



Martha Redding
Associate General Counsel
Assistant Secretary

December 16, 2020

VIA E-MAIL

Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: SEC Release No. 34-89884 (SR-NYSENAT-2020-28)

Dear Secretary:

NYSE National, Inc. filed the attached Amendment No. 1 to the above-referenced filing on December 16, 2020.

Sincerely,

A handwritten signature in blue ink, appearing to be the initials "MR" followed by a stylized flourish.

Encl. (Amendment No. 1 to SR-NYSENAT-2020-28)

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 34	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2020 - * 28 Amendment No. (req. for Amendments *) 1
Filing by NYSE National, Inc. Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934		
Initial * <input type="checkbox"/>	Amendment * <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>
Section 19(b)(2) * <input checked="" type="checkbox"/>		Section 19(b)(3)(A) * <input type="checkbox"/>
Section 19(b)(3)(B) * <input type="checkbox"/>		Rule
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
<input type="checkbox"/> 19b-4(f)(1)		<input type="checkbox"/> 19b-4(f)(4)
<input type="checkbox"/> 19b-4(f)(2)		<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)		<input type="checkbox"/> 19b-4(f)(6)
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010		Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>	Section 3C(b)(2) * <input type="checkbox"/>
Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>	
Description		
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).		
<input type="text" value="Proposed Rule Change to Establish Procedures for the Allocation of Cabinets to its Co-Located Users"/>		
Contact Information		
Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.		
First Name * Sarah	Last Name * Zgliniec	
Title *	Senior Counsel, NYSE Group Inc.	
E-mail *	<input type="text" value="REDACTED"/>	
Telephone *	<input type="text" value="REDACTED"/>	Fax <input type="text" value="REDACTED"/>
Signature		
Pursuant to the requirements of the Securities Exchange Act of 1934,		
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.		
		(Title *)
Date	12/16/2020	Senior Counsel
By	David De Gregorio	<input type="text" value="REDACTED"/>
(Name *)		
NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.		
		<input type="button" value="David De Gregorio,"/>

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² NYSE National, Inc. (“NYSE National” or the “Exchange”) proposes to establish procedures for the allocation of cabinets to its co-located Users. This Amendment No. 1 supersedes the original filing in its entirety.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and the text of the proposed rule change is attached as Exhibit 5.

- (b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action is required under the Exchange’s governing documents. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The person on the Exchange staff prepared to respond to questions and comments on the proposed rule change is:

Sarah E. Zgliniec
Senior Counsel
NYSE Group, Inc.



3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

- (a) Purpose

This Amendment No. 1 supersedes the original filing in its entirety. The Exchange proposes to establish procedures for the allocation of cabinets to its co-

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

located³ Users.⁴

Background

Presently, Users have two options for cabinets with power: dedicated cabinets and partial cabinets. Both options use power and house Users' servers and other equipment. When a User purchases a new cabinet, whether dedicated or partial, the Exchange provides the cabinet with power, and the User pays an initial fee and a monthly fee based on the number of kilowatts ("kW") contracted for the cabinet. The Exchange allocates cabinets on a first-come/first-serve basis.

The Exchange also offers a third cabinet option, cabinets for which power is not utilized ("PNU cabinets"). PNU cabinets are reserved cabinet space that can be converted to a dedicated cabinet when the User requests it.⁵

Proposed Cabinet Allocation Procedure

The Exchange believes that it would be prudent for it to put in place measures for the allocation of cabinets (the "Cabinet Allocation") that could be used if, in the future, a situation arises where the Exchange cannot satisfy all User demand for cabinets.⁶ The Exchange is not presently in such a situation, nor does it anticipate

³ The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission ("Commission") in 2018. See Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 (June 6, 2018) (SR-NYSENAT-2018-07) ("NYSE National Co-location Notice").

⁴ For purposes of the Exchange's co-location services, a "User" means any market participant that requests to receive co-location services directly from the Exchange. See *id.*, *supra* note 3, at 26314 n.9. As specified in the NYSE National, Inc. Schedule of Fees and Rebates ("Fee Schedule"), a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange, LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE Chicago, Inc. (together, the "Affiliate SROs"). See *id.* at 26314 n.11. Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2020-73, SR-NYSEAMER-2020-66, SR-NYSEArca-2020-82, and SR-NYSECHX-2020-26.

⁵ See NYSE National Co-location Notice, *supra* note 3, at 26316.

