notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Sub-Advised Fund's shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Investment Management Agreements will remain subject to shareholder approval while the role of the Sub-Advisers is substantially equivalent to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Sub-Advised Funds. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Sub-Advisers that are more advantageous for the Sub-Advised Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–02372 Filed 2–4–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91025; File No. SR–NYSE–2020–96]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Its Rules Establishing Maximum Fee Rates To Be Charged by Member Organizations for Forwarding Proxy and Other Materials to Beneficial Owners

February 1, 2021.

On December 2, 2020, New York Stock Exchange LLC (''NYSE'') 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 delete the maximum fee rates for processing and forwarding proxy and other materials to beneficial owners of stock set forth in NYSE Rules 451 and 465 and Section 402.10 of the NYSE Listed Company Manual, and establish in their place a requirement for member organizations to comply with any schedule of approved charges set forth in the rules of any other national securities organization or association of which such member organization is a member. The proposed rule change was published for comment in the **Federal Register** on December 21, 2020.[3]

Section 19(b)(2) of the Act [4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is February 4, 2021. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposal so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates March 21, 2021, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSE–2020–96).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–02400 Filed 2–4–21; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90677 (December 15, 2020), 85 FR 83119. Comments received on the proposed rule change are available at: *https://www.sec.gov/comments/sr-nyse-2020-96/srnyse202096.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91029; File No. SR–NYSE–2020–86]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving a Proposed Rule Change To Adopt NYSE Rule 5.2(j)(8) Governing the Listing and Trading of Exchange-Traded Fund Shares

February 1, 2021.

I. Introduction

On December 18, 2020, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to, among other things, adopt new NYSE Rule 5.2(j)(8) to permit the generic listing and trading of Exchange-Traded Fund Shares. The proposed rule change was published for comment in the **Federal Register** on December 30, 2020.[3] The Commission has received no comments on the proposed rule change. The Commission is approving the proposed rule change.

II. Exchange's Description of the Proposed Rule Change

Under the proposal, the Exchange states that the Commission recently adopted Rule 6c–11 under the Investment Company Act of 1940 (''1940 Act'') [4] to permit Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90775 (December 22, 2020), 85 FR 86584 (''Notice'').

[4] According to the Exchange, NYSE currently trades securities, including ETPs, on its Pillar trading platform on an unlisted trading privileges (''UTP'') basis, subject to NYSE Pillar Platform Rules 1P—13P. ''UTP Security'' is defined as a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. *See* NYSE Rule 1.1. ETPs traded on a UTP basis on the Exchange are not assigned to a Designated Market Maker (''DMM'') but are available for Floor brokers to trade in Floor-based crossing transactions. *See* Securities Exchange Act Release No. 82945 (March 26, 2018), 83 FR 13553, 13568 (March 29, 2018) (SR–NYSE–2017–36) (approving Exchange rules to trade securities on a UTP basis on the Pillar trading platform). The Exchange states that its rules permit it to list ETPs under NYSE Rules 5P and 8P. Specifically, NYSE Rules 5P (Securities Traded) and 8P (Trading of Certain Exchange-Traded Products) provide for the listing of certain ETPs on the Exchange that (1) meet the applicable requirements set forth in those rules, and (2) do not have any component NMS Stock that is listed on the Exchange or is based on, or represents an interest in, an underlying index or reference asset that includes an NMS Stock listed on the Exchange. According to the Exchange, ETPs listed under NYSE Rules 5P and 8P would be ''Tape

Traded Products (''ETPs'') [5] that are exchange-traded funds (''ETF'') [6] shares (''Exchange-Traded Fund Shares'') [7] and that satisfy certain conditions to operate without obtaining an exemptive order from the Commission under the 1940 Act.[8] According to the Exchange, the regulatory framework provided in Rule 6c–11 streamlines procedures and reduces the costs and timeframes associated with bringing ETFs to market, thereby enhancing competition among ETF issuers and reducing costs for investors. The Exchange proposes to adopt new NYSE Rule 5.2(j)(8) to establish generic listing standards allowing the Exchange to list and trade Exchange-Traded Fund Shares in a manner consistent with Rule 6c–11 under the 1940 Act. The Exchange represents that proposed NYSE Rule 5.2(j)(8) is based on NYSE Arca, Inc. (''NYSE Arca'') Rule 5.2–E(j)(8).[9] In addition, the Exchange proposes to adopt new NYSE Rule 7.18(d)(2) based on NYSE Arca Rule 7.18–E(d)(2) that would govern trading halts for listed ETPs (which would include Exchange-Traded Fund Shares).

