



Martha Redding
Associate General Counsel
Assistant Secretary

July 28, 2020

VIA E-MAIL

Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: SEC Release No. 34-88238 (SR-NYSEAmer-2020-10)

Dear Secretary:

NYSE American, LLC. filed the attached Partial Amendment No. 1 to the above-referenced filing on July 27, 2020.

Sincerely,

A handwritten signature in blue ink, appearing to be the initials "MR" followed by a stylized flourish.

(Encl. Partial Amendment No. 1 to SR-NYSEAmer-2020-10)

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 18 SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4 File No.* SR - 2020 - * 10 Amendment No. (req. for Amendments *) 1

Filing by NYSE American LLC
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input type="checkbox"/>	Amendment * <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
	Section 3C(b)(2) * <input type="checkbox"/>

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Martha Last Name * Redding
 Title * Associate General Counsel
 E-mail * Martha.Redding@theice.com
 Telephone * (212) 656-2938 Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date 07/27/2020 Senior Counsel
 By David De Gregorio

David De Gregorio,

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

Form 19b-4 Information *

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

Add Remove View

Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

SR-NYSEAMER-2020-10, Partial Amendment No. 1

NYSE American LLC (“NYSE American” or the “Exchange”) hereby submits this Partial Amendment No. 1 to the above-referenced filing (“Filing”) in connection with the proposed rule change to add wireless connectivity that transport the market data of certain affiliates of the Exchange to the schedule of Wireless Connectivity Fees and Charges (the “Wireless Fee Schedule”). With this Partial Amendment No. 1, the Exchange proposes a new rule to place restrictions on the use of a pole on the grounds of the Mahwah, New Jersey data center that is used for wireless connectivity services that transport the market data of certain affiliates of the Exchange.

The Exchange proposes the following amendments to the Filing:

1. The Exchange proposes to amend the first paragraph in Item 1(a) on page 3 of the Filing:

The wireless connectivity services do not transport market data of the Exchange. Accordingly, the Exchange proposes to amend the first paragraph of Item 1(a) on page 3 of the Filing to reflect that fact and to add text to describe the proposed rule change. Specifically, it proposes to add “(a)” before “wireless connectivity services”; delete “the Exchange and”; add “of the Exchange” after “certain affiliates”; and add new text at the end of the paragraph to describe the proposed rule change, as follows (new text underlined, deletions in [brackets]):

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² NYSE American LLC (“NYSE American” or the “Exchange”) proposes to add (a) wireless connectivity services that transport the market data of [the Exchange and] certain affiliates of the Exchange to the schedule of Wireless Connectivity Fees and Charges (the “Wireless Fee Schedule”); and (b) a new rule to place restrictions on the use of a pole on the grounds of the Mahwah, New Jersey data center that is used for such wireless connectivity services.

2. The Exchange proposes to amend the carryover paragraph on pages 3 and 4 of the Filing (second full paragraph on page 24 of the Exhibit 1):

The Exchange proposes to add amend the carryover paragraph on pages 3 and 4 of the Filing (second full paragraph on page 24 of the Exhibit 1) to add “(a)” before “wireless connectivity services” and add new text to describe the proposed rule change, as follows (new text underlined, deletion in [brackets]):

The Exchange proposes to add (a) wireless connectivity services that transport market data of three Exchange affiliates, New York Stock Exchange LLC (“NYSE”), NYSE Arca, Inc. (“NYSE Arca”) and NYSE National, Inc. (“NYSE National”) to the Wireless Fee Schedule[.],^{3/4} and (b) a new rule to place restrictions on the use of a pole on the grounds of the Mahwah, New Jersey data center that is used for such wireless connectivity services. A market participant is

not able to use the wireless connectivity services to connect to Exchange market data.

