SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-86547; File No. SR-NYSEARCA-2019-54)

August 1, 2019

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the NYSE Arca Options Fees and Charges and the NYSE Arca Equities Fees and Charges Related to Co-location Services

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 July 18, 2019, NYSE Arca, Inc. ("NYSE Arca" 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 the NYSE Arca Options Fees and Charges (the "Options Fee Schedule") and the NYSE Arca Equities Fees and Charges (the "Equities Fee Schedule" and, together with the Options Fee Schedule, the "Fee Schedules") related to co-location services to amend the Partial Cabinet Solution bundles. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

2 15 U.S.C. 78a.

3 17 CFR 240.19b-4.

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.

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 Fee Schedules related to co-location[4] services offered by the Exchange to amend two of the Partial Cabinet Solution ("PCS") bundles that the Exchange offers Users.[5] The proposed change would have the effect of lowering the latency in the Liquidity Center Network ("LCN") connection included in two of the PCS bundles. This is not a fee filing: there is no proposed change to the fee for the PCS bundles.

The Exchange plans to implement the change during the fourth quarter of 2019. It will

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4 The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission ("Commission") in 2010. See Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR-NYSEArca-2010-100). The Exchange operates a data center in Mahwah, New Jersey (the "data center") from which it provides co-location services to Users.

5 For purposes of the Exchange's co-location services, a "User" means any market participant that requests to receive co-location services directly from the Exchange. See Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEArca–2015–82). As specified in the Fee Schedules, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC ("NYSE"), NYSE American LLC ("NYSE American"), and NYSE National, Inc. ("NYSE National" and, together with NYSE, NYSE American and NYSE Chicago, Inc., the "Affiliate SROs").See Securities Exchange Act Release No. 70173 (August 13, 2013), 78 FR 50459 (August 19, 2013) (SR-NYSEArca-2013-80).

announce the implementation date through a customer notice.

Proposed Change to the Option C and Option D PCS Bundles

There are four PCS bundles, Options A through D. Each PCS bundle option includes a partial cabinet; access to the LCN and internet protocol ("IP") network, the local area networks available in the data center; two fiber cross connections; and connectivity to one of two time feeds.[6] The PCS bundles were designed to attract smaller Users, including those with minimal power or cabinet space demands or those for which the costs attendant with having a dedicated cabinet or greater network connection bandwidth are too burdensome.[7]

Currently, the Options C and D PCS bundles include 10 Gigabit ("Gb") LCN connections. The Exchange proposes to change each 10 Gb LCN connection to a lower-latency 10 Gb LCN connection, referred to as the "LCN 10 Gb LX."[8] As a result of this change, Users will benefit from a lower latency LCN connection in the Options C and D PCS bundles at the same cost.

The sole change to the Fee Schedules would be to add "LX" to the reference to the 10 Gb LCN connection in the description of Option C and Option D in the Fee Schedules. The revised text would read as follows (proposed additions underlined):

- For Option C: 1 kW partial cabinet, 1 LCN connection (10 Gb LX), 1 IP network connection (10 Gb), 2 fiber cross connections and either the Network Time Protocol Feed or Precision Timing Protocol.

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6 See Securities Exchange Act Release No. 77070 (February 5, 2016)), 81 FR 7401 (February 11, 2016) (SR-NYSEArca-2015-102).

7 Id., at 7396.

8 See Securities Exchange Act Release No. 70887 (November 15, 2013), 78 FR 69897 (November 21, 2013) (SR-NYSEArca-2013-123) (notice of filing and immediate effectiveness of proposed rule change to offer LCN 10 Gb LX connection).

- For Option D: 2 kW partial cabinet, 1 LCN connection (10 Gb LX), 1 IP network connection (10 Gb), 2 fiber cross connections and either the Network Time Protocol Feed or Precision Timing Protocol.

Application and Impact of the Proposed Change

The proposed change would apply to all Option C and Option D PCS bundles, including those that Users currently have.[9] Those current Users would benefit immediately from the lower latency connection. The Exchange believes that would be the only consequence for them, as (a) the current Users would not be required to change their equipment to accommodate the change, and so would not incur equipment costs, and (b) there would be no change in the prices they pay for their Option C and Option D PCS bundles.

The proposed change would not apply differently to distinct types or sizes of market participants. Rather, it would apply to all Users equally. All Users that order an Option C or D bundle would receive an LCN 10 Gb LX connection as part of that bundle. Users that require other sizes or combinations of cabinets, network connections and cross connects could still request them, and would still have the choice of purchasing a 10 Gb LCN connection, an LCN 10 Gb LX connection, or both. As is currently the case, the purchase of any colocation service, including PCS bundles, is completely voluntary and the Fee Schedules are applied uniformly to all Users.

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9 The Exchange does not propose to make a change to the Option A or B PCS bundles. The Option A and B PCS bundles include 1 Gb LCN connections, and the Exchange does not offer a 1 Gb LCN connection with a lower latency than that in the current bundles.

