

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-95970; File No. SR-NYSEAMER-2022-43)

October 4, 2022

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Connectivity Fee Schedule

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that on September 21, 2022, NYSE American LLC (“NYSE American” 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 the Connectivity Fee Schedule related to colocation to remove obsolete text. 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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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.

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 the Connectivity Fee Schedule related to colocation to remove Partial Cabinet Solution bundles Options A and B as obsolete.⁴

The Exchange recently deleted the service “LCN Access - 1 Gb Circuit” from the list of types of services available in colocation, due to the lack of User demand for 1 Gb LCN ports.⁵ In making that change, the Exchange explained that the number of 1 Gb LCN ports purchased by Users had steadily declined from 4 in 2017, to 2 in 2018, to 1 in 2021, to zero in 2022. The Exchange understands that this fall-off in demand for the 1 Gb LCN port is due to the fact that market data feeds continue to increase in bandwidth, such that Users prefer to purchase larger port sizes. Based on this trend, the Exchange explained that it believes that there is no remaining User demand for the 1 Gb LCN port, and discontinued the service as obsolete.

The same rationale applies equally to two of the Exchange’s Partial Cabinet Solution (“PCS”) bundles: Options A and B. Options A and B each include various bundled services, including, among other things, a 1 Gb LCN connection. Although Options A and B have been

⁴ The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (“ICE”). Each of the Exchange’s affiliates New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (the “Affiliate SROs”) has submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2022-45, SR-NYSEARCA-2022-64, SR-NYSECHX-2022-22, and SR-NYSENAT-2022-22.

⁵ See Securities Exchange Act Release No. 95359 (July 25, 2022), 87 FR 45834 (July 29, 2022) (SR-NYSEAMER-2022-31).

offered by the Exchange and its Affiliate SROs since 2016,⁶ no Users ever purchased an Option B bundle, and only one User purchased an Option A bundle, which it canceled in July 2021. There are currently no Users purchasing either an Option A or B bundle. Accordingly, the Exchange believes that there is no remaining User demand for Options A or B, and proposes to discontinue them as obsolete.

Application and Impact of the Proposed Changes

The Exchange does not expect that the proposed changes would have any impact. As noted above, there was only ever one User that purchased either an Option A or B bundle, and that User canceled its bundled service over a year ago, in July 2021. There are currently no purchasers of either Option A or B bundles.

The proposed changes would not have any affect on the two remaining PCS bundles, Options C and D, which include 10 Gb ports.

In addition, the proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users⁷ equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Connectivity Fee Schedule is applied uniformly to all Users.

Competitive Environment

The proposed changes are not otherwise intended to address any other issues relating to

⁶ See, e.g., Securities Exchange Act Release No. 77072 (February 5, 2016), 81 FR 7394 (Feb. 11, 2016) (SR-NYSE-2015-53).

⁷ For purposes of the Exchange's colocation services, a "User" means any market participant that requests to receive colocation services directly from the Exchange. See Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR-NYSEMKT-2015-67). As specified in the Connectivity Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Affiliate SROs.

colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁹ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that discontinuing offering the Option A and B PCS bundles would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. There was only ever one User that purchased either an Option A or B bundle, and that User canceled its bundled service over a year ago, in July 2021. There are currently no purchasers of either Option A or B bundles. The Exchange does not expect demand for Options A and B to rebound given Users' overall preference for larger port sizes to accommodate larger market data feeds. Removing references to the fees for these obsolete options from the Connectivity Fee Schedule would make the Connectivity Fee Schedule easier to read, understand, and administer.

The Exchange believes that the proposed rule change does not significantly affect the

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

protection of investors or the public interest. The proposed rule change would delete obsolete services from the Connectivity Fee Schedule in order to enhance transparency and alleviate potential customer confusion.

The Exchange believes that deleting obsolete services from the Connectivity Fee Schedule would not permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed changes would apply equally to all Users.

For these 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,¹⁰ the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to enhance the clarity and transparency of the Connectivity Fee Schedule and alleviate possible customer confusion that may arise from the inclusion of obsolete services.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of

¹⁰ 15 U.S.C. 78f(b)(8).

the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

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)¹³ 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 e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEAMER-2022-43 on the subject line.

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 15 U.S.C. 78s(b)(2)(B).

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-NYSEAMER-2022-43. This file number should be included on the subject line if e-mail 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-NYSEAMER-2022-43 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

J. Matthew DeLesDernier,
Deputy Secretary.

¹⁴ 17 CFR 200.30-3(a)(12).