

information, positive or negative pathogenic public health crisis antibody test results, address, and preferred contact information, may be disclosed to the Centers for Disease Control and Prevention, National Institutes of Health, and any relevant state or local public health authorities covering an area affected by an ongoing pathogenic public health crisis.

(c) Disclosure of records to appropriate agencies, entities, and persons when (1) the Postal Service suspects or has confirmed that there has been a breach of the system of records; (2) the Postal Service has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Postal Service (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Postal Service's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(d) Disclosure of employee COVID-19 vaccine documentation and any COVID-19 test results to the Assistant Secretary of Labor for Occupational Safety and Health, their designees, employees, individuals authorized by that employee, or employee representatives upon request.

(e) Disclosure of work-related COVID-19 fatalities and hospitalizations to the Occupational Safety and Health Administration (OSHA).

RECORD SOURCE CATEGORIES:

Employees; contractors; medical staff of the Postal Service; designated contractors; public health agencies; emergency response providers, first responders; individuals who are evacuated in the event of a naturally occurring disaster, manmade hazard or incident, act of terrorism, pathogenic public health crisis, or cybersecurity incident; and household members of USPS employees and other individuals having emergency management responsibilities officially designated by the Postal Service.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated database, computer storage media, and paper.

POLICIES OF PRACTICES FOR RETRIEVAL OF RECORDS:

By name, Social Security Number, Employee Identification Number, and postal facility name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

- Emergency management information and emergency management training information is retained 5 years beyond the end of the period for which the individual is assigned emergency management responsibilities.
- Medical documentation including fitness and medical surveillance information is retained 30 years from the date of collection.
- Evacuee information is retained 5 years from the date of collection.
- Records related to employee vaccination and employee medical test related to a pathogenic public health crisis are retained for 5 years from date of collection.
- Records related to COVID-19 Software Application Records are retained for 24 months.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable Postal Service media sanitization practice.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Access to these areas is limited to authorized personnel, who must be identified with a badge. Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections. Computers are protected by mechanical locks, card key systems, or other physical access control methods. The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD PROCEDURES:

See *Notification Procedure* (below) and *Record Access Procedures* (above).

NOTIFICATION PROCEDURE:

Current and former employees and contractors wanting to know if information about them is maintained in

this system of records must address inquiries to the facility head where currently or last employed. Headquarters employees or contractors must submit inquiries to the Chief Postal Inspector. Requests must include full name, Social Security Number or Employee Identification Number, and employment or contract dates. Individuals from whom evacuee information may have been collected must address inquiries to the head of the facility from which they were evacuated. Household members of current or former field employees and other individuals having emergency management responsibilities officially designated by the Postal Service must address inquiries to the facility head where the postal employee in their household is currently or was last employed. Household members of current or former Headquarters employees and other individuals having emergency management responsibilities officially designated by the Postal Service must submit inquiries to the Chief Postal Inspector.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j) and (k), USPS has established regulations at 39 CFR 266.9 that exempt records in this system depending on their purpose.

HISTORY:

June 27, 2012, 77 FR 3834; July 17, 2008, 73 FR 41134; April 29, 2005, 70 FR 22516.

Sarah E. Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2022-03241 Filed 2-15-22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94222; File No. SR-NYSE-2021-68]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, To Revise the Suite of Complimentary Products and Services Offered To Listed Companies

February 10, 2022.

I. Introduction

On December 13, 2021, 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”)¹ and Rule 19b-4 thereunder,² a proposed rule change to revise the suite of complimentary products and services offered to listed companies pursuant to Section 907.00 of the NYSE Listed Company Manual (“Manual” or “LCM”). The proposed rule change was published for comment in the **Federal Register** on December 29, 2021.³ The Commission received no comments on the proposal. On February 4, 2022, the Exchange filed partial Amendment No. 1 to the proposed rule change.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal, as Modified by Amendment No. 1

Description of the Current Rule

Section 907.00 of the NYSE Manual sets forth complimentary products and services that issuers are entitled to receive in connection with their NYSE listing.⁵ The Exchange currently offers certain complimentary products and services and access to discounted third-party products and services through the NYSE Market Access Center to currently and newly listed issuers.⁶ The Exchange also provides complimentary market surveillance products and services (with a commercial value of approximately \$55,000 annually), Web-hosting products and services (with a

commercial value of approximately \$16,000 annually), Web-casting services (with a commercial value of approximately \$6,500 annually), market analytics products and services (with a commercial value of approximately \$30,000 annually), and news distribution products and services (with a commercial value of approximately \$20,000 annually).⁷

