investors and listed companies.'' [21] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers.'. . .''[22] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [23] and paragraph (f) of Rule 19b–4 [24] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or 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 email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2020–062 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–CboeEDGX–2020–062. This file number 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 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2020–062 and should be submitted on or before January 19, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–28670 Filed 12–28–20; 8:45 am]

BILLING CODE 8011–01–P

[21] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[22] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90744; File No. SR–NYSE–2020–102]

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

December 21, 2020.

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 15, 2020, 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 and II 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 extend the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations. The Exchange proposes to implement the fee changes effective January 1, 2021. 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.

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

1. Purpose

The Exchange proposes to amend its Price List to extend the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations that have been unable to resume their Floor operations to a certain capacity level, as discussed below. The Exchange proposes to implement the fee change effective January 1, 2021.

As proposed, the Exchange would waive 50% of the Telephone System charges and Service Charges (except for the internet Equipment Monthly Hosting Fee) and trading license fees for the billing month of January 2021 only for member organizations that (1) meet the current requirements for these waivers, and (2) are unable to operate at more than 50% of their March 2020 on-Floor staffing levels or, for member organizations that began Floor operations after March 2020, are unable to operate at more than 50% of their Exchange-approved on-Floor staffing levels, both excluding part-time Floor brokers.

Background

Beginning on March 16, 2020, in order to slow the spread of the novel coronavirus (''COVID–19'') through social distancing measures, significant limitations were placed on large gatherings throughout the country. As a result, on March 18, 2020, the Exchange determined that beginning March 23, 2020, the physical Trading Floor facilities located at 11 Wall Street in New York City would close and that the Exchange would move, on a temporary basis, to fully electronic trading.[4] Following the temporary closure of the Trading Floor, the Exchange waived certain equipment fees for the booth telephone system on the Trading Floor and associated service charges for the months of April and May.[5]

On May 14, 2020, the Exchange announced that on May 26, 2020 trading operations on the Trading Floor would resume on a limited basis to a subset of Floor brokers, subject to health and safety measures designed to prevent the spread of COVID–19.[6] On June 15, 2020, the Exchange announced that on June 17, 2020, the Trading Floor would reintroduce a subset of DMMs, also subject to health and safety measures designed to prevent the spread of COVID–19.[7] Following this partial reopening of the Trading Floor, the Exchange extended the equipment fee waiver for the months of June through December 2020.[8] The Trading Floor continues to operate with reduced headcount and additional health and safety precautions.[9]

Proposed Rule Change

In response to the unprecedented events surrounding the spread of COVID–19 in 2020, the Exchange waived certain equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations for the months of April through December 2020.

Specifically, during that period the Exchange waived the Annual Telephone Line Charge of $400 per phone number and the $129 fee for a single line phone, jack, and data jack. The Exchange also waived related service charges, as follows: $161.25 to install single jack (voice or data); $107.50 to relocate a jack; $53.75 to remove a jack; $107.50 to install voice or data line; $53.75 to disconnect data line; $53.75 to change a phone line subscriber; and miscellaneous telephone charges billed at $106 per hour in 15 minute increments.[10] These fees were waived for (1) member organizations with at least one trading license, a physical Trading Floor presence, and Floor broker executions accounting for 40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020, or, beginning in August 2020, if not a member organization during March 1 to March 20, 2020, based on the member organization's combined adding, taking, and auction volumes during its first month as a member organization on or after May 26, 2020, *i.e.,* the date the Trading Floor re-opened on a limited basis, and (2) member organizations with at least one trading license that are Designated Market Makers with 30 or fewer assigned securities for the billing month of March 2020.

In addition, to further reduce costs for member organizations with a Trading Floor presence, the Exchange waived the monthly portion of all applicable annual fees between April and December 2020, for (1) member organizations with at least one trading license, a physical Trading Floor presence and Floor broker executions accounting for 40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020, or, beginning in August 2020, if not a member organization during March 1 to March 20, 2020, based on the member organization's combined adding, taking, and auction volumes during its first month as a member organization on or after May 26, 2020, and (2) member organizations with at least one trading license that are DMMs with 30 or fewer assigned securities for the billing month of March 2020.[11]

Because the Trading Floor continues to operate with reduced capacity, the Exchange proposes to extend the waiver of these Trading Floor-based fees for the billing month of January 2021. As proposed, the Exchange would waive 50% of the Annual Telephone Line Charge of $400 per phone number; the $129 fee for a single line phone, jack, and data jack; the related service charges ($161.25 to install single jack (voice or data); $107.50 to relocate a jack; $53.75 to remove a jack; $107.50 to install voice or data line; $53.75 to disconnect data line; $53.75 to change a phone line subscriber; and miscellaneous telephone charges billed

[4] *See* Press Release, dated March 18, 2020, available here: *https://ir.theice.com/press/press-releases/allcategories/2020/03-18-2020-204202110.*

[5] *See* Securities Exchange Act Release No. 88602 (April 8, 2020), 85 FR 20730 (April 14, 2020) (SR–NYSE–2020–27); Securities Exchange Act Release No. 88874 (May 14, 2020), 85 FR 30743 (May 20, 2020) (SR–NYSE–2020–29). *See* footnote 11 of the Price List.