⁶ The Exchange believes that the proposed procedures are consistent with the Nasdaq procedures for allocating cabinets if Nasdaq's inventory shrinks to zero. See Securities Exchange Act Release No. 62397 (June 28, 2010), 75 FR 38860 (July 6, 2010) (SR-NASDAQ-2010-019) ("Nasdaq Cabinet Waitlist Procedures"). The Nasdaq procedures similarly limit the purchase of cabinets if available

being so in the foreseeable future. The Exchange is currently working to expand the number of cabinets available in colocation. Nevertheless, the Exchange believes it is prudent to have the proposed procedures in place.

The proposed Cabinet Allocation is as follows:

1. Cabinet Purchasing Limits:
 - a. The Exchange would place the following limits on Users' ability to purchase new cabinets ("Purchasing Limits") if the Exchange's unallocated cabinet inventory is at or below 40 cabinets, whether or not such cabinets are configured to be subdivided into partial cabinets (the "Cabinet Threshold"):
 - i. A User with PNU cabinets would be required to either convert its PNU cabinets into dedicated cabinets or relinquish its PNU cabinets before being permitted to purchase new cabinets.⁷
 - ii. Once the Cabinet Threshold is reached, the Exchange would limit each User's purchase of new cabinets (dedicated and partial) to a maximum of four dedicated cabinets. The maximum may be comprised of a mix of dedicated and partial cabinets, with two partial cabinets counting as one dedicated cabinet.⁸
 - iii. If a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be below 40 cabinets, the Purchasing Limits would only apply to the portion of the User's order below the Cabinet

cabinet inventory falls to 40 cabinets or fewer. Id. at 38861 ("Should available cabinet inventory shrink to 40 cabinets or less, the Exchange will limit new cabinet orders to a maximum of 4 cabinets each, and all new cabinets will be limited to a maximum power level of 5kW.").

⁷ See NYSE National Co-location Notice, supra note 3, at 26316.

⁸ The Exchange makes dedicated cabinets available with standard power allocation of either 4 kW or 8 kW. Partial cabinets are available in increments of eight-rack units of space, and each eight-rack unit may be allocated up to 2 kW. A User may request power upgrades to dedicated cabinets beyond 8 kW. See Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 (June 6, 2018) (SR-NYSENAT-2018-07).

Threshold.⁹

- iv. A User would have to wait 30 days from the date of its signed order form before purchasing new cabinets again.
- b. If the Cabinet Threshold is reached, the Exchange would cease offering new PNU cabinets to all Users.

2. Waitlist:

- a. The Exchange would create a waitlist if the available cabinet inventory is zero, or if a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be below zero.
- b. The Exchange would place Users seeking cabinets on a waitlist, as follows:¹⁰
 - i. A User with PNU cabinets would not be placed on the waitlist if the User could meet its new cabinet request by converting its PNU cabinets to dedicated cabinets. A User would only be placed on the waitlist for the portion of its new cabinet request that exceeds its existing PNU cabinets, subject to the Purchasing Limitations.
 - ii. A User would be placed on the waitlist based on the date its signed order is received. A User may only have one order for new cabinets on the waitlist at a time, and the order would be subject to the Purchasing Limits.
 - iii. As cabinets become available,¹¹ the Exchange would offer

⁹ For example, if the Exchange had 50 available cabinets and a User requested to purchase 20 cabinets, the Purchasing Limits would not apply to the User's purchase of the first 10 cabinets. Once the available inventory reached 40 cabinets, the Purchasing Limits would be activated, limiting the User's purchase of additional cabinets to 4 cabinets. In all, the User would be permitted to purchase a total of 14 cabinets out of its original order of 20 cabinets.

¹⁰ The waitlist provisions are based on the Nasdaq Cabinet Waitlist Procedures and the procedures in General Note 3 of the Fee Schedule. See Nasdaq Cabinet Waitlist Procedures, supra note 6, 38861; NYSE National Co-location Notice, supra note 3, at 26315.

¹¹ Cabinets may become available if, for example, a User vacates a dedicated or partial cabinet.

them to the User at the top of the waitlist. If the User's order is completed, it would be removed from the waitlist. If the User's order is not completed, it would remain at the top of the waitlist.

- iv. A User would be removed from the waitlist (a) at the User's request or (b) if the User turns down an offer of a cabinet of the same size it requested in its order. If the Exchange offers the User a cabinet of a different size than the User requested in its order, the User may turn down the offer and remain at the top of the waitlist until its order is completed.
 - v. A User that is removed from the waitlist but subsequently submits a new written order for cabinets would be added to the bottom of the waitlist.
3. Termination of Purchasing Limits and Waitlist: When unallocated cabinet inventory is more than 10 cabinets, the Exchange would cease use of the waitlist. When unallocated cabinet inventory is more than 40 cabinets, the Exchange would discontinue the Purchasing Limits.

