

by Petitioners, holding that Petitioners had failed to demonstrate that the fees are “fair and reasonable” and “not unreasonably discriminatory,” as required by the Securities Exchange Act of 1934, 15 U.S.C. §§ 78k-1(c)(1)(C)–(D), 78s(f). Petitioners filed their petitions for review with this Court on October 23, 2018, and this Court consolidated the petitions on its own motion on October 24, 2018. A copy of the Order is attached to The NASDAQ Stock Market’s petition.

SIFMA should be granted leave to intervene because it has a direct and substantial interest in the issues raised by the petitions for review. SIFMA is a trade association that represents over 400 securities firms, banks, and asset managers, many of whom are subject to the fees set aside by the Order. On behalf of its members, SIFMA brought and prosecuted the challenges to those fees that culminated in the Order. *See Application for an Order Setting Aside Rule Change of NYSE Arca, Inc., Limiting Access to Its Services*, Admin. Proc. File No. 3-15350 (filed May 31, 2013); *Application for an Order Setting Aside Rule Changes of Certain Self-Regulatory Organizations Limiting Access to Their Services*, Admin. Proc. File No. 3-15351 (filed May 31, 2013). A successful challenge by Petitioners would therefore harm the interests of SIFMA and its members. SIFMA’s interest is underscored by its participation, as petitioner, in two prior challenges in this Court to the same fees now at issue. *See NetCoalition v. SEC*, 715 F.3d 342 (D.C. Cir. 2013); *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

Dated: November 21, 2018

Respectfully submitted,

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**IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

THE NASDAQ STOCK MARKET, LLC, and)
NYSE ARCA, INC.)

Petitioners,)

v.)

SECURITIES AND EXCHANGE)
COMMISSION,)

Respondent.)

Nos. 18-1292, 18-1293

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rules 27(a)(4) and 26.1, the Securities Industry and Financial Markets Association (“SIFMA”) respectfully submits the following Corporate Disclosure Statement:

SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of the securities industry’s nearly one million employees, SIFMA advocates for legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets, and related products and services. SIFMA serves as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. SIFMA has no parent corporation, and no publicly held corporation has a 10% or greater ownership interest in SIFMA.

Dated: November 21, 2018

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CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to D.C. Circuit Rules 27(a)(4) and 28(a)(1), Movant submits this certificate as to parties, rulings, and related cases.

A. Parties and Amici. Because these cases involve direct review of a final agency action, the requirement to furnish a list of parties, intervenors, and amici that appeared below is inapplicable. The cases involve the following parties:

- (i) Petitioners: The NASDAQ Stock Market, LLC, and NYSE Arca, Inc.
(ii) Respondent: Securities and Exchange Commission.
(iii) Intervenors and Amici: There are no intervenors or amici at this time.

The Movant-Intervenor is the Securities Industry and Financial Markets Association ("SIFMA").

B. Ruling Under Review. The final agency action under review is the SEC's final order and decision In the Matter of the Application of Securities Industry and Financial

Markets Association, Opinion of the Commission and Order Setting Aside Exchange Fee Rules, Release No. 84432, Admin. Proc. File No. 3-15350 (“Order”), issued on October 16, 2018.

C. Related Cases. This Court has previously decided two cases related to this one. In *NetCoalition v. SEC*, 715 F.3d 342 (D.C. Cir. 2013), this Court held that it lacked jurisdiction to review the SEC’s decision not to suspend a set of market data fees that included those ultimately set aside in the Order under review here. In *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010), this Court vacated an SEC order upholding the fees at issue here.

This case has not previously been before any other court, and, to our knowledge, there is no other ongoing case in any court that is related to this case.

Dated: November 21, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2018, I will cause the foregoing Motion, Corporate Disclosure Statement, and Certificate as to Parties, Rulings, and Related Cases to be electronically filed through this Court's CM/ECF system, which will send a notice of filing to all registered users.

/s/ Carter G. Phillips
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