[6] *See* Trader Update, dated May 14, 2020, available here: *https://www.nyse.com/traderupdate/history#110000251588.*

[7] *See* Trader Update, dated June 15, 2020, available here: *https://www.nyse.com/trader-update/history#110000272018.*

[8] *See* Securities Exchange Act Release No. 89050 (June 11, 2020), 85 FR 36637 (June 17, 2020) (SR–NYSE–2020–49); Securities Exchange Act Release No. 89324 (July 15, 2020), 85 FR 44129 (July 21, 2020) (SR–NYSE–2020–59); Securities Exchange Act Release No. 89754 (September 2, 2020), 85 FR 55550 (September 8, 2020) (SR–NYSE–2020–71); Securities Exchange Act Release No. 89798 (September 9, 2020), 85 FR 57263 (September 15, 2020) (SR–NYSE–2020–72); Securities Exchange Act Release No. 90161 (October 13, 2020), 85 FR 66370 (October 19, 2020) (SR–NYSE–2020–81); and Securities Exchange Act Release No. 90391 (November 10, 2020), 85 FR 73326 (November 17, 2020) (SR–NYSE–2020–92).

[9] *See* Trader Update, dated June 15, 2020, available here: *https://www.nyse.com/trader-update/history#110000272018.* DMMs continue to support a subset of NYSE-listed securities remotely.

[10] The Service Charges also include an internet Equipment Monthly Hosting Fee that the Exchange did not previously waive and that the Exchange does not propose to waive for January 2021.

[11] *See* notes 5–8, *supra. See* footnote 15 of the Price List. Beginning in August 2020, member organizations with a physical trading Floor presence that became member organizations on or after April 1, 2020 became eligible for a one-time credit for the member organization's indicated annual trading license fee for the months of April through July 2020 if the member organization meets the other requirements for the waiver described in footnote 15 of the Price List. The Exchange proposes to delete this language from the Price List as moot.

at $106 per hour in 15 minute increments); and the monthly portion of all applicable annual fees only for member organizations that

- meet the current requirements of having at least one trading license, a physical trading Floor presence and Floor broker executions accounting for 40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020 or, if not a member organization during March 1 to March 20, 2020, based on the member organization's combined adding, taking, and auction volumes during its first month as a member organization on or after May 26, 2020, and
- are unable to operate at more than 50% of their March 2020 on-Floor staffing levels or, for member organizations that began Floor operations after March 2020, are unable to operate at more than 50% of their Exchange-approved on-Floor staffing levels, both excluding part-time Floor brokers known as ''flex brokers'' (hereinafter, ''Qualifying Firms'').

Because the Trading Floor will continue to operate with reduced capacity, the Exchange proposes to extend the fee waiver for Qualifying Firms for the billing month of January 2021. The Exchange proposes to cap the waiver at 50%. The Exchange also proposes to clarify that Qualifying Firms would include firms that began Floor operations after March 2020 that are unable to operate at more than 50% of their Exchange-approved on-Floor staffing levels, both excluding part-time Floor brokers. The Exchange does not propose to extend the waiver of equipment and related service charges and trading license fees for DMMs with at least one trading license and 30 or fewer assigned securities for the billing month of March 2020, which expire at the end of December 2020.

The proposed fee change is designed to reduce monthly costs for all Qualifying Firms whose operations continue to be disrupted even though the Trading Floor has partially reopened. In reducing this monthly financial burden, the proposed change would allow Qualifying Firms that that are unable to operate at more than 50% of their March 2020 or Exchange-approved on-Floor staffing levels to reallocate funds to assist with the cost of shifting and maintaining their prior fully-staffed on-Floor operations to off-Floor and recoup losses resulting from the partial reopening. The Exchange believes that all Qualifying Firms would benefit from the proposed fee change.

The proposed changes are not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. 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.