Currently, the products and services are offered to Eligible New Listings⁸ and Eligible Transfer Companies⁹ based on the following tiers:¹⁰

Tier A: For Eligible New Listings and Eligible Transfer Companies with a global market value of \$400 million or more, in each case calculated as of the date of listing on the Exchange, the Exchange offers market surveillance, market analytics, Web-hosting, Web-casting, and news distribution products and services for a period of 48 calendar months.

Tier B: For Eligible New Listings and Eligible Transfer Companies with a global market value of less than \$400 million, in each case calculated as of the date of listing on the Exchange, the Exchange offers Web-hosting, market analytics, Web-casting, and news distribution products and services for a period of 48 calendar months.¹¹

The products and services are offered to currently listed companies that meet the eligibility requirements (“Eligible Current Listings”) based on the following tiers:

Tier One: The Exchange offers (i) a choice of market surveillance or market analytics products and services, and (ii)

Web-hosting and Web-casting products and services to U.S. issuers that have 270 million or more total shares of common stock issued and outstanding in all share classes, including and in addition to Treasury shares, and non-U.S. companies that have 270 million or more shares of an equity security issued and outstanding in the U.S., each calculated annually as of September 30¹² of the preceding year.

Tier Two: At each such issuer’s election, the Exchange offers a choice of either (i) market analytics or (ii) Web-hosting and Web-casting products to: (1) U.S. issuers that have 160 million to 269,999,999 total shares of common stock issued and outstanding in all share classes, including and in addition to Treasury shares, calculated annually as of September 30 of the preceding year; and (2) non-U.S. companies that have 160 million to 269,999,999 shares of an equity security issued and outstanding in the U.S., calculated annually as of September 30 of the preceding year.¹³

In addition to the foregoing, the Exchange provides all listed issuers with complimentary access to whistleblower hotline services (with a commercial value of approximately \$4,000 annually) for a period of 24 calendar months.¹⁴

Proposed Amendments to Section 907.00 of the NYSE LCM

The Exchange proposes to amend Section 907.00 of the Manual. According to the Exchange, Eligible Current Listings would be entitled on a prorated annual basis to a new suite of products and services starting on the first day of the first calendar month after the approval date for the proposed amendments.¹⁵ Eligible New Listings and Eligible Transfer Companies would receive the proposed new suite of products and services if they list on or after the date this proposal is approved by the Commission.¹⁶ Moreover, the

¹² Under current Section 907.00 of the NYSE LCM, a U.S. issuer or non-U.S. company that has the requisite number of shares outstanding on September 30 will begin (or continue, as the case may be) to receive the suite of complimentary products and services for which it is eligible as of the following January 1. In the event that a U.S. issuer or non-U.S. company completes a corporate action between October 1 and December 31 that increases the number of shares it has outstanding, the Exchange will calculate its outstanding shares as of December 31 and determine whether it has become eligible to receive Tier One or Tier Two services. If eligible, the Exchange will offer such services as of the immediately succeeding January 1. *See id.*

¹³ *See id.*

¹⁴ *See id.*

¹⁵ *See id.*

¹⁶ *See id.*

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ *See* Securities Exchange Act Release No. 93865 (December 23, 2021), 86 FR 74115 (“Notice”).

⁴ In Amendment No. 1, the Exchange revised the proposal to clarify that: (i) The products and services available to issuers under Tier One and Tier A are limited to those stated in the rule, (ii) an issuer’s eligibility for services under Tier One and Tier Two is based on its shares outstanding as of the preceding September 30 unless recalculated due to an additional issuance between October 1 and December 31 during the preceding calendar year, and (iii) there is no significant change in the overall value of the services with the exception that all issuers would receive 48 months of whistleblower services with an approximate annual value of \$4,000 rather than 24 months of such services in the Statutory Basis. In addition, in Amendment No. 1, the Exchange provided a description of the three new categories of products and services available to issuers under the proposal, which include the Board of Directors Platform, Virtual Event Platform, and Environmental, Social and Governance Tools (“ESG”), as well as an example of how a listed company would be eligible to receive Tier One or Tier Two services under the proposal. Amendment No. 1 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-nyse-2021-68/srnyse202168-20114608-266849.pdf> (“Amendment No. 1”).