Proposed NYSE Rule 5.2(j)(8)

The Exchange proposes standards that would pertain to Exchange-Traded Fund Shares to qualify for listing and trading pursuant to Rule 19b–4(e) under the Act, as follows:

Proposed NYSE Rule 5.2(j)(8)(a) would provide that the Exchange would consider for trading, whether by listing or on a UTP basis, Exchange-Traded Fund Shares that meet the criteria of proposed NYSE Rule 5.2(j)(8). Proposed NYSE Rule 5.2(j)(8)(a) is based on NYSE Arca Rule 5.2–E(j)(8)(a) without any differences.

Proposed NYSE Rule 5.2(j)(8)(b) would specify applicability of proposed NYSE Rule 5.2(j)(8) and would provide that it is applicable only to Exchange-Traded Fund Shares. Proposed NYSE Rule 5.2(j)(8)(b) would further provide that, except to the extent inconsistent with proposed NYSE Rule 5.2(j)(8) or unless the context otherwise requires, Exchange rules would be applicable to the trading on the Exchange of such securities and that Exchange-Traded Fund Shares would be included within the definition of NMS Stock as defined in NYSE Rule 1.1. Proposed NYSE Rule 5.2(j)(8)(b) is based on NYSE Arca Rule 5.2–E(j)(8)(b) without any differences.

Proposed NYSE Rule 5.2(j)(8)(c) would set forth the proposed rule's applicable definitions, which are based on NYSE Arca Rule 5.2–E(j)(8)(c) without any differences, as follows:

- Proposed NYSE Rule 5.2(j)(8)(c)(1) would define the term ''1940 Act'' to mean the Investment Company Act of 1940, as amended.
- Proposed NYSE Rule 5.2(j)(8)(c)(2) would define the term ''Exchange-Traded Fund'' as having the same meaning as the term ''exchange-traded fund'' as defined in Rule 6c–11(a)(1) under the 1940 Act.[10]
- Proposed NYSE Rule 5.2(j)(8)(c)(3) would define the term ''Exchange-Traded Fund Share'' to mean a share of stock issued by an Exchange-Traded Fund.[11]
- Proposed NYSE Rule 5.2(j)(8)(c)(4) would define the term ''Reporting Authority'' to mean with respect to a particular series of Exchange-Traded Fund Shares, the Exchange, an institution, or a reporting service designated by the Exchange or by the exchange that lists a particular series of Exchange-Traded Fund Shares (if the Exchange is trading such series pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such series, including, but not limited to, any current index or portfolio value, the current value of the portfolio of any securities required to be deposited in connection with issuance of Exchange-Traded Fund Shares, the amount of any dividend equivalent payment or cash distribution to holders of Exchange-Traded Fund Shares, net asset value, or other information relating to the issuance, redemption or trading of Exchange-Traded Fund Shares. A series of Exchange-Traded Fund Shares may have more than one Reporting Authority, each having different functions.

Proposed NYSE Rule 5.2(j)(8)(d) would specify the limitations on Exchange liability and relates to limitations of the Exchange, the Reporting Authority, or any agent of the Exchange as a result of specified events and conditions. Specifying such limitations of liability is standard in the Exchange's rules governing the listing of Exchange-Traded Products and the proposed rule text is substantively identical to NYSE Rules 5.2(j)(3)(D), 8.100(f), 8.201(f), 8.200(f), 8.202(f), 8.203(f), 8.204(g), 8.300(f), 8.400(f), 8.500(e), 8.600(e), and 8.700(g). Proposed NYSE Rule 5.2(j)(8)(d) is based on NYSE Arca Rule 5.2–E(j)(8)(d) without any differences.