Proposed New General Notes

The Exchange proposes to add a new General Note 7 to the Exchange's Fee Schedule setting forth the proposed Purchasing Limits, as follows:

7. Cabinet Purchasing Limits. If unallocated cabinet inventory is at or below 40 cabinets, whether or not such cabinets are configured to be subdivided into partial cabinets ("Cabinet Threshold"), the following limits on the purchase of new cabinets ("Purchasing Limits") will apply:

- A User with PNU cabinets will be required to either convert its PNU cabinets into dedicated cabinets or relinquish its PNU cabinets before being permitted to purchase new cabinets.
- Once the Cabinet Threshold is reached, the Exchange will limit each User's purchase of new cabinets (dedicated and partial) to a maximum of four dedicated cabinets. The maximum may be comprised of a mix of dedicated and partial cabinets, with two partial cabinets counting as one dedicated cabinet.
- If a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be below 40 cabinets, the Purchasing Limits will only apply to the portion of the User's order below the Cabinet Threshold.
- A User will have to wait 30 days from the date of its signed order

form before purchasing new cabinets again.

- If the Cabinet Threshold is reached, the Exchange will cease offering new PNU cabinets to all Users.
- When unallocated cabinet inventory is more than 40 cabinets, the Exchange will discontinue the Purchasing Limits.

The Exchange proposes to add a new General Note 8 to the Exchange's Fee Schedule setting forth the proposed Waitlist, as follows:

8. Cabinet Waitlist. The Exchange will create a waitlist if the available cabinet inventory is zero, or if a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be zero. The Exchange will place Users seeking cabinets on a waitlist, as follows:

- A User with PNU cabinets will not be placed on the waitlist if the User could meet its new cabinet request by converting its PNU cabinets to dedicated cabinets. A User will only be placed on the waitlist for the portion of its new cabinet request that exceeds its existing PNU cabinets, subject to the Purchasing Limitations.
- A User will be placed on the waitlist based on the date its signed order is received. A User may only have one order for new cabinets on the waitlist at a time, and the order is subject to the Purchasing Limits.
- As cabinets become available, the Exchange will offer them to the User at the top of the waitlist. If the User's order is completed, it will be removed from the waitlist. If the User's order is not completed, it will remain at the top of the waitlist.
- A User will be removed from the waitlist (a) at the User's request or (b) if the User turns down an offer of a cabinet of the same size it requested in its order. If the Exchange offers the User a cabinet of a different size than the User requested in its order, the User may turn down the offer and remain at the top of the waitlist until its order is completed.
- A User that is removed from the waitlist but subsequently submits a new written order for cabinets will be added back to the bottom of the waitlist.
- When unallocated cabinet inventory is more than 10 cabinets, the Exchange will cease use of the waitlist.

The proposed change would apply the same way to all types and sizes of market

participants. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users. The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹³ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. In addition, it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposed Rule Change is Reasonable and Equitable

The Exchange believes that the proposed rule change is reasonable and equitable for the following reasons.

The Exchange believes that User demand for cabinets will continue. The Exchange is currently working to expand the number of cabinets available in colocation. Nevertheless, the Exchange believes that it would be reasonable for it to put in place the proposed Cabinet Allocation to establish the allocation of cabinets on an equitable basis. The Cabinet Allocation would establish a rational, objective procedure that would be applied uniformly by the Exchange to all Users that requested new cabinets.

The Exchange believes that the Cabinet Allocation's two-tier structure of establishing, first, a purchasing limitation on order size, and second, a waitlist, would be a reasonable method to respond to increasing demand for cabinets in the future, and would be consistent with the Nasdaq procedures for allocating cabinets if Nasdaq's cabinet inventory shrinks to zero.¹⁴

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

¹⁴ See Nasdaq Cabinet Waitlist Procedures, supra note 6.

The Exchange believes that the proposed Cabinet Threshold is reasonable and equitable. Based on experience, the Exchange believes that the Cabinet Threshold of 40 cabinets is reasonable and appropriate because it is sufficiently low that it would not be triggered easily, yet it offers a reasonable buffer during which the Purchasing Limits would apply before the Cabinet Waitlist would become effective.

The Exchange believes that the proposed Purchasing Limits are reasonable and equitable. Based on its experience with co-location and purchasing trends over the last few years, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient for a User's needs while leaving a margin for potential growth.

Further, the Exchange believes that, by establishing a waitlist on the basis of the date it receives signed orders, limiting the size and number of orders a User may have on the waitlist at any one time, and removing a User from the waitlist if it turns down a cabinet that is the size that it requested, the Cabinet Allocation is reasonably designed to prevent Users from utilizing the waitlist as a method to obtain a greater portion of the cabinets available, thereby facilitating a more equitable distribution of cabinets. Similarly, the Exchange believes that by requiring a 30-day delay before a User subject to the Purchasing Limits could purchase cabinets again, the Cabinet Allocation is reasonably designed to prevent a User from obtaining a greater portion of the cabinets available.