⁵ *See* Notice, *supra* note 3, at 74116.

⁶ *See id.*

⁷ *See id.*

⁸ For purposes of Section 907.00 of the NYSE LCM, the term “Eligible New Listing” means (i) any U.S. company that lists common stock on the Exchange for the first time and any non-U.S. company that lists an equity security on the Exchange under Section 102.01 or 103.00 of the NYSE LCM for the first time, regardless of whether such U.S. or non-U.S. company conducts an offering and (ii) any U.S. or non-U.S. company emerging from a bankruptcy, spinoff (where a company lists new shares in the absence of a public offering), and carve-out (where a company carves out a business line or division, which then conducts a separate initial public offering). For purposes of Section 907.00 of the NYSE LCM, an “equity security” means common stock or common share equivalents such as ordinary shares, New York shares, global shares, American Depository Receipts, or Global Depository Receipts. *See id.*

⁹ For purposes of Section 907.00 of the NYSE LCM, the term “Eligible Transfer Company” means any U.S. or non-U.S. company that transfers its listing of common stock or equity securities, respectively, to the Exchange from another national securities exchange. *See id.*

¹⁰ Section 907.00 of the NYSE LCM provides for separate service entitlements for Acquisition Companies listed under Section 102.06 of the NYSE LCM and the issuers of Equity Investment Tracking Stocks listed under Section 102.07 of the NYSE LCM. *See id.*

¹¹ *See id.*

Exchange states that issuers would not be required as a condition of listing to utilize the complimentary products and services available to them pursuant to Section 907.00 of the Manual, and issuers may decide to contract themselves for other products and services.¹⁷ The Exchange further states that companies receiving products and services as Eligible New Listings or Eligible Transfer Companies that list before the operative date will continue to be eligible to receive the products and services for which they are eligible under the rule as in effect before that date.¹⁸

Modified List of Products and Services

The Exchange proposes to amend the suite of products and services provided under Section 907.00 of the Manual. As amended, the suite of available products and services would be as follows: Market intelligence (with a maximum commercial value of approximately \$50,000 annually),¹⁹ market analytics (with a maximum commercial value of approximately \$30,000 annually), board of directors platform (with a maximum commercial value of approximately \$40,000 annually),²⁰ virtual event platform (with a maximum commercial value of approximately \$30,000 annually),²¹ ESG (with a maximum commercial value of approximately \$30,000 annually),²² Web-hosting and Web-casting products and services (with a maximum commercial value of approximately \$25,000 annually),²³ and

news distribution products and services (with a maximum commercial value of approximately \$20,000 annually).²⁴

The Exchange states that it proposes, in certain cases, to provide companies with the flexibility in choosing the types and levels of services that best meet their needs, while providing that all qualified companies within a tier are entitled to receive the same dollar value of services.²⁵ Under the current rule, a listed company may choose among the various service categories, where choosing a particular service requires the company to forego another service category entirely.²⁶ The proposed rule adopts a more flexible approach for (i) Eligible New Listings and Eligible Transfers that qualify for Tier A and (ii) currently listed companies that qualify for Tier One, in which cases, companies will be eligible to choose different levels of services from the different categories, subject to a maximum overall value of services used.²⁷

Amended Offering for Eligible New Listings and Eligible Transfers

The proposed amended offering of products and services for Eligible New Listings and Eligible Transfers would be as follows:

Tier A: For a period of 48 calendar months, with respect to Eligible New Listings and Eligible Transfer Companies that list on the Exchange after approval of these amendments with a global market value of \$400 million or more, in each case calculated as of the date of listing on the Exchange, the Exchange offers products and services with a maximum combined commercial value of approximately \$125,000 annually, consisting of (i) Web-hosting and Web-casting products and services, (ii) news distribution products and services, and (iii) a selection from among a suite of products and services, consisting of market

since service providers now market these two services together rather than separately. The Exchange states that the aggregate value of Web-hosting and Web-casting services would increase slightly due to increased prices charged by service providers. See Notice, *supra* note 3, at 74117.