3. The Exchange proposes to add a new section titled “Proposed New Rule” and accompanying footnotes after the first full paragraph on page 14 of the Filing (carryover paragraph on pages 39 and 40 of the Exhibit 1):

The Exchange proposes a new rule to place restrictions on the use of a pole on the grounds of the Mahwah, New Jersey data center that is used for wireless connectivity services. Accordingly, the Exchange proposes to add a new section titled “Proposed New Rule” and accompanying footnotes (subsequent footnotes would be renumbered in a conforming change) after the first full paragraph on page 14 of the Filing (carryover paragraph on pages 39 and 40 of the Exhibit 1), after the end of the section titled “The Proposed Service and Fees,” as follows (all text is new):

Proposed New Rule

Since 2016, IDS has had the use of a pole on the grounds of the Mahwah data center.^{27/28} The data center pole is part of the network utilized for the Wireless Market Data Connections to the Carteret and Secaucus Third Party Data Centers.^{28/29} At the data center pole, the wireless connection to the Third Party Data Centers converts to a fiber connection, and the fiber connection travels from the data center pole into the Mahwah data center.^{29/30} The equipment on the data center pole belongs to IDS and Anova Technologies, LLC (“Anova”), the non-ICE entity that owns the wireless network used for the Wireless Market Data Connections to Secaucus and Carteret.^{30/31}

Other third parties that offer wireless services utilize commercial poles located outside the grounds of the Mahwah, New Jersey data center for their wireless networks. A third party’s wireless connections to the Third Party Data Center convert to fiber connections at the commercial pole, and the fiber connects the commercial pole to the Mahwah data center.

Several such third parties have objected to the use of the data center pole for the Wireless Market Data Connections. They argue that IDS has an advantage over its competitors because third parties are not allowed access to the data center pole,^{31/32} and the data center pole is closer to the Mahwah data center than any commercial pole.^{32/33} At least one third party has raised the additional concern that the Wireless Market Data Connections may benefit from “less obvious and more discreet types of latency advantages” due to infrastructure inside the Mahwah data center, noting that “some connections may have a longer fiber route than others within a data center or may have to go through various equipment or meet me rooms that an affiliate or preferred provider of an exchange do not.”^{33/34}

The Exchange is proposing a new Rule 3.14E (Data Center Pole Latency Restrictions--Connectivity to Production of Exchange Market Data) that would require that the length of the connection from the data center pole to the point

inside the Mahwah data center where Exchange market data is produced be no less than the length of the connection from the closest commercial pole to the same point. By requiring that the compared connections both extend to where Exchange market data is produced, the proposed rule would take distances within the Mahwah data center into account.

The proposed rule would include the following definitions:

- “Commercial Pole” would mean a pole (a) on which one or more third parties locate wireless equipment used to offer wireless connectivity to other third parties, and (b) from which a fiber connection extends from third party equipment on the pole to the Data Center.
- “Data Center” would mean the Mahwah, New Jersey data center where the Exchange’s matching engine is located, or its successor.
- “Data Center Pole” would mean a pole that (a) holds wireless equipment, (b) is located within the grounds of the Data Center, and (c) cannot be used by third parties other than third parties with which the Exchange or an ICE Affiliate has an agreement to provide services in the name of the Exchange or an ICE Affiliate.
- “ICE Affiliate” would mean Intercontinental Exchange, Inc. (“ICE”) and any entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with ICE, where “control” means that one entity possesses, directly or indirectly, voting control of the other entity either through ownership of capital stock or other equity securities or through majority representation on the board of directors or other management body of such entity.

The proposed rule would require that:

the length of the connection between (a) the base of the Data Center Pole and (b) the point inside the Data Center where Exchange market data is produced

shall be no less than

the length of the connection between (x) the base of the closest Commercial Pole and (y) the point inside the Data Center where Exchange market data is produced.

27/28

See Securities Exchange Act Release No. 76750 (December 23, 2015), 80 FR 81648 (December 30, 2015) (SR-NYSEMKT-2015-85) (Order Approving Proposed Rule Change to the Co-location Services Offered by the Exchange (the Offering of a Wireless Connection to Allow Users to Receive Market Data Feeds from Third Party Markets) and to Reflect Changes to the NYSE MKT Equities Price List and the NYSE Amex Options Fee Schedule Related to These Services).

- 28/29 The Wireless Market Data Connections with Markham, Canada do not use equipment on the data center pole.
- 29/30 The wireless network similarly converts to a fiber connection for its connection into the Third Party Data Centers.
- 30/31 Equipment for services Anova offers under its own name is not allowed on the data center pole.
- 31/32 IDS does not sell rights to third parties to operate wireless equipment on the data center pole due to space limitations, security concerns, and the interference that would arise between equipment placed too closely together.
- 32/33 See letter from Gregory Babyak, Global Head of Regulatory Affairs, Bloomberg L.P., to Ms. Vanessa Countryman, Secretary, Securities and Exchange Commission (“Commission”), dated June 12, 2020; letter from Stephen John Berger, Managing Director, Global Head of Government and Regulatory Policy, Citadel Securities, to Ms. Vanessa Countryman, Secretary, Commission, dated June 12, 2020; letter from Jim Considine, Chief Financial Officer, McKay Brothers LLC (“McKay Brothers”), to Ms. Vanessa Countryman, Secretary, Commission, dated June 12, 2020 (“McKay Letter”); and letter from Thomas M. Merritt, Deputy General Counsel, Virtu Financial, Inc. to Ms. Vanessa Countryman, Secretary, Commission, dated March 10, 2020.
- 33/34 McKay Letter, supra note 32/33, at 9.