The Exchange believes that the proposed change is reasonable and equitable because the Exchange would only place limits on Users' ability to purchase new cabinets if cabinet inventory fell to specific thresholds. Similarly, the Exchange believes that the proposed change is reasonable and equitable because the waitlist would only be created if unallocated cabinet inventory fell to zero, and because there would be an established threshold for cessation of the waitlist.

The Proposed Rule Change Would Protect Investors and the Public Interest

The Exchange believes that the proposed rule change would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest for the following reasons.

The Exchange believes that User demand for cabinets will continue. In this context, the proposed rule change would allow the Exchange to protect investors and the public interest, first, by setting limits on Users' ability to purchase cabinets, and second, by using a waitlist to allocate any unallocated cabinets on a first come-first served rolling basis.

Based on experience, the Exchange believes that the Cabinet Threshold is sufficiently low that it would not be triggered easily, which would protect investors and the public interest. Similarly, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the

proposed Purchasing Limits would be sufficient for Users' needs while leaving a margin for potential growth, which would protect investors and the public interest.

In addition, the proposed Cabinet Allocation would protect investors and the public interest in that it is designed to prevent Users from utilizing the Purchasing Limit and waitlist procedures to obtain a greater portion of the cabinets available, thereby facilitating a more equitable distribution.

The proposed rule change would protect investors and the public interest because the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be allocated if a shortage in unallocated cabinets were to arise in the future, and would thereby make the Fee Schedule more transparent and reduce any potential ambiguity.

The Proposed Change is Not Unfairly Discriminatory

The Exchange believes that the proposed change is not unfairly discriminatory for the following reasons.

The proposed change would apply equally to all types and sizes of market participants. If the Cabinet Allocation were in place, all Users would be able to identify the permitted cabinet options and the procedures that would apply to them in the event that unallocated cabinet supply runs low in the future. The Cabinet Allocation would assist the Exchange in accommodating demand for co-location services, and cabinets in particular, on an equitable basis.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

4. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,¹⁵ the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that the proposed change would place any burden

¹⁵ 15 U.S.C. 78f(b)(8).

on intramarket competition that is not necessary or appropriate. The proposed change would not apply differently to distinct types or sizes of market participants. Rather, it would apply to all Users equally.

The Exchange believes that, if triggered, the imposition of the Cabinet Allocation would not impose a burden on a User's ability to compete that is not necessary or appropriate. The Exchange believes that User demand for cabinets will continue in the future, and the Exchange is presently working to expand the number of cabinets available in colocation. In this context, the Exchange believes that it would be reasonable for it to put in place the proposed Cabinet Allocation to establish a method for allocating cabinets on an equitable basis. The Exchange would only follow the Cabinet Allocation and place limits on Users' ability to purchase new cabinets if unallocated cabinet inventory fell to the proposed Cabinet Threshold. Similarly, the Exchange would only create the waitlist if unallocated cabinet inventory fell to zero. Based on its experience with colocation and purchasing trends over the last few years, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient for Users' needs while leaving a margin for potential growth.

The Exchange believes that the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be allocated if a shortage in unallocated cabinets were to arise in the future, and would thereby make the Fee Schedule more transparent and reduce any potential ambiguity.

Use of any co-location service is completely voluntary, and each market participant is able to determine whether to use co-location services based on the requirements of its business operations.

Intermarket Competition

The Exchange does not believe that the proposed change would impose any burden on intermarket competition that is not necessary or appropriate.

The Exchange operates in a highly competitive market in which exchanges and other vendors (i.e., Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has

been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁶

The proposed rule change would protect investors and the public interest because the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be treated in the case of a shortage in unallocated cabinets, and would thereby make the Fee Schedule more transparent and reduce any potential ambiguity.

For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

5. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Publication in the

¹⁶ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

Federal Register

Exhibit 5 – Text of the Proposed Rule Change

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NYSENAT-2020-28, Amendment No.1)

[Date]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change to Establish Procedures for the Allocation of Cabinets to its Co-Located Users

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on December 16, 2020, NYSE National, Inc. (“NYSE National” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish procedures for the allocation of cabinets to its co-located Users. This Amendment No. 1 supersedes the original filing in its entirety. The proposed change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

This Amendment No. 1 supersedes the original filing in its entirety. The Exchange proposes to establish procedures for the allocation of cabinets to its co-located⁴ Users.⁵

Background

Presently, Users have two options for cabinets with power: dedicated cabinets and partial cabinets. Both options use power and house Users’ servers and other equipment. When a User purchases a new cabinet, whether dedicated or partial, the Exchange provides the cabinet with power, and the User pays an initial fee and a monthly

⁴ The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (“Commission”) in in 2018. See Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 (June 6, 2018) (SR-NYSENAT-2018-07) (“NYSE National Co-location Notice”).

