NYSE-2021-05, SR-NYSEAMER-2021-04, SR-NYSEArca-2021-07, SR-NYSECHX-2021-01, SR-NYSENAT-2021-01).

¹² 17 CFR 201.430.

¹³ 17 CFR 201.431(e).

¹⁴ 17 CFR 201.431.

It is further ORDERED that the automatic stay of delegated action pursuant to Commission Rule of Practice 431(e) is hereby discontinued.

The order disapproving the proposed rule changes, each as modified by Partial Amendment No. 1, shall remain in effect.

By the Commission.

J. Matthew DeLesDernier
Assistant Secretary