4. The Exchange proposes to add new text after the carryover paragraph on pages 15 and 16 of the Filing (carryover paragraph on pages 41 and 42 of the Exhibit 1):

The Exchange proposes to amend the Filing to include additional analysis on the competitive environment for wireless connections. Accordingly, the Exchange proposes to add a paragraph and accompanying footnotes (subsequent footnotes would be renumbered in a conforming change) after the carryover paragraph on pages 15 and 16 of the Filing (carryover paragraph on pages 41 and 42 of the Exhibit 1), as follows (all text is new):

Such competitors can offer wireless connectivity to Selected Market Data or other Exchange market data in the Third Party Data Centers by obtaining the market data at the Mahwah data center and sending it over their wireless network to the Third Party Data Centers.^{37/38} The Exchange believes that its competitors’ wireless connections provide connectivity at the same or similar speed as the Wireless Market Data Connections, and at the same or similar cost. Indeed, the McKay Letter acknowledges that McKay Brothers has the fastest wireless network.^{38/39}

- 37/38 A market participant in any of the Third Party Data Centers or the Mahwah data center also may create a proprietary wireless market data connection, connect

through another market participant, or utilize fiber connections offered by the Exchange, ICE Affiliates, and other service providers and third party telecommunications providers.

^{38/39} McKay Letter, supra note 32/33, at 4.

5. The Exchange proposes to amend the Statutory Basis section of the Filing after the second full paragraph on page 18 of the Filing (third full paragraph on page 45 of the Exhibit 1):

The Exchange proposes to include information in the Filing regarding why it believes the proposed new rule is reasonable. The Exchange proposes to amend the Statutory Basis section of the Filing to add new paragraphs and accompanying footnotes (subsequent footnotes would be renumbered in a conforming change) after the second full paragraph on page 18 of the Filing (third full paragraph on page 45 of the Exhibit 1), at the end of the section titled "The Proposed Change is Reasonable," as follows (all text is new):

The Exchange believes that the proposed new Rule 3.14E would be reasonable as, pursuant to the rule, the networks for the Wireless Market Data Connections, and future wireless connections that use a Data Center Pole, would "operat[e] in the same manner as competitors do today without a latency subsidy or other advantage provided by the Exchanges...."^{43/44} Accordingly, the proposed new rule would promote just and equitable principles of trade and, in general, protect investors and the public interest by ensuring that the subscribers to services using the IDS wireless network do not benefit from any physical proximity "on the segment [of the network] closest to the Exchanges' data center that no competitor can replicate."^{44/45} By ending both of the compared connections at the point inside the Data Center where Exchange market data is produced, the proposed rule would take distances within the Mahwah data center into account.^{45/46}

The proposed new rule would not apply differently to distinct types or sizes of market participants. The Exchange would be required to ensure that the length of the connection between (a) the base of the Data Center Pole and (b) the point inside the Data Center where Exchange market data is produced, would be no less than the length of the connection between (x) the base of the closest Commercial Pole and (y) the point inside the Data Center where Exchange market data is produced.

The Exchange believes that the proposed definition of "Commercial Pole" is reasonable and would promote just and equitable principles of trade because it would encompass any pole on which a third party locates its wireless equipment in order to offer wireless connectivity to customers. The Exchange believes that such third parties are the direct competitors for the Wireless Market Data Connections, as they also offer wireless connections to customers. If a third party used a pole for a proprietary wireless network and that pole does not have one or more third parties' wireless equipment used to offer wireless connectivity to other third parties, that pole would not fall within the scope of the definition of

Commercial Pole.

The Exchange believes that the proposed definition of “Data Center” is reasonable and would promote just and equitable principles of trade because it would capture any data center to which the Exchange locates its matching engine.