Competitive Environment

A User may host another entity in its space within the data center. Such Users are called "Hosting Users," and their customers are "Hosted Customers."[10]

Based on conversations with Users and potential customers, the Exchange believes that Hosting Users offer bundles ("Hosting User Bundles") that include cabinet space and space on shared LCN and IP network connections--and that the Hosting User Bundles provide their end users with a service similar to that of the PCS bundles, but with a lower cost and latency.[11]

The proposed change is intended to create a more level playing field between the Exchange and the Hosting Users, who compete for Hosted Customer business. Based on the above conversations, the Exchange understands that, given the choice, customers may choose a Hosting User Bundle over a PCS bundle, with the latency of the 10 Gb LCN connection being a major factor in the choice. The Exchange believes that, by reducing the latency of the LCN connection, the proposed change may make Option C and D PCS bundles more attractive to potential Users who might otherwise opt to become Hosted Customers. Importantly, the change would provide potential Users with a wider range of attractive choices, which would be a benefit to the competitive environment, especially for potential Users with minimal power or

10 A Hosting User is required to be a User, but because only Users can be Hosting Users, a Hosted Customer is not able to provide hosting services to any other entities in the space in which it is hosted. The Exchange allows Users to act as Hosting Users for a monthly fee. See Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR-NYSEArca-2015-82).

11 Because Hosting Users' services are not regulated, they may offer differentiated pricing and are not required to make their pricing public or disclose it to the Exchange. The Exchange therefore does not have direct visibility into the specific range of options, or cost thereof, offered by Hosting Users, and relies on third parties for information.

cabinet space demands or those for which the costs attendant with having a dedicated cabinet or greater network connection bandwidth are too burdensome.[12]

The Exchange operates in a highly competitive market in which exchanges and other vendors (i.e., Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, 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."[13]

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (e.g., a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis;[14]

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12 See supra note 7.

13 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

14 As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies, as compared to Users that are not co-located, in sending

and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or more of the Affiliate SROs.[15]

The proposed change is not otherwise intended to address any other issues relating to co-location 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,[16] in general, and furthers the objectives of Section 6(b)(5) of the Act,[17] 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 mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and does not unfairly discriminate between customers, issuers, brokers, or dealers. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[18] because it provides for the equitable allocation of reasonable dues, fees, and other charges among its

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orders to, and receiving market data from, the Exchange.

15 See 78 FR 50459, supra note 5, at 50459. NYSE, NYSE American and NYSE National have submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2019-41, SR-NYSEAmer-2019-28, and SR-NYSENAT-2019-17.

16 15 U.S.C. 78f(b).

17 15 U.S.C. 78f(b)(5).

18 15 U.S.C. 78f(b)(4).

members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Change is Not Unfairly Discriminatory

The proposed change would not apply differently to distinct types or sizes of market participants. Rather, it would apply to all Users equally. The Exchange would continue to offer the four different PCS bundles with different cabinet footprints and network connections options. All Users that in the future order or currently use an Option C or D bundle would receive an LCN 10 Gb LX connection as part of that bundle. Users that require other sizes or combinations of cabinets, network connections and cross connects could still request them, and would still have the choice of purchasing a 10 Gb LCN connection, an LCN 10 Gb LX connection, or both. As is currently the case, the purchase of any colocation service, including PCS bundles, is completely voluntary.

Having the change apply to all Option C and D PCS bundles, including those that Users already have, would ensure that all Users with Option C and D PCS bundles receive the same services no matter when they purchased them. The current Users would receive the benefit of a lower latency LCN connection immediately. The Exchange believes that would be the only effect of this change for current Users, as (a) they would not be required to change their equipment to accommodate the change, and so would not incur equipment costs, and (b) there would be no change in the initial charge or MRC for the applicable PCS bundles.

As a result of the proposed change, the latency of the LCN connection in the Option C and D bundles would be reduced. The proposed change would assist Users in making their network connectivity more efficient by reducing the time that messaging (e.g., orders and quotes) takes to reach the Exchange's trading and execution system once sent from their co-located servers and also the time that market data takes to reach their co-located servers. The Exchange believes that the reduction in latencies attributed to the LCN 10 Gb LX connection would provide Users with a more efficient means of processing their messages sent to the Exchange's trading and execution system from the data center.

The changes would continue to make it more cost effective for Users to utilize co-location by offering a cost effective, convenient way to create a colocation environment, through the choice among PCS bundles with different cabinet footprints and network connections options. The Exchange expects that such Users would include those with minimal power or cabinet space demands and Users for which the costs attendant with having a dedicated cabinet or greater network connection bandwidth are too burdensome.

The Proposed Change is Reasonable and Equitable

The Exchange believes that the proposed change is a reasonable attempt to create a more level playing field between the Exchange and Hosting Users. The Exchange believes that, by reducing the latency in the included LCN connection, the proposed change may make Option C and D PCS bundles more attractive to potential Users who may otherwise opt to become Hosted Customers, and thus enhance the competitive environment for potential Users (who would then have more options from which to select).