⁵ For purposes of the Exchange’s co-location services, a “User” means any market participant that requests to receive co-location services directly from the Exchange. See *id.*, *supra* note 4, at 26314 n.9. As specified in the NYSE National, Inc. Schedule of Fees and Rebates (“Fee Schedule”), a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange’s affiliates New York Stock Exchange, LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE Chicago, Inc. (together, the “Affiliate SROs”). See *id.* at 26314 n.11. Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2020-73, SR-NYSEAMER-2020-66, SR-NYSEArca-2020-82, and SR-NYSECHX-2020-26.

fee based on the number of kilowatts (“kW”) contracted for the cabinet. The Exchange allocates cabinets on a first-come/first-serve basis.

The Exchange also offers a third cabinet option, cabinets for which power is not utilized (“PNU cabinets”). PNU cabinets are reserved cabinet space that can be converted to a dedicated cabinet when the User requests it.⁶

Proposed Cabinet Allocation Procedure

The Exchange believes that it would be prudent for it to put in place measures for the allocation of cabinets (the “Cabinet Allocation”) that could be used if, in the future, a situation arises where the Exchange cannot satisfy all User demand for cabinets.⁷ The Exchange is not presently in such a situation, nor does it anticipate being so in the foreseeable future. The Exchange is currently working to expand the number of cabinets available in colocation. Nevertheless, the Exchange believes it is prudent to have the proposed procedures in place.

The proposed Cabinet Allocation is as follows:

1. Cabinet Purchasing Limits:

- a. The Exchange would place the following limits on Users’ ability to purchase new cabinets (“Purchasing Limits”) if the Exchange’s unallocated cabinet inventory is at or below 40 cabinets, whether

⁶ See NYSE National Co-location Notice, supra note 4, at 26316.

⁷ The Exchange believes that the proposed procedures are consistent with the Nasdaq procedures for allocating cabinets if Nasdaq’s inventory shrinks to zero. See Securities Exchange Act Release No. 62397 (June 28, 2010), 75 FR 38860 (July 6, 2010) (SR-NASDAQ-2010-019) (“Nasdaq Cabinet Waitlist Procedures”). The Nasdaq procedures similarly limit the purchase of cabinets if available cabinet inventory falls to 40 cabinets or fewer. Id. at 38861 (“Should available cabinet inventory shrink to 40 cabinets or less, the Exchange will limit new cabinet orders to a maximum of 4 cabinets each, and all new cabinets will be limited to a maximum power level of 5kW.”).

or not such cabinets are configured to be subdivided into partial cabinets (the “Cabinet Threshold”):

- i. A User with PNU cabinets would be required to either convert its PNU cabinets into dedicated cabinets or relinquish its PNU cabinets before being permitted to purchase new cabinets.⁸
- ii. Once the Cabinet Threshold is reached, the Exchange would limit each User’s purchase of new cabinets (dedicated and partial) to a maximum of four dedicated cabinets. The maximum may be comprised of a mix of dedicated and partial cabinets, with two partial cabinets counting as one dedicated cabinet.⁹
- iii. If a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be below 40 cabinets, the Purchasing Limits would only apply to the portion of the User’s order below the Cabinet Threshold.¹⁰

⁸ See NYSE National Co-location Notice, supra note 4, at 26316.

⁹ The Exchange makes dedicated cabinets available with standard power allocation of either 4 kW or 8 kW. Partial cabinets are available in increments of eight-rack units of space, and each eight-rack unit may be allocated up to 2 kW. A User may request power upgrades to dedicated cabinets beyond 8 kW. See Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 (June 6, 2018) (SR-NYSENAT-2018-07).

¹⁰ For example, if the Exchange had 50 available cabinets and a User requested to purchase 20 cabinets, the Purchasing Limits would not apply to the User’s purchase of the first 10 cabinets. Once the available inventory reached 40 cabinets, the Purchasing Limits would be activated, limiting the User’s purchase

- iv. A User would have to wait 30 days from the date of its signed order form before purchasing new cabinets again.
- b. If the Cabinet Threshold is reached, the Exchange would cease offering new PNU cabinets to all Users.