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. 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.'' [14]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' [15] Indeed, equity trading is currently dispersed across 16 exchanges,[16] 31 alternative trading systems,[17] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 16% market share.[18] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange's market share of trading in Tape A, B and C securities combined is less than 12%.

The Proposed Change Is Reasonable

The proposed extension of the waiver of equipment and related service fees and the applicable monthly trading license fee for Qualified Firms is reasonable in light of the continued partial closure of the NYSE Trading Floor as a result of spread of COVID–19. The proposed change is reasonable because it would reduce monthly costs for all Qualifying Firms whose operations have been disrupted despite the fact that the Trading Floor has partially reopened because of the social distancing requirements and/or other health concerns related to resuming operation on the Trading Floor. In reducing this monthly financial burden, the proposed change would allow Qualifying Firms that that are unable to operate at more than 50% of their March 2020 or Exchange-approved on-Floor staffing levels to reallocate funds to assist with the cost of shifting and maintaining their prior fully-staffed on-Floor operations to off-Floor and recoup losses resulting from the partial reopening of the Trading Floor.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes the proposed extension of the waiver of equipment and related service fees and the applicable monthly trading license fee for Qualified Members is an equitable allocation of fees. The proposed waivers apply to all Trading Floor-based firms meeting specific requirements during the specified period that the Trading Floor remains partially open. The Exchange believes the proposed rule change is an equitable allocation of its fees and credits as it continues the previous fee waiver for Qualifying Firms, which affects fees charged only to Floor participants and does not apply to participants that conduct business off-Floor. The Exchange believes it is an equitable allocation of fees and credits to extend the fee waiver for Qualifying Firms because such firms have either no more than half of their Floor staff (as measured by either the March 2020 or Exchange-approved) levels, and this reduction in staffing levels on the Trading Floor impacts the speed, volume and efficiency with which these

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) & (5).

[14] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS'').

[15] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[16] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[17] *See* FINRA ATS Transparency Data, available at *https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[18] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

firms can operate, to their financial detriment.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory because the proposed continuation of the fee waiver would affect all similarly-situated market participants on an equal and non-discriminatory basis. The Exchange is not proposing to waive the Trading Floor-related fees indefinitely, but rather during the specified period during which the Trading Floor is not fully open. The Exchange believes that it is reasonable to clarify that firms that began Floor operations on the Exchange after March 2020 would be included as ''Qualifying Firms'' if such firms are unable to operate at more than 50% of their Exchange-approved on-Floor staffing levels insofar as such treatment places all firms on a level playing field, meet the current requirements for the waiver, and avoids placing ''newer'' Qualifying Firms at a financial disadvantage. The Exchange also believes that the proposed change would add clarity and transparency and reduce the potential for confusion in the Fee Schedule as relates to the treatment new Floor participants. Moreover, as noted, the proposed fee change is designed to ease the financial burden on Trading Floor-based member organizations that cannot fully conduct Floor operations.

For the foregoing 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,[19] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the continued participation of member organizations on the Exchange by providing certainty and fee relief during the ongoing pandemic. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [20]

Intramarket Competition. The proposed continued waiver of equipment and related service fees and the applicable monthly trading license fee for Qualified Firms is designed to reduce monthly costs for those Floor participants whose operations continue to be impacted by the COVID–19 pandemic despite the fact that the Trading Floor has partially reopened. In reducing this monthly financial burden, the proposed change would allow Qualifying Firms that had Floor operations in March 2020 to reallocate funds to assist with the cost of shifting and maintaining their previously on-Floor operations to off-Floor. Absent this change, all Qualifying Firms may experience an unintended increase in the cost of doing business on the Exchange, given that the Trading Floor has only reopened in a limited capacity. The Exchange believes that the proposed waiver of fees for Qualifying Firms would not impose a disparate burden on competition among market participants on the Exchange because off-Floor market participants are not subject to these Floor-based fixed fees. In addition, Floor-based firms that are not subject to the extent of staffing shortfalls as are Qualifying Firms, *i.e.,* firms that have more than 50% of their March 2020, or Exchange-approved staffing levels on the Trading Floor, do not face the same operational level of disruption and potential financial impact during the partial reopening of the Trading Floor. As noted, the proposal would apply to all similarly situated member organizations on the same and equal terms, who would benefit from the changes on the same basis. Accordingly, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. As described above, the Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. The Exchange believes that the proposed rule change reflects this competitive environment because it permits impacted member organizations to continue to conduct market-making operations on the Exchange and avoid unintended costs of doing business on the Exchange while the Trading Floor is not fully open, which could make the Exchange a less competitive venue on which to trade as compared to other equities markets. In reducing this monthly financial burden, the proposed change would allow affected participants to reallocate funds to assist with the cost of shifting and maintaining their prior fully-staffed on-Floor operations to off-Floor. Absent this change, Qualifying Firms may experience an unintended increase in the cost of doing business on the Exchange, which would make the Exchange a less competitive venue on which to trade as compared to other options exchanges.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [21] of the Act and subparagraph (f)(2) of Rule 19b–4 [22] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [23] of the Act to determine whether the proposed rule change should be approved or 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 email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–102 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.