Without this proposed rule change, potential Users choosing between a PCS bundle and a Hosting User Bundle would have fewer attractive options. This would be a detriment for them, especially for potential Users with minimal power or cabinet space demands or those for which the costs attendant with having a dedicated cabinet or greater network connection bandwidth are too burdensome.[19]

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[19] See supra note 7.

The proposed change would not apply differently to distinct types or sizes of market participants. Rather, it would apply to all Users and potential Users equally. The Exchange would continue to offer the four different PCS bundles with different cabinet footprints and network connections options. All Users that order an Option C or D bundle would receive an LCN 10 Gb LX connection as part of that bundle. Users that require other sizes or combinations of cabinets, network connections and cross connects could still request them, and would still have the choice of purchasing a 10 Gb LCN connection, an LCN 10 Gb LX connection, or both. As is currently the case, the purchase of any colocation service, including PCS bundles, is completely voluntary.

Having the change apply to all Option C and D PCS bundles, including those that Users already have, would ensure that all Users with Option C and D PCS bundles receive the same services no matter when they purchased them. The current Users would receive the benefit of a lower latency connection immediately. The Exchange believes that would be the only effect of this change for current Users as (a) they would not be required to change their equipment to accommodate the change, and so would not incur equipment costs, and (b) there would be no change in the initial charge or MRC for the applicable PCS bundles.

The Exchange operates in a highly competitive market in which exchanges and other vendors (i.e., Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

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,[20] 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 because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis: all Users that order an Option C or Option D bundle would receive an LCN 10 Gb LX connection as part of that bundle. The Exchange believes that the proposed changes are reasonable and designed to be fair and equitable, and therefore, will not unduly burden any particular group of Users. Under the proposed change the Exchange will continue to offer cost effective options for Users to create a colocation environment through the PCS bundles.

Intramarket Competition

The Exchange does not believe that the proposed change would place any burden on intramarket competition that is not necessary or appropriate. The purpose of this filing is not to change any fees, but rather to make a change to the contents of the Option C and D PCS bundles that would give current and future Users of those bundles more efficient connections for the same costs. As a result of the proposed change, the latency of the LCN connection in the Option C and D PCS bundles would be reduced. The proposed change would assist Users in making their network connectivity more efficient by reducing the time that messaging (e.g., orders and

[20] 15 U.S.C. 78f(b)(8).

quotes) takes to reach the Exchange's trading and execution system once sent from their co-located servers and also the time that market data takes to reach their co-located servers. The Exchange believes that the reduction in latencies attributed to the LCN 10 Gb LX connection would provide Users with a more efficient means of processing their messages sent to the Exchange's trading and execution system from the data center.

The proposed change would apply to all Users equally. The Exchange would continue to offer the four different PCS bundles with different cabinet footprints and network connections options. All Users that have an Option C or D PCS bundle--including those that already have one--would receive an LCN 10 Gb LX connection as part of that bundle. Users that require other sizes or combinations of cabinets, network connections and cross connects could still request them, and would still have the choice of purchasing a 10 Gb LCN connection, an LCN 10 Gb LX connection, or both.

The current Users would receive the benefit of a lower latency connection at the same cost. The Exchange believes that would be the only effect of this change for current Users, as (a) they would not be required to change their equipment to accommodate the change, and so would not incur equipment costs, and (b) there would be no change in the initial charge or MRC for the applicable PCS bundles.

Intermarket Competition

The Exchange does not believe that the proposed fee would impose any burden on intermarket competition that is not necessary or appropriate. The Exchange believes that the proposed change is a reasonable attempt to create a more level playing field between the Exchange and Hosting Users. Because Hosting Users' services are not regulated, they may offer differentiated pricing and are not required to make their pricing public. The Exchange believes that, by reducing the latency in the included LCN connection, the proposed change may make Option C and D PCS bundles more attractive to potential Users who might otherwise opt to become Hosted Customers. At the same time, however, no potential User would be obligated to purchase a PCS bundle, and it would still have the options offered by Hosting Users.

Without this proposed rule change, potential Users choosing between a PCS bundle and a Hosting User Bundle would have fewer attractive options. This would be a detriment for them, especially for potential Users with minimal power or cabinet space demands or those for which the costs attendant with having a dedicated cabinet or greater network connection bandwidth are too burdensome.[21]

The Exchange operates in a highly competitive market in which exchanges and other vendors (i.e., Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, 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."[22]

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21 See supra note 7.

22 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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 the Act[23] and Rule 19b-4(f)(6) thereunder.[24] 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. [25]

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)[26] of the Act to determine whether the proposed rule change should be approved or disapproved.

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

24 17 CFR 240.19b-4(f)(6).

25 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

26 15 U.S.C. 78s(b)(2)(B).

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-NYSEARCA-2019-54 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-NYSEARCA-2019-54. 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-NYSEARCA-2019-54 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.[27]

Jill M. Peterson
Assistant Secretary

[27] 17 CFR 200.30-3(a)(12).