2. Waitlist:

- a. The Exchange would create a waitlist if the available cabinet inventory is zero, or if a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be below zero.
- b. The Exchange would place Users seeking cabinets on a waitlist, as follows:¹¹
 - i. A User with PNU cabinets would not be placed on the waitlist if the User could meet its new cabinet request by converting its PNU cabinets to dedicated cabinets. A User would only be placed on the waitlist for the portion of its new cabinet request that exceeds its existing PNU cabinets, subject to the Purchasing Limitations.
 - ii. A User would be placed on the waitlist based on the date its signed order is received. A User may only have one order for new cabinets on the waitlist at a time, and the order

of additional cabinets to 4 cabinets. In all, the User would be permitted to purchase a total of 14 cabinets out of its original order of 20 cabinets.

¹¹ The waitlist provisions are based on the Nasdaq Cabinet Waitlist Procedures and the procedures in General Note 3 of the Fee Schedule. See Nasdaq Cabinet Waitlist Procedures, *supra* note 7, at 38861; NYSE National Co-location Notice, *supra* note 4, at 26315.

would be subject to the Purchasing Limits.

- iii. As cabinets become available,¹² the Exchange would offer them to the User at the top of the waitlist. If the User's order is completed, it would be removed from the waitlist. If the User's order is not completed, it would remain at the top of the waitlist.
 - iv. A User would be removed from the waitlist (a) at the User's request or (b) if the User turns down an offer of a cabinet of the same size it requested in its order. If the Exchange offers the User a cabinet of a different size than the User requested in its order, the User may turn down the offer and remain at the top of the waitlist until its order is completed.
 - v. A User that is removed from the waitlist but subsequently submits a new written order for cabinets would be added to the bottom of the waitlist.
3. Termination of Purchasing Limits and Waitlist: When unallocated cabinet inventory is more than 10 cabinets, the Exchange would cease use of the waitlist. When unallocated cabinet inventory is more than 40 cabinets, the Exchange would discontinue the Purchasing Limits.

Proposed New General Notes

The Exchange proposes to add a new General Note 7 to the Exchange's Fee

¹² Cabinets may become available if, for example, a User vacates a dedicated or partial cabinet.

Schedule setting forth the proposed Purchasing Limits, as follows:

7. Cabinet Purchasing Limits. If unallocated cabinet inventory is at or below 40 cabinets, whether or not such cabinets are configured to be subdivided into partial cabinets (“Cabinet Threshold”), the following limits on the purchase of new cabinets (“Purchasing Limits”) will apply:

- A User with PNU cabinets will be required to either convert its PNU cabinets into dedicated cabinets or relinquish its PNU cabinets before being permitted to purchase new cabinets.
- Once the Cabinet Threshold is reached, the Exchange will limit each User’s purchase of new cabinets (dedicated and partial) to a maximum of four dedicated cabinets. The maximum may be comprised of a mix of dedicated and partial cabinets, with two partial cabinets counting as one dedicated cabinet.
- If a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be below 40 cabinets, the Purchasing Limits will only apply to the portion of the User’s order below the Cabinet Threshold.
- A User will have to wait 30 days from the date of its signed order form before purchasing new cabinets again.
- If the Cabinet Threshold is reached, the Exchange will cease offering new PNU cabinets to all Users.
- When unallocated cabinet inventory is more than 40 cabinets, the Exchange will discontinue the Purchasing Limits.

The Exchange proposes to add a new General Note 8 to the Exchange's Fee Schedule setting forth the proposed Waitlist, as follows:

8. Cabinet Waitlist. The Exchange will create a waitlist if the available cabinet inventory is zero, or if a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be zero. The Exchange will place Users seeking cabinets on a waitlist, as follows:

- A User with PNU cabinets will not be placed on the waitlist if the User could meet its new cabinet request by converting its PNU cabinets to dedicated cabinets. A User will only be placed on the waitlist for the portion of its new cabinet request that exceeds its existing PNU cabinets, subject to the Purchasing Limitations.
- A User will be placed on the waitlist based on the date its signed order is received. A User may only have one order for new cabinets on the waitlist at a time, and the order is subject to the Purchasing Limits.
- As cabinets become available, the Exchange will offer them to the User at the top of the waitlist. If the User's order is completed, it will be removed from the waitlist. If the User's order is not completed, it will remain at the top of the waitlist.
- A User will be removed from the waitlist (a) at the User's request or (b) if the User turns down an offer of a cabinet of the same size it requested in its order. If the Exchange offers the User a cabinet

of a different size than the User requested in its order, the User may turn down the offer and remain at the top of the waitlist until its order is completed.

- A User that is removed from the waitlist but subsequently submits a new written order for cabinets will be added back to the bottom of the waitlist.
- When unallocated cabinet inventory is more than 10 cabinets, the Exchange will cease use of the waitlist.