[19] 15 U.S.C. 78f(b)(8).

[20] Regulation NMS, 70 FR at 37498–99.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(2).

[23] 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR–NYSE–2020–102. This file number 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 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–NYSE–2020–102 and should be submitted on or before January 19, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–28664 Filed 12–28–20; 8:45 am]

BILLING CODE 8011–01–P

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34144; 812–15167]

ETF Series Solutions and ClearShares, LLC

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

SUMMARY: ETF Series Solutions (''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series (each a ''Fund'') and ClearShares LLC (''Initial Adviser''), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') that serves an investment adviser to the Funds (collectively with the Trust, the ''Applicants'') have applied for an exemption from the Investment Company Act of 1940. The requested exemption would permit Applicants to enter into and materially amend sub-advisory agreements with sub-advisers without shareholder approval and would grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

DATES: The application was filed on September 29, 2020.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: *michael.barolsky@usbank.com.*

FOR FURTHER INFORMATION CONTACT: Nina Kostyukovsky, Senior Counsel, at (202) 551–8833, or Parisa Haghshenas, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: Notice of an application under Section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from Section 15(a) of the Act, as well as from certain disclosure requirements in Rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934 (''1934 Act''), and Sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements'').

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 by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving Applicants with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on January 15, 2021, and should be accompanied by proof of service on the 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.

The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number or an Applicant using the ''Company'' name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

I. Requested Exemptive Relief

1. Applicants request an order to permit the Adviser,[1] subject to the approval of the board of trustees of the Trust (collectively, the ''Board''),[2] including a majority of the trustees who are not ''interested persons'' of the Trust or the Adviser, as defined in Section 2(a)(19) of the Act (the ''Independent Trustees''), without obtaining shareholder approval, to: (i) Select investment sub-advisers (''Sub-Advisers'') for all or a portion of the assets of one or more of the Funds pursuant to an investment sub-advisory agreement with each Sub-Adviser (each a ''Sub-Advisory Agreement''); and (ii) materially amend Sub-Advisory Agreements with the Sub-Advisers.

2. Applicants also request an order exempting the Sub-Advised Funds (as defined below) from the Disclosure Requirements, which require each Fund to disclose fees paid to a Sub-Adviser. Applicants seek relief to permit each Sub-Advised Fund to disclose (as a dollar amount and a percentage of the Fund's net assets): (i) The aggregate fees paid to the Adviser and any Wholly-Owned Sub-Advisers; and (ii) the aggregate fees paid to Affiliated and Non-Affiliated Sub-Advisers (''Aggregate Fee Disclosure'').[3]

[1] The term ''Adviser'' means (i) the Initial Adviser, (ii) its successors, and (iii) any entity controlling, controlled by or under common control with, the Initial Adviser or its successors that serves as the primary adviser to a Sub-Advised Fund. For the purposes of the requested order, ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization. Any other Adviser also will be registered with the Commission as an investment adviser under the Advisers Act.

[2] The term ''Board'' also includes the board of trustees or directors of a future Sub-Advised Fund (as defined below), if different from the board of trustees (''Trustees'') of the Trust.

[3] A ''Wholly-Owned Sub-Adviser'' is any investment adviser that is (1) an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in Section 2(a)(43) of the Act) of the Adviser, (2) a ''sister company'' of the Adviser that is an indirect or direct ''wholly-owned subsidiary'' of the same company that indirectly or directly wholly owns the Adviser (the Adviser's ''parent company''), or (3) a parent company of the Adviser. An ''Affiliated Sub-Adviser'' is any investment sub-adviser that is not a Wholly-Owned Sub-Adviser, but is an ''affiliated person'' (as defined in Section 2(a)(3) of the Act) of a Sub-Advised Fund or the Adviser for reasons other than serving as investment sub-adviser to one or more Funds. A ''Non-Affiliated Sub-Adviser'' is any investment adviser that is not an ''affiliated person'' (as defined in the Act) of a Fund or the Adviser, except to the extent that an affiliation arises solely because the Sub-Adviser serves as a sub-adviser to one or more Funds.