The Exchange believes that the proposed definition of “Data Center Pole” is reasonable and would promote just and equitable principles of trade because it would encompass not just the current pole, but also any additional or successor pole on the grounds of the Data Center, so long as such pole could not be used by third parties other than third parties with which the Exchange or an ICE Affiliate had an agreement to provide services in the name of the Exchange or an ICE Affiliate, such as Anova.

The Exchange believes that the definition of “ICE Affiliate” is reasonable and would promote just and equitable principles of trade because the same definition is used in Rule 497-Equities (Affiliation between Exchange and a Member Organization),^{46/47} and so using it would add transparency, clarity and internal consistency to Exchange rules.

^{43/44} McKay Letter, supra note 32/33, at 7.

^{44/45} Id., at note 33.

^{45/46} Each of the Affiliate SROs is filing for a rule change that is substantially similar to the proposed Exchange rule. Assuming such filings are approved by the Commission, to the extent that the market data of an Affiliate SRO is produced separately from where the Exchange market data is produced, the wireless connection to that Affiliate SRO’s market data would be captured by that Affiliate SRO’s rule.

^{46/47} The definition of ICE has been added to the text.

6. The Exchange proposes to amend the Statutory Basis section of the Filing after the fifth full paragraph on page 19 of the Filing (carryover paragraph on pages 47 and 48 of the Exhibit 1):

The Exchange proposes to include information in the Filing regarding why it believes the proposed new rule is not unfairly discriminatory. The Exchange proposes to amend the Statutory Basis section of the Filing to add new paragraphs and accompanying footnotes (subsequent footnotes would be renumbered in a conforming change) after the fifth full paragraph on page 19 of the Filing (carryover paragraph on pages 47 and 48 of the Exhibit 1), immediately prior to the last paragraph of the section titled “The Proposed Change is Not Unfairly Discriminatory,” as follows (all text is new):

The Exchange believes that the proposed new Rule 3.14E would not be unfairly discriminatory, as pursuant to the rule, the networks for the Wireless Market Data Connections, and future wireless connections that use the Data Center Pole,

would “operat[e] in the same manner as competitors do today without a latency subsidy or other advantage provided by the Exchanges....”^{47/48} Accordingly, the proposed new rule would ensure that the IDS wireless network does not benefit from physical proximity “on the segment [of the network] closest to the Exchanges’ data center that no competitor can replicate.”^{48/49} By ending both of the compared connections at the point inside the Data Center where Exchange market data is produced, the proposed rule would take distances within the Mahwah data center into account.

The proposed new rule would not apply differently to distinct types or sizes of market participants. The Exchange would be required to ensure that the length of the connection between (a) the base of the Data Center Pole and (b) the point inside the Data Center where Exchange market data is produced, would be no less than the length of the connection between (x) the base of the closest Commercial Pole and (y) the point inside the Data Center where Exchange market data is produced.

The Exchange believes that the proposed definition of “Commercial Pole” would not be unfairly discriminatory because it would encompass any pole on which a third party locates its wireless equipment in order to offer wireless connectivity to customers. The Exchange believes that such third parties are the direct competitors for the Wireless Market Data Connections, as they also offer wireless connections to customers. If a third party used a pole for a proprietary wireless network and that pole does not have one or more third parties’ wireless equipment used to offer wireless connectivity to other third parties, that pole would not fall within the scope of the definition of Commercial Pole.

The Exchange believes that the proposed definition of “Data Center” would not be unfairly discriminatory because it would capture any data center to which the Exchange locates its matching engine.

The Exchange believes that the proposed definition of “Data Center Pole” would not be unfairly discriminatory because it would encompass not just the current pole, but also any additional or successor pole on the grounds of the Data Center, so long as such pole could not be used by third parties other than third parties with which the Exchange or an ICE Affiliate had an agreement to provide services in the name of the Exchange or an ICE Affiliate, such as Anova.

The Exchange believes that the definition of “ICE Affiliate” would not be unfairly discriminatory because the same definition is used in Rule 497-Equities^{49/50} and so using it would add transparency, clarity and internal consistency to Exchange rules.

^{47/48} McKay Letter, supra note 32/33, at 7.

^{48/49} Id., at note 33.

^{49/50} The definition of ICE has been added to the text.

7. The Exchange proposes to amend the section of the Filing titled “Self-Regulatory Organization’s Statement on