²⁴ See *id.* at 74116–17. The Exchange further proposes to remove the reference to the Market Access Center from Section 907.00 of the NYSE LCM. The Exchange states that this does not reflect any change in the nature of the services to be provided or how issuers will access those services, and that the Market Access Center concept was simply a way of identifying the entire suite of available products and services and promoting their availability to issuers. See *id.* at 74117.

²⁵ See *id.*

²⁶ See *id.* The Exchange states, for example, that a company with Tier One eligibility can choose either market surveillance or market analytics products and services but cannot receive both. See *id.*

²⁷ See *id.*

intelligence, market analytics, board of directors platform, virtual event platform, or ESG products and services.²⁸

Tier B: For a period of 48 calendar months, with respect to Eligible New Listings and Eligible Transfer Companies that list on the Exchange after approval of these amendments with a global market value of less than \$400 million, in each case calculated as of the date of listing on the Exchange, the Exchange offers (i) Web-hosting and Web-casting products and services, (ii) market analytics, and (iii) news distribution products and services.²⁹

The Exchange states that the methodology used for determining global market value under the proposed amended rule for an Eligible New Listing or Eligible Transfer Company would be the same as is used under the current rule.³⁰

Amended Offering for Currently Listed Companies

The proposed amended offering of products and services for Eligible Current Listings would be as follows:

Tier One: For U.S. issuers that have 270 million or more total shares of common stock issued and outstanding in all share classes, including and in addition to Treasury shares, and non-U.S. companies that have 270 million or more shares of an equity security issued and outstanding in the U.S., each calculated annually as of September 30 of the preceding year (unless recalculated due to an additional issuance between October 1 and December 31 during the preceding calendar year), the Exchange offers products and services with a maximum combined commercial value of approximately \$75,000 annually, to be effective as of the following January 1, consisting of (i) Web-hosting and Web-casting products and services and (ii) a selection from among a suite of products and services, consisting of market intelligence, market analytics, board of directors platform, virtual event platform, or ESG products and services.³¹

Tier Two: Effective January 1, at each issuer's election, the Exchange offers a choice of: (i) Market analytics; (ii) Web-hosting and Web-casting products; or (iii) virtual event platform to:

(1) U.S. issuers that have 160 million to 269,999,999 total shares of common stock issued and outstanding in all

²⁸ See *id.* and Amendment No. 1, *supra* note 4, at 3.

²⁹ See Notice, *supra* note 3, at 74117.

³⁰ See *id.*

³¹ See Amendment No. 1, *supra* note 4, at 3–4.

¹⁷ See *id.*

¹⁸ See *id.*

¹⁹ The proposed services offering includes market intelligence, rather than market surveillance as in the current rule. According to the Exchange, this change reflects a change in the types of service packages offered by the service providers from whom the Exchange purchases these services. These service providers now also provide additional information that is intended to track investors' views about an issuer and how those views change over time. The Exchange states that the small decrease in the value attributed to this service is a result of pricing competition in a highly competitive market for these services. See *id.* at 74117.

²⁰ The Board of Directors Platform is a software program that enables secure document sharing, agenda sharing, and voting for public company boards of directors. See Amendment No. 1, *supra* note 4, at 4.

²¹ The Virtual Event Platform is a technology platform that enables companies to communicate with their investors by holding investor days, capital markets days, and other investment community events virtually. See *id.* at 5.

²² ESG are products and services that assist companies in aggregating and organizing ESG on a cross-organization basis, generally to facilitate public disclosure. See *id.*

²³ The current rule treats Web-hosting and Web-casting services as two separate items in the suite of available services, while the proposed rule amendments aggregate them as a single option. According to the Exchange, it is making this change

share classes, including and in addition to Treasury shares, calculated annually as of September 30 of the preceding year (unless recalculated due to an additional issuance between October 1 and December 31 during the preceding calendar year); and

(2) non-U.S. companies that have 160 million to 269,999,999 shares of an equity security issued and outstanding in the U.S., calculated annually as of September 30 of the preceding year (unless recalculated due to an additional issuance between October 1 and December 31 during the preceding calendar year).³²

The Exchange states that the methodology used in determining the number of shares issued and outstanding for purposes of eligibility for Tier One or Tier Two would be the same as under the current rule.³³