Proposed NYSE Rule 5.2(j)(8)(e) would provide that the Exchange may approve Exchange-Traded Fund Shares for listing and/or trading (including on a UTP basis) pursuant to Rule 19b–4(e) under the Exchange Act provided that each series of Exchange-Traded Fund Shares must be eligible to operate in reliance on Rule 6c–11 under the 1940 Act and must satisfy the requirements of proposed NYSE Rule 5.2(j)(8)(as described below) upon initial listing and, except for subparagraph (1)(A) of proposed Rule NYSE 5.2(j)(8)(e), on a continuing basis. As further proposed, an issuer of such securities must notify the Exchange of any failure to comply with such requirements. Proposed NYSE Rule 5.2(j)(8)(e) is based on NYSE Arca Rule 5.2–E(j)(8)(e) without any differences.

Proposed NYSE Rule 5.2(j)(8)(e)(1) sets forth the initial and continued listing standards for Exchange-Traded Fund Shares to be listed on the NYSE and would provide that Exchange-Traded Fund Shares will be listed and traded on the Exchange subject to the requirement that the investment

A'' listings and traded pursuant to the rules applicable to NYSE-listed securities. Accordingly, once an ETP is listed, it would be assigned to a DMM pursuant to NYSE Rule 103B and the assigned DMM would have obligations vis-à-vis such securities as specified in NYSE Rule 104, including facilitating the opening, reopening, and closing of such securities. *See* Securities Exchange Act Release No. 87056 (September 23, 2019), 84 FR 51205 (September 27, 2019) (SR–NYSE–2019–34) (order approving amendments to NYSE Rule 104 to specify DMM requirements for ETPs listed on the Exchange pursuant to NYSE Rules 5P and 8P).

[5] NYSE Rule 1.1(k) defines ''Exchange Traded Product'' as a security that meets the definition of ''derivative securities product'' in Rule 19b–4(e) under the Act. According to the Exchange, ETPs include, for example, securities listed and traded on NYSE pursuant to the following rules: NYSE Rule 5.2(j)(3) (Investment Company Units); NYSE Rule 5.2(j)(5) (Equity Gold Shares); NYSE Rule 5.2 (j)(6)(Index-Linked Securities); NYSE Rule 8.100 (Portfolio Depositary Receipts); NYSE Rule 8.200 (Trust Issued Receipts); NYSE Rule 8.201 (Commodity-Based Trust Shares); NYSE Rule 8.202 (Currency Trust Shares); NYSE Rule 8.203 (Commodity Index Trust Shares); NYSE Rule 8.204 (Commodity Futures Trust Shares); NYSE Rule 8.600 (Managed Fund Shares); and NYSE Rule 8.700 (Managed Trust Securities).

[6] *See infra* note 10.

[7] *See infra* note 11.

[8] *See* Release Nos. 33–10695; IC–33646; File No. S7–15–18 (ETFs) (September 25, 2019), 84 FR 57162 (October 24, 2019).

[9] *See* Securities Exchange Act Release No. 88625 (April 13, 2020), 85 FR 21479 (April 17, 2020) (SR–NYSEArca–2019–81) (Notice of filing of Amendment No. 2 and Order granting accelerated approval of proposed rule change, as modified by Amendment No. 2, to adopt NYSE Arca Rule 5.2–E(j)(8) establishing generic listing standards for Exchange-Traded Fund Shares).

[10] Rule 6c–11(a)(1) defines ''exchange-traded fund'' as a registered open-end management company: (i) That issues (and redeems) creation units to (and from) authorized participants in exchange for a basket and a cash balancing amount if any; and (ii) Whose shares are listed on a national securities exchange and traded at market-determined prices. The terms ''authorized participant,'' ''basket'' and ''creation unit'' are defined in Rule 6c–11(a).