The proposed change would apply the same way to all types and sizes of market participants. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users. The proposed change is not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹³ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹⁴ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. In addition, it is designed to foster cooperation and coordination with persons engaged in

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(4) and (5).

regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposed Rule Change is Reasonable and Equitable

The Exchange believes that the proposed rule change is reasonable and equitable for the following reasons.

The Exchange believes that User demand for cabinets will continue. The Exchange is currently working to expand the number of cabinets available in colocation. Nevertheless, the Exchange believes that it would be reasonable for it to put in place the proposed Cabinet Allocation to establish the allocation of cabinets on an equitable basis. The Cabinet Allocation would establish a rational, objective procedure that would be applied uniformly by the Exchange to all Users that requested new cabinets.

The Exchange believes that the Cabinet Allocation's two-tier structure of establishing, first, a purchasing limitation on order size, and second, a waitlist, would be a reasonable method to respond to increasing demand for cabinets in the future, and would be consistent with the Nasdaq procedures for allocating cabinets if Nasdaq's cabinet inventory shrinks to zero.¹⁵

The Exchange believes that the proposed Cabinet Threshold is reasonable and equitable. Based on experience, the Exchange believes that the Cabinet Threshold of 40 cabinets is reasonable and appropriate because it is sufficiently low that it would not be

¹⁵ See Nasdaq Cabinet Waitlist Procedures, supra note 7.

triggered easily, yet it offers a reasonable buffer during which the Purchasing Limits would apply before the Cabinet Waitlist would become effective.

The Exchange believes that the proposed Purchasing Limits are reasonable and equitable. Based on its experience with co-location and purchasing trends over the last few years, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient for a User's needs while leaving a margin for potential growth.

Further, the Exchange believes that, by establishing a waitlist on the basis of the date it receives signed orders, limiting the size and number of orders a User may have on the waitlist at any one time, and removing a User from the waitlist if it turns down a cabinet that is the size that it requested, the Cabinet Allocation is reasonably designed to prevent Users from utilizing the waitlist as a method to obtain a greater portion of the cabinets available, thereby facilitating a more equitable distribution of cabinets. Similarly, the Exchange believes that by requiring a 30-day delay before a User subject to the Purchasing Limits could purchase cabinets again, the Cabinet Allocation is reasonably designed to prevent a User from obtaining a greater portion of the cabinets available.

The Exchange believes that the proposed change is reasonable and equitable because the Exchange would only place limits on Users' ability to purchase new cabinets if cabinet inventory fell to specific thresholds. Similarly, the Exchange believes that the proposed change is reasonable and equitable because the waitlist would only be created if unallocated cabinet inventory fell to zero, and because there would be an established threshold for cessation of the waitlist.

The Proposed Rule Change Would Protect Investors and the Public Interest

The Exchange believes that the proposed rule change would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest for the following reasons.

The Exchange believes that User demand for cabinets will continue. In this context, the proposed rule change would allow the Exchange to protect investors and the public interest, first, by setting limits on Users' ability to purchase cabinets, and second, by using a waitlist to allocate any unallocated cabinets on a first come-first served rolling basis.

Based on experience, the Exchange believes that the Cabinet Threshold is sufficiently low that it would not be triggered easily, which would protect investors and the public interest. Similarly, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient for Users' needs while leaving a margin for potential growth, which would protect investors and the public interest.

In addition, the proposed Cabinet Allocation would protect investors and the public interest in that it is designed to prevent Users from utilizing the Purchasing Limit and waitlist procedures to obtain a greater portion of the cabinets available, thereby facilitating a more equitable distribution.

The proposed rule change would protect investors and the public interest because the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be allocated if a shortage in unallocated cabinets were to arise in the future, and would thereby make the

Fee Schedule more transparent and reduce any potential ambiguity.

The Proposed Change is Not Unfairly Discriminatory

The Exchange believes that the proposed change is not unfairly discriminatory for the following reasons.

The proposed change would apply equally to all types and sizes of market participants. If the Cabinet Allocation were in place, all Users would be able to identify the permitted cabinet options and the procedures that would apply to them in the event that unallocated cabinet supply runs low in the future. The Cabinet Allocation would assist the Exchange in accommodating demand for co-location services, and cabinets in particular, on an equitable basis.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,¹⁶ the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that the proposed change would place any burden

¹⁶ 15 U.S.C. 78f(b)(8).

on intramarket competition that is not necessary or appropriate. The proposed change would not apply differently to distinct types or sizes of market participants. Rather, it would apply to all Users equally.