Proposal To Adjust Entitlements of Currently Listed Companies After January 1

Pursuant to the proposed rule change, if a U.S. issuer or non-U.S. company completes a corporate action during the course of a calendar year for which its eligibility for services is being determined and that corporate action increases the number of shares it has outstanding, the Exchange would calculate its outstanding shares immediately after such corporate action and determine whether it has become eligible to receive Tier One or Tier Two services.³⁴ If eligible, the Exchange would offer such services for the remainder of that calendar year, with such eligibility commencing as of the beginning of the following calendar month.³⁵ The following is a summary of how a listed company would be able to become eligible to receive Tier One or Tier Two services upon approval of this proposal:

○ A company can become eligible for Tier One or Tier Two services for a full calendar year starting on January 1 if it meets the applicable shares outstanding requirement as of September 30 of the preceding calendar year.

○ A company that does not meet the applicable shares outstanding requirement as of September 30 of the preceding calendar year will still be eligible for services for a full calendar year if it completes a corporate action between October 1 and December 31 that increases the number of shares it has outstanding and the Exchange, upon calculating the company's outstanding

shares as of December 31, determines that it has become eligible to receive Tier One or Tier Two services. If eligible, the Exchange will offer such services as of January 1 of the succeeding year.

○ If a company qualifies to be eligible for Tier One or Tier Two services during the course of a calendar year as set forth in the paragraph immediately above, it will receive the services for which it has become eligible for the remainder of that calendar year starting on the first day of the first calendar month after its eligibility has been determined.³⁶

Period of Eligibility for Whistleblower Services

The Exchange currently provides all listed issuers with complimentary access to whistleblower hotline services (with a commercial value of approximately \$4,000 annually) for a period of 24 calendar months.³⁷ The Exchange proposes to extend this period of eligibility to 48 months.³⁸

III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act.³⁹ Specifically, the Commission believes it is consistent with the provisions of Sections 6(b)(4) and 6(b)(5) of the Act,⁴⁰ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members, issuers, and other persons using the Exchange's facilities, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Moreover, the Commission believes that the proposed rule change is consistent with Section 6(b)(8) of the Act⁴¹ in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that the proposed changes to (i) amend the complimentary products and services it offers to companies, (ii) allow a currently listed U.S. issuer or non-U.S. company to receive Tier One or Tier Two services if it becomes eligible following a corporate action during the calendar year at the beginning of the

following month, and (iii) increase the period that all issuers receive access to whistleblower hotline services from 24 months to 48 months are appropriate and consistent with the Act. The Commission believes that the Exchange is responding to competitive pressures in the market for listings in making this proposal.⁴² The Exchange represents that the market for new listings and for the retention and transfer of listed companies is competitive and the Commission understands that the Exchange competes, in part, by offering complimentary services to companies.⁴³ In addition, the Commission believes that the proposal reflects the current competitive environment for exchange listings among national securities exchanges and does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, consistent with Section 6(b)(8) of the Act.⁴⁴

The Commission has previously found that the package of complimentary services offered to issuers is equitably allocated among issuers consistent with Section 6(b)(4) of the Act.⁴⁵ The Commission notes that all listed companies will continue to receive some level of free services and that, within each tier, all issuers will continue to be offered the exact same package of services, for the same period of time.⁴⁶ Given that under the proposal, Eligible Current Listings, Eligible New Listings, and Eligible Transfer Companies within each tier will continue to be offered the same complimentary products and services⁴⁷ for the same period of time, the Commission continues to believe that the package of complimentary services

⁴² See Securities Exchange Act Release No. 65127 (Aug. 12, 2011), 76 FR 51449 (Aug. 18, 2011) (SR-NYSE-2011-20) ("2011 Approval Order"). The Exchange states that products and services discussed herein are provided by third-party vendors. In its proposal, the Exchange states that issuers are not forced or required to use the complimentary products and services and some issuers have selected competing products and services. See Notice, *supra* note 3, at 74118.

⁴³ See Notice, *supra* note 3, at 74118-19.

⁴⁴ 15 U.S.C. 78f(b)(8).

⁴⁵ See 2011 Approval Order, *supra* note 42, 76 FR at 51452. See also Exchange Act Release No. 76127 (Oct. 9, 2015), 80 FR 62584, 62587 (Oct. 15, 2015) (SR-NYSE-2015-36) ("2015 Approval Order").

⁴⁶ See *infra* note 51 and accompanying text.