[11] The definition of Exchange-Traded Fund Shares is the same as the definition of ''exchange-traded fund shares'' in Rule 6c–11(a) under the 1940 Act.

company issuing a series of Exchange-Traded Fund Shares is eligible to operate in reliance on the requirements of Rule 6c–11(c) on an initial and continued listing basis. Proposed NYSE Rule 5.2(j)(8)(e)(1) is based on NYSE Arca Rule 5.2–E(j)(8)(e)(1) without any differences.

Proposed NYSE Rule 5.2(j)(8)(e)(1)(A) provides that, for each series of Exchange-Traded Fund Shares, the Exchange will establish a minimum number of Exchange-Traded Fund Shares required to be outstanding at the time of commencement of trading on the Exchange. Proposed NYSE Rule 5.2(j)(8)(e)(1)(A) is based on NYSE Arca Rule 5.2–E(j)(8)(e)(1)(A) without any differences.

Proposed NYSE Rule 5.2(j)(8)(e)(2) would set forth the standards for suspension of trading or removal of Exchange-Traded Fund Shares from listing on the Exchange and would provide that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under NYSE Rule 5.5(m) of, a series of Exchange-Traded Fund Shares under any of the following circumstances:

(A) If the Exchange becomes aware that the investment company is no longer eligible to operate in reliance on Rule 6c–11;

(B) if the investment company no longer complies with the requirements set forth in NYSE Rule 5.2(j)(8);

(C) if, following the initial twelve-month period after commencement of trading on the Exchange of a series of Exchange-Traded Fund Shares, there are fewer than 50 beneficial holders of such series of Exchange-Traded Fund Shares; or

(D) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable (*see* proposed NYSE Rule 5.2(j)(8)(e)(2)(D)).

Proposed NYSE Rule 5.2(j)(8)(e)(2) is based on NYSE Arca Rule 5.2–E(j)(8)(e)(2) without any differences.

Proposed NYSE Rule 5.2(j)(8)(f) would provide that transactions in Exchange-Traded Fund Shares would occur during the trading hours specified in Rule 7.34(a) for Exchange-listed securities. Proposed NYSE Rule 5.2(j)(8)(f) is based on NYSE Arca Rule 5.2–E(j)(8)(f) with a difference to cross reference the Exchange's rule governing the hours of trading. In addition, unlike NYSE Arca, Exchange-listed securities trade on the Exchange only during Core Trading Hours.

Proposed NYSE Rule 5.2(j)(8)(g) would provide that the Exchange would implement and maintain written surveillance procedures for Exchange-Traded Fund Shares. This proposed rule is based, for example, on Commentary .01(f) to NYSE Rule 5.2(j)(3) (for Investment Company Units); Commentary .03 to NYSE Rule 8.600 (for Managed Fund Shares); and Commentary .04 to NYSE Rule 8.700 (for Managed Trust Securities). Proposed NYSE Rule 5.2(j)(8)(g) is based on NYSE Arca Rule 5.2–E(j)(8)(g) without any differences.

Proposed NYSE Rule 5.2(j)(8)(h) would provide that, upon termination of an investment company issuing Exchange-Traded Fund Shares, the Exchange would require that Exchange-Traded Fund Shares issued in connection with such entity be removed from Exchange listing. Proposed NYSE Rule 5.2(j)(8)(h) is based on NYSE Arca Rule 5.2–E(j)(8)(h) without any differences.

Proposed Commentary .01 to NYSE Rule 5.2(j)(8) would provide that a security that has previously been approved for listing on the Exchange pursuant to the generic listing requirements specified in NYSE Rule 5.2(j)(3) or Commentary .01 to NYSE Rule 8.600, or pursuant to a proposed rule change approved or subject to a notice of effectiveness by the Commission, may be considered approved for listing solely under NYSE Rule 5.2(j)(8) if such security is eligible to operate in reliance on Rule 6c–11 under the 1940 Act. Once so approved for listing, the continued listing requirements applicable to such previously-listed security will be those specified in paragraph (e) of NYSE Rule 5.2(j)(8). Any requirements for listing as specified in NYSE Rule 5.2(j)(3) or Commentary .01 to NYSE Rule 8.600, or an approval order or notice of effectiveness of a separate proposed rule change that differ from the requirements of NYSE Rule 5.2(j)(8) will no longer be applicable to such security. Commentary .01 to proposed NYSE Rule 5.2(j)(8) is based on Commentary .01 to NYSE Arca Rule 5.2–E(j)(8) without any differences.[12]