The Exchange believes that, if triggered, the imposition of the Cabinet Allocation would not impose a burden on a User's ability to compete that is not necessary or appropriate. The Exchange believes that User demand for cabinets will continue in the future, and the Exchange is presently working to expand the number of cabinets available in colocation. In this context, the Exchange believes that it would be reasonable for it to put in place the proposed Cabinet Allocation to establish a method for allocating cabinets on an equitable basis. The Exchange would only follow the Cabinet Allocation and place limits on Users' ability to purchase new cabinets if unallocated cabinet inventory fell to the proposed Cabinet Threshold. Similarly, the Exchange would only create the waitlist if unallocated cabinet inventory fell to zero. Based on its experience with co-location and purchasing trends over the last few years, the Exchange believes that in most cases the number of cabinets that a User would be allowed to buy under the proposed Purchasing Limits would be sufficient for Users' needs while leaving a margin for potential growth.

The Exchange believes that the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be allocated if a shortage in unallocated cabinets were to arise in the future, and would thereby make the Fee Schedule more transparent and reduce any potential ambiguity.

Use of any co-location service is completely voluntary, and each market participant is able to determine whether to use co-location services based on the

requirements of its business operations.

Intermarket Competition

The Exchange does not believe that the proposed change would impose any burden on intermarket competition that is not necessary or appropriate.

The Exchange operates in a highly competitive market in which exchanges and other vendors (i.e., Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁷

The proposed rule change would protect investors and the public interest because the proposed new General Notes would articulate rational, objective procedures and would serve to reduce any potential for confusion on how cabinets would be treated in the case of a shortage in unallocated cabinets, and would thereby make the Fee Schedule more transparent and reduce any potential ambiguity.

¹⁷ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR- SR-NYSENAT-2020-28 on the subject line.

Paper comments:

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSENAT-2020-28. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSENAT-2020-28 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to

delegated authority.¹⁸

Eduardo A. Aleman
Deputy Secretary

¹⁸ 17 CFR 200.30-3(a)(12).

Additions underscored
Deletions [bracketed]

NYSE National, Inc.
Schedule of Fees and Rebates As Of [December 1]●, 2020

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VI. Co-Location Fees

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General Notes

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6. No change

NMS feeds CTA CQ OPRA

7. Cabinet Purchasing Limits. If unallocated cabinet inventory is at or below 40 cabinets, whether or not such cabinets are configured to be subdivided into partial cabinets (“Cabinet Threshold”), the following limits on the purchase of new cabinets (“Purchasing Limits”) will apply:

- A User with PNU cabinets will be required to either convert its PNU cabinets into dedicated cabinets or relinquish its PNU cabinets before being permitted to purchase new cabinets.
- Once the Cabinet Threshold is reached, the Exchange will limit each User’s purchase of new cabinets (dedicated and partial) to a maximum of four dedicated cabinets. The maximum may be comprised of a mix of dedicated and partial cabinets, with two partial cabinets counting as one dedicated cabinet.
- If a User requests, in writing, a number of cabinets that, if provided, would cause the available cabinet inventory to be below 40 cabinets, the Purchasing Limits will only apply to the portion of the User’s order below the Cabinet Threshold.
- A User will have to wait 30 days from the date of its signed order form before purchasing new cabinets again.

- If the Cabinet Threshold is reached, the Exchange will cease offering new PNU cabinets to all Users.
- When unallocated cabinet inventory is more than 40 cabinets, the Exchange will discontinue the Purchasing Limits.

8. Cabinet Waitlist. The Exchange will create a waitlist if the available cabinet inventory is zero, or a User requests, in writing, a number of cabinets that, if provided, would cause the available inventory to be zero. The Exchange will place Users seeking cabinets on a waitlist, as follows:

- A User with PNU cabinets will not be placed on the waitlist if the User could meet its new cabinet request by converting its PNU cabinets to dedicated cabinets. A User will only be placed on the waitlist for the portion of its new cabinet request that exceeds its existing PNU cabinets, subject to the Purchasing Limitations.
- A User will be placed on the waitlist based on the date its signed order is received. A User may only have one order for new cabinets on the waitlist at a time, and the order is subject to the Purchasing Limits.
- As cabinets become available, the Exchange will offer them to the User at the top of the waitlist. If the User's order is completed, it will be removed from the waitlist. If the User's order is not completed, it will remain at the top of the waitlist.
- A User will be removed from the waitlist (a) at the User's request or (b) if the User turns down an offer of a cabinet of the same size it requested in its order. If the Exchange offers the User a cabinet of a different size than the User requested in its order, the User may turn down the offer and remain at the top of the waitlist until its order is completed.
- A User that is removed from the waitlist but subsequently submits a new written order for cabinets will be added back to the bottom of the waitlist.
- When unallocated cabinet inventory is more than 10 cabinets, the Exchange will cease use of the waitlist.

* * * * *