

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 82696 / February 12, 2018

Admin. Proc. File No. 3-15350

In the Matter of the Application of

SECURITIES INDUSTRY AND FINANCIAL
MARKETS ASSOCIATION

For Review of Actions Taken by
Self-Regulatory Organizations

SUPPLEMENTAL BRIEFING ORDER

On May 31, 2013, the Commission received applications for review that the Securities Industry and Financial Markets Association filed under Section 19(d) of the Securities Exchange Act of 1934, challenging certain self-regulatory organization (“SRO”) rule changes affecting fees charged for non-core market data as impermissible limitations or prohibitions of access to SRO services.¹ The Commission, invoking its authority to prescribe procedures applicable to a specific proceeding upon the determination that “to do so would serve the interests of justice and not result in prejudice to the parties,”² referred this proceeding to an administrative law judge on May 16, 2014.³ The ALJ issued an initial decision on June 1, 2016, and respondents NYSE Arca, Inc., and NASDAQ Stock Market LLC sought review of that decision. On November 30, 2017, the Commission remanded the matter to the ALJ who issued the initial decision in order for her to conduct a de novo reconsideration and reexamination of the record to determine whether to ratify or revise in any respect any prior action taken by the ALJ. The parties were given the opportunity to submit any new evidence that they deemed relevant. On December 21,

¹ 15 U.S.C. § 78s(d) (providing for Commission review of SRO action “prohibit[ing] or limit[ing] any person in respect to access to services offered by such organization or member thereof” upon filing of timely “application by any person aggrieved thereby”).

² Rule of Practice 100(c), 17 C.F.R. § 201.100(c).

³ *Sec. Indus. & Fin. Mkts. Ass’n*, Exchange Act Release No. 72182, 2014 WL 1998525 (May 16, 2014).

2017, the ALJ determined, upon reconsideration of the record, to ratify all prior actions and determinations in this proceeding, including the initial decision.⁴

The Commission will now complete its consideration of whether the challenged rules should be set aside under the statutory standard set forth in Exchange Act Section 19(f). Accordingly, it is ORDERED that the parties may file simultaneous briefs, not to exceed 6000 words, addressing any further matters they deem pertinent by March 14, 2018. It is further ORDERED that the parties may file simultaneous reply briefs, not to exceed 3000 words, by April 13, 2018.⁵ It is unnecessary to restate arguments asserted in previous briefing before the Commission.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Brent J. Fields
Secretary

⁴ *Sec. Indus. & Fin. Mkts. Ass'n*, Admin. Proc. Ruling Release No. 5414 (Dec. 21, 2017), available at, <https://www.sec.gov/alj/aljorders/2017/ap-5414.pdf>; see also *Sec. Indus. & Fin. Mkts. Ass'n*, Initial Decision Release No. 1015, 2016 WL 4035551 (June 1, 2016).

⁵ Attention is called to Rules of Practice 150-153, 17 C.F.R. §§ 201.150-153, with respect to form and service, and Rule of Practice 450(b) and (c), 17 C.F.R. § 201.450(b), (c), with respect to content limitations and word length calculations. Requests for extensions of time to file briefs will be disfavored.