⁴⁷ The Commission notes that Eligible New Listings and Eligible Transfers that qualify for Tier A and Eligible Current Listings that qualify for Tier One will be eligible to choose different levels of services from the different categories, subject to a maximum overall value of services used. See *supra* notes 25 and 27 and accompanying text. The Commission believes that this approach will provide companies with greater flexibility while providing that all qualified companies within a tier are entitled to receive the same dollar value of services.

³⁶ See Amendment No. 1, *supra* note 4, at 5.

³⁷ See Notice, *supra* note 3, at 74118.

³⁸ See *id.*

³⁹ 15 U.S.C. 78f. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁴⁰ 15 U.S.C. 78f(b)(4) and (5).

⁴¹ 15 U.S.C. 78f(b)(8).

³² See *id.*

³³ See Notice, *supra* note 3, at 74117.

³⁴ See *id.* at 74117-18.

³⁵ See *id.* at 74118.

is equitably allocated among issuers consistent with Section 6(b)(4) of the Act⁴⁸ and the rule does not unfairly discriminate between issuers consistent with Section 6(b)(5) of the Act.⁴⁹

The Commission also believes that the ability of companies to qualify for Tier One or Tier Two services during the course of a calendar year if the company has a corporate action that increases its number of shares and receive those services on a prorated basis for the balance of that calendar year is consistent with the Act. The Commission notes that those companies would need to satisfy the same eligibility requirements as companies that are already receiving the services of the applicable tier. Additionally, the Commission believes that it is appropriate for the Exchange to offer varying services to different categories of issuers.⁵⁰ The Commission has previously found that the tiers originally established under the corporate products and services rule was consistent with the Act,⁵¹ and the Exchange has represented that there is not “any significant change in the overall value of the services to which any company would be entitled (with the exception that it is proposed that all issuers would going forward be entitled to 48 months of whistleblower services with an approximate annual value of \$4,000, rather than 24 months of services as is currently the case)” under the proposed rule.⁵²

Further, the Commission believes that describing in the Exchange’s rules the products and services available to listed companies, their associated values, and the length of time for which issuers are entitled to receive such services adds greater transparency to the Exchange’s

rules and to the fees applicable to listed companies and will ensure that individual listed companies are not given specially negotiated packages of products or services to list, or remain listed, which would raise unfair discrimination issues under the Act.⁵³ In addition, the Commission believes that it is reasonable, and in fact required by Section 19(b) of the Act, that the Exchange amend its rules to update the products and services it offers to Eligible Current Listings, Eligible Transfer Companies, and Eligible New Listings, including the time periods for which such products and services are offered and the commercial value of such products and services. This provides greater transparency to the Exchange’s rules and the fees, and the value of free products and services, applicable to listed companies.

Based on the foregoing, the Commission believes that the Exchange has provided a sufficient basis for amending the products and services offered to Eligible New Listings, Eligible Transfer Companies, and Eligible Current Listings, allowing a currently listed U.S. issuer or non-U.S. company to receive Tier One or Tier Two services if it becomes eligible following a corporate action during the calendar year at the beginning of the following month, and increasing the period of time that all issuers receive complimentary access to whistleblower hotline services from 24 months to 48 months, and that these changes are consistent with Section 6(b)(4) of the Act.⁵⁴ The Commission also continues to believe that the rule does not unfairly discriminate between issuers, consistent with Section 6(b)(5) of the Act.⁵⁵ Finally, the Commission believes that the proposal does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, consistent with Section 6(b)(8) of the Act.⁵⁶

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, 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 email to rule-comments@sec.gov. Please include File No. SR–NYSE–2021–68 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 No. SR–NYSE–2021–68. These file numbers should be included on the subject line if email 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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 filings also will be available for inspection and copying at the principal office of the Exchanges. 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 No. SR–NYSE–2021–68 and should be submitted on or before [insert date 21 days from publication in the **Federal Register**].

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act, to approve the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of Amendment No. 1 in the **Federal Register**. As discussed above, in

⁴⁸ 15 U.S.C. 78f(b)(4).

⁴⁹ 15 U.S.C. 78f(b)(5).

⁵⁰ For example, under the proposal, companies receiving services under Tier One and Tier A will be eligible for three new products and services as described above. See *supra* notes 20–22.