Proposed Commentary .02 to NYSE Rule 5.2(j)(8) is based on Commentary .02 to NYSE Arca Rule 5.2–E(j)(8)(a) without any differences, and would establish the following requirements that each series of Exchange-Traded Fund Shares based on an index would be required to meet on an initial and continued listing basis:

(1) If the underlying index is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser will erect and maintain a ''fire wall'' around the personnel who have access to information concerning changes and adjustments to the index and the index will be calculated by a third party who is not a broker-dealer or fund adviser, and

(2) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.[13]

In addition, with respect to series of Exchange-Traded Fund Shares that are actively managed, if the investment adviser to the investment company issuing Exchange-Traded Fund Shares is affiliated with a broker-dealer, such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such portfolio. Personnel who make decisions on the portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable portfolio. The Reporting Authority that provides information relating to the portfolio of a series of Exchange-Traded Fund Shares must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of such portfolio.[14]

The Exchange represents that Exchange-Traded Fund Shares will be subject to all Exchange rules applicable to equities trading. With respect to Exchange-Traded Fund Shares, all obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with Exchange rules and federal securities laws, and the Exchange and the Financial Industry Regulatory Authority, Inc. (''FINRA'') will continue to monitor Exchange members for compliance with such requirements, which are not changing as a result of Rule 6c–11 under the 1940 Act.

With respect to trading halts, the Exchange represents that it may consider all relevant factors in

[12] NYSE represents that there are currently no securities listed on the Exchange that would be eligible for approval under proposed Commentary .01 to NYSE Rule 5.2(j)(8).

[13] *See* proposed Commentary .02(a) to NYSE Rule 5.2(j)(8)). Proposed Commentary .02(a) is based on Commentary .01(b)(1) to NYSE Rule 5.2(j)(3) and Commentary .02(b)(1) and (b)(3) to NYSE Rule 5.2(j)(3).

[14] *See* proposed Commentary .02(b) to NYSE Rule 5.2(j)(8)). Proposed Commentary .02(b) is based in part on Commentary .06 to NYSE Rule 8.600.

exercising its discretion to halt or suspend trading in a series of Exchange-Traded Fund Shares.[15] Trading in Exchange-Traded Fund Shares will be halted if the circuit breaker parameters in NYSE Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in Exchange-Traded Fund Shares inadvisable. These may include: (1) The extent to which certain information about the Exchange-Traded Fund Shares that is required to be disclosed under Rule 6c11(c) of the 1940 Act is not being made available, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

Proposed NYSE Rule 7.18(d)(2)

The Exchange proposes to adopt new NYSE Rule 7.18(d)(2) modeled on NYSE Arca Rule 7.18–E(d)(2) that would govern trading halts for listed ETPs (which would include Exchange-Traded Fund Shares). Proposed NYSE Rule 7.18(d)(2) would provide that, with respect to an ETP listed on the Exchange for which a Net Asset Value (''NAV'') (and in the case of Managed Fund Shares under NYSE Rule 8.600 and Managed Trust Securities under NYSE Rule 8.700, a Disclosed Portfolio) is disseminated, if the Exchange becomes aware that the NAV (or in the case of Managed Fund Shares or Managed Trust Securities, the Disclosed Portfolio) is not being disseminated to all market participants at the same time, it will halt trading in the affected Exchange Traded Product on the NYSE until such time as the NAV (or in the case of Managed Fund Shares or Managed Trust Securities, the Disclosed Portfolio, as applicable) is available to all market participants.[16]

Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Exchange-Traded Fund Shares in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange will implement and maintain written surveillance procedures to monitor trading in Exchange-Traded Fund Shares on the NYSE.[17] The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in Exchange-Traded Fund Shares and certain of their applicable underlying components with other markets that are members of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information regarding trading in Exchange-Traded Fund Shares and certain of their applicable underlying components from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Additionally, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities that may be held by a series of Exchange-Traded Fund Shares reported to FINRA's TRACE. FINRA also can access data obtained from the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (''EMMA'') system relating to municipal bond trading activity for surveillance purposes in connection with trading in a series of Exchange-Traded Fund Shares, to the extent that a series of Exchange-Traded Fund Shares holds municipal securities. As noted below, the issuer of a series of Exchange-Traded Fund Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Exchange-Traded Fund Shares, as provided under NYSE Rule 5.2.

Pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. As provided for under proposed NYSE Rule 5.2(j)(8)(e)(2), if the investment company or series of Exchange-Traded Fund Shares is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Rule 5.5(m).

The Exchange will implement and maintain written surveillance procedures to monitor issuer compliance with the requirements of proposed NYSE Rule 5.2(j)(8) for Exchange-Traded Funds on the NYSE. For example, the Exchange will use intraday alerts that will notify Exchange personnel of trading activity throughout the day that may indicate that certain disclosures are not being made accurately or that other unusual conditions or circumstances are present that could be detrimental to the maintenance of a fair and orderly market. The Exchange will require periodic certification from the issuer of a series of Exchange-Traded Fund Shares that it is in compliance with Rule 6c–11 and the requirements of NYSE Rule 5.2(j)(8).

Proposed NYSE Rule 5.2(j)(8)(e)(2)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under NYSE Rule 5.5(m) of, a series of Exchange-Traded Fund Shares if the Exchange becomes aware that the investment company is no longer eligible to operate in reliance on Rule 6c–11. The Exchange's awareness for purposes of determining whether to suspend trading or delist a series of Exchange-Traded Fund Shares may result from notification by the investment company or by the Exchange learning, through its own efforts, of non-compliance with NYSE Rule 5.2(j)(8).[18] In addition, the Exchange will periodically review issuer websites to monitor whether disclosures are being made for a series of Exchange-Traded Fund Shares as required by Rule 6c–11(c)(1). The Exchange also notes that proposed NYSE Rule 5.2(j)(8)(e) would require an issuer of Exchange-Traded Fund Shares to notify the Exchange that it is no longer eligible to operate in reliance on Rule 6c–11 or that it does not comply with the requirements of proposed NYSE Rule 5.2(j)(8). The Exchange will rely on the foregoing procedures to become aware of any non-compliance with the requirements of NYSE Rule 5.2(j)(8). Proposed NYSE Rule 5.2(j)(8)(e)(2)(i) is based on NYSE Arca Rule 5.2–E(j)(8)(e)(2)(i) without any differences.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the Act and rules and regulations thereunder applicable to a national securities exchange.[19] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[20] which

[15] *See* NYSE Rule 7.12.

[16] In addition, the Exchange states that it may halt trading in ETPs if there is an interruption or disruption in the dissemination of an underlying index value, if applicable, if there are major interruptions in securities trading in U.S. or global markets, or in the presence of other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.

[17] The Exchange represents that the surveillance procedures applicable to Exchange-Traded Fund Shares on the NYSE would be substantially similar to those in place for Investment Company Units, Exchange-Traded Fund Shares, and Managed Fund Shares, among other product types, on NYSE Arca.

[18] As proposed, NYSE Rule 5.2(j)(8) does not impose index dissemination requirements, the Exchange does not plan to conduct a specific index dissemination surveillance for securities listed pursuant to such rule.

