

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-88319; File Nos. SR-NYSE-2019-46, SR-NYSE-NAT-2019-19, SR-NYSE-Arca-2019-61, SR-NYSE-AMER-2019-34)

March 4, 2020

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE National, Inc.; NYSE Arca, Inc.; NYSE American LLC; Notice of Designation of Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, to Amend the Exchanges' Co-Location Services to Offer Co-Location Users Access to the NMS Network

On August 22, 2019, New York Stock Exchange LLC, NYSE National, Inc., and NYSE Arca, Inc. each filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend their co-location fee schedules to offer co-location Users access to the “NMS Network”—an alternate, dedicated network providing connectivity to data feeds for the National Market System Plans for which Securities Industry Automation Corporation (“SIAC”) is engaged as the exclusive securities information processor (“SIP”)—and establish associated fees. NYSE American LLC filed with the Commission a substantively identical filing on August 23, 2019.³ The proposed rule changes were published for comment in the Federal Register on September 10, 2019.⁴ On October 24, 2019, the Commission extended the time period within which to approve the proposed rule changes, disapprove the proposed rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The New York Stock Exchange LLC, NYSE National, Inc., NYSE Arca, Inc., and NYSE American, LLC are collectively referred to herein as “NYSE” or the “Exchanges.”

⁴ See Securities Exchange Act Release Nos. 86865 (September 4, 2019), 84 FR 47592 (SR-NYSE-2019-46); 86869 (September 4, 2019), 84 FR 47600 (SR-NYSE-NAT-2019-19); 86868 (September 4, 2019), 84 FR 47610 (SR-NYSE-Arca-2019-61); 86867 (September 4, 2019), 84 FR 47563 (SR-NYSE-AMER-2019-34). The proposed rule change as set forth in these Notices is referred to as the “Original Proposal.”

changes, or institute proceedings to determine whether to approve or disapprove the proposed rule changes, to December 9, 2019.⁵ The Commission received one comment letter on the Original Proposal, a response from the Exchanges, and a second letter from the original commenter.⁶ On December 9, 2019, the Commission instituted proceedings to determine whether to approve or disapprove the Original Proposal.⁷ On December 23, 2019, the Exchange filed Amendment No. 1 to the Original Proposal. Amendment No. 1, which superseded and replaced the Original Proposal in its entirety, was published for comment in the Federal Register on January 15, 2020.⁸ The Commission received another comment letter on the proposal, as modified by Amendment No. 1, and a response from the Exchanges.⁹

⁵ See Securities Exchange Act Release Nos. 87399, 84 FR 58189 (October 30, 2019) (SR-NYSE-2019-46); 87402, 84 FR 58187 (October 30, 2019) (SR-NYSENAT-2019-19); 87400, 84 FR 58189 (October 30, 2019) (SR-NYSEArca-2019-61); 87401, 84 FR 58188 (October 30, 2019) (SR-NYSEAMER-2019-34).

⁶ See, respectively, letter dated October 24, 2019 from John M. Yetter, Vice President and Senior Deputy General Counsel, Nasdaq Stock Market LLC (“Nasdaq”), to Vanessa Countryman, Secretary, Commission (“Nasdaq Letter”); letter dated November 8, 2019 from Elizabeth K. King, Chief Regulatory Officer, ICE, General Counsel and Corporate Secretary, NYSE to Ms. Vanessa Countryman, Secretary, Commission (“NYSE Response Letter”); and letter dated November 25, 2019 from Joan C. Conley, Senior Vice President and Corporate Secretary, Nasdaq, to Vanessa Countryman, Secretary, Commission (“Nasdaq Letter II”). All comments received by the Commission on the proposed rule change are available on the Commission’s website at: <https://www.sec.gov/comments/sr-nyse-2019-46/srnyse201946.htm>. NYSE filed comment letters on behalf of all of the Exchanges.

⁷ See Securities Exchange Act Release No. 87699 (December 9, 2019), 84 FR 68239 (December 13, 2019) (SR-NYSE-2019-46; SR-NYSENAT-2019-19; SR-NYSEArca-2019-61; SR-NYSEAMER-2019-34) (“OIP”).

⁸ See Securities Exchange Act Releases No. 87927 (January 9, 2020), 85 FR 2468 (SR-NYSE-2019-46); 87930 (January 9, 2020), 85 FR 2459 (SR-NYSENAT-2019-19); 87929 (January 9, 2020), 85 FR 2453 (SR-NYSEAMER-2019-34); and 87928 (January 9, 2020), 85 FR 2447 (SR-NYSEArca-2019-61) (“Notice of Amendment No. 1”). Amendment No. 1 also is available at <https://www.sec.gov/comments/sr-nyse-2019-46/srnyse201946-6584636-201247.pdf>.

⁹ See, respectively, letter dated February 5, 2020 from Joan C. Conley, Senior Vice

Section 19(b)(2) of the Act¹⁰ provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule changes were published for comment in the Federal Register on September 10, 2019.¹¹ The 180th day after publication of the Notice is March 8, 2020. The Commission is extending the time period for approving or disapproving the proposal for an additional 60 days.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 1, along with the comment received on Amendment No. 1 and the Exchange's response. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹² designates May 7, 2020, as the date by which the

President and Corporate Secretary, Nasdaq, to Vanessa Countryman, Secretary, Commission ("Nasdaq Letter III") and letter dated February 25, 2020 from Elizabeth K. King, Chief Regulatory Officer, ICE, General Counsel and Corporate Secretary, NYSE to Ms. Vanessa Countryman, Secretary, Commission ("NYSE Response Letter II"). All comments received by the Commission on the proposed rule change are available on the Commission's website at: <https://www.sec.gov/comments/sr-nyse-2019-46/srnyse201946.htm>. NYSE filed comment letters on behalf of all of the Exchanges.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ See supra note 4.

¹² 15 U.S.C. 78s(b)(2).

Commission should either approve or disapprove the proposed rule change (File Nos. SR-NYSE-2019-46, SR-NYSENAT-2019-19, SR-NYSEArca-2019-61, SR-NYSEAMER-2019-34), as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

J. Matthew DeLesDernier
Assistant Secretary

¹³ 17 CFR 200.30-3(a)(12).