⁵¹ See 2011 Approval Order, *supra* note 42. In particular, the 2011 Approval Order states that while not all issuers receive the same level of services, NYSE has stated that trading volume and market activity are related to the level of services that the listed companies would use in the absence of complimentary arrangements. The Commission found, among other things, that “. . . the products and services and their commercial value are equitably allocated among issuers consistent with Section 6(b)(4) of the Act, and the rule does not unfairly discriminate between issuers consistent with Section 6(b)(5) of the Act.” See *id.* at 51452. The Commission also previously found that expanding the complimentary products and services offered to some tiers but not others was justified, in part, based on the different-sized companies within each tier and the amount of services they needed. See Securities Exchange Act Release No. 70971 (Dec. 3, 2013), 78 FR 73905 (Dec. 9, 2013).

⁵² See Amendment No. 1, *supra* note 4, at 4.

⁵³ See 2015 Approval Order, *supra* note 45, 80 FR at 62587. The Commission notes that the Exchange also stated that no other company will be required to pay higher fees as a result of the proposal and that providing the proposed services will have no impact on the resources available for its regulatory programs. See Notice, *supra* note 3, at 74118.

⁵⁴ 15 U.S.C. 78f(b)(4).

⁵⁵ 15 U.S.C. 78f(b)(5).

⁵⁶ 15 U.S.C. 78f(b)(8).

Amendment No. 1, the Exchange generally clarifies, among other things, (i) the ability of companies to qualify for Tier One or Tier Two services during the course of a calendar year and (ii) the products and services the Exchange offers to Eligible New Listings, Eligible Transfer Companies, and Eligible Current Listings, including a description of new products and services and updated value of the products and services.⁵⁷ The Commission believes that these revisions merely provide clarity to the proposed rule change and do not raise any new or novel issues. Accordingly, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.⁵⁸

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁵⁹ that the proposed rule change (SR-NYSE-2021-68), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶⁰

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2022-03280 Filed 2-15-22; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34501; 812-15293]

Brinker Capital Destinations Trust

February 10, 2021.

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice.

Notice of an application under Section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from Section 15(c) of the Act.

SUMMARY OF APPLICATION: The requested exemption would permit a Trust’s board of trustees (the “Board”) to approve new sub-advisory agreements and material amendments to existing sub-advisory agreements without complying with the in-person meeting requirement of Section 15(c) of the Act.

APPLICANT: Brinker Capital Destinations Trust (the “Trust”).

FILING DATES: The application was filed on December 28, 2021.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at *Secretarys-Office@sec.gov* and serving the relevant applicant with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant applicant below.

Hearing requests should be received by the Commission by 5:30 p.m. on March 7, 2022, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: John J. O’Brien, Esq., *johnobrien@morganlewis.com*.

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Branch Chief, at (202) 551-3239 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: For Applicants’ representations, legal analysis, and condition, please refer to Applicants’ application, dated December 28, 2021, which may be obtained via the Commission’s website by searching for the file number, using the Company name box, at <http://www.sec.gov/search/search.htm>, or by calling (202) 551-8090.

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

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2022-03269 Filed 2-15-22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94223; File No. SR-NYSE-2022-07]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List

February 10, 2022.

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 February 9, 2022, New York Stock Exchange LLC (“NYSE” 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 Price List to (1) align the charges for market at-the-close (“MOC”) and limit at-the close (“LOC”) orders on MOC/LOC Tiers 1, 2 and 3, revise the requirements for MOC/LOC Tier 3, introduce incremental per share discounts on MOC orders under MOC/LOC Tier 1, 2 and 3, and revise the rate for all other orders swept into the close; (2) introduce new credits for removing liquidity from the Exchange in Tape C securities; and (3) introduce new Tier 1 Adding Credits in Tape C securities, revise the requirements for Adding Tier 2 in Tape B and C securities, and introduce a new Adding Tier in Tape C securities. The Exchange proposes to implement the rule change on February 9, 2022.⁴ 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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ The Exchange originally filed to amend the Price List on January 27, 2022 (SR-NYSE-2022-06). SR-NYSE-2022-06 was subsequently withdrawn and replaced by this filing.

⁵⁷ See Amendment No. 1, *supra* note 4.

⁵⁸ 15 U.S.C. 78s(b)(2).

⁵⁹ 15 U.S.C. 78s(b)(2).

⁶⁰ 17 CFR 200.30-3(a)(12).