[19] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78f(b)(5).

requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange proposes to adopt new NYSE Rule 5.2(j)(8) to establish generic listing standards pursuant to Rule 19b–4(e) under the Act [21] that would permit the Exchange to list and trade Exchange-Traded Fund Shares in a manner consistent with Rule 6c–11 under the 1940 Act. The Exchange represents that proposed NYSE Rule 5.2(j)(8) is based on recently adopted NYSE Arca Rule 5.2–E(j)(8).[22] The Commission believes that NYSE's proposed Rule 5.2(j)(8) is substantively identical to proposals that the Commission has previously approved relating to the listing and trading of Exchange-Traded Fund Shares that are permitted to operate in reliance on Rule 6c–11 under the 1940 Act.[23] Accordingly, for the reasons discussed in the Prior Rule 6c–11 Generic Listing Orders, the Commission finds that this proposed rule change is consistent with Section 6(b)(5) of the Act [24] and the rules and regulations thereunder applicable to a national securities exchange.[25]

In addition, as stated above, the Exchange represents that proposed NYSE Rule 7.18(d)(2) governing trading halts for NYSE-listed ETPs (which would include Exchange-Traded Fund Shares), is based on NYSE Arca Rule 7.18–E(d)(2). The Commission believes that NYSE's proposed Rule 7.18(d)(2) is substantively identical to NYSE Arca Rule 7.18–E(d)(2) and concludes that this proposed rule does not present any novel or unique regulatory issues. The Commission therefore finds that this proposed rule change relating to trading halts is consistent with Section 6(b)(5) of the Act [26] and the rules and regulations thereunder applicable to a national securities exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, including the Exchange's representations relating to its surveillance procedures. Specifically, the Exchange represents, among other things, that its surveillance procedures are adequate to properly monitor the trading of the Exchange-Traded Fund Shares in all trading sessions and to deter and detect violations of Exchange rules, and that the Exchange will implement and maintain written surveillance procedures to monitor trading in Exchange-Traded Fund Shares on the NYSE.[27]

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act [28] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[29] that the proposed rule change (SR–NYSE–2020–86) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–02397 Filed 2–4–21; 8:45 am]

BILLING CODE 8011–01–P

[21] Rule 19b–4(e)(1) under the Act states that ''[t]he listing and trading of a new derivative securities product by a self-regulatory organization shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of this section, if the Commission has approved, pursuant to section 19(b) of the Act (15 U.S.C. 78s(b)), the self-regulatory organization's trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the self-regulatory organization has a surveillance program for the product class.'' 17 CFR 240.19b–4(e)(1). ''New derivative securities product'' is defined as ''any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument.'' 17 CFR 240.19b–4(e).

[22] *See supra* note 9 and accompanying text.

[23] *See* Securities Exchange Act Release Nos. 88625 (April 13, 2020), 85 FR 21479 (April 17, 2020) (SR–NYSEArca–2019–81); 88566 (April 6, 2020), 85 FR 20312 (April 10, 2020) (SR–CboeBZX–2019–097); and 88561 (April 3, 2020), 85 FR 19984 (April 9, 2020) (SR–NASDAQ–2019–090). These releases are referred to collectively as the ''Prior Rule 6c–11 Generic Listing Orders.''

[24] 15 U.S.C. 78f(b)(5).

[25] When relying on Rule 19b–4(e) under the Act to list and trade a new derivative securities product, the Commission notes that NYSE must submit Form 19b–4(e) (17 CFR 249.820) to the Commission within five business days after commencement of trading the new derivative securities product. *See* 17 CFR 240.19b–4(e)(2)(ii). *See also* 17 CFR 240.19b–4(e)(2)(i) (setting forth NYSE's recordkeeping requirements relating to all relevant records and information pertaining to each new derivative securities product traded pursuant to Rule 19b–4(e)).

[26] 15 U.S.C. 78f(b)(5).

[27] *See supra* note 17 and accompanying text. *See also supra* note 21 (citing to Rule 19b–4(e)(1) under the Act requiring the self-regulatory organization to have a surveillance program for the product class of a new derivative securities product).

[28] 15 U.S.C. 78f(b)(5).

[29] 15 U.S.C. 78f(b)(2).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91037; File No. SR–NYSENAT–2021–01]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing of Proposed Rule Change To Amend its Schedule of Fees and Rebates Related to Co-Location Services

February 1, 2021.

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 January 19, 2021, 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 amend its Schedule of Fees and Rebates (''Fee Schedule'') related to co-location services to add two Partial Cabinet Solution bundles. The proposed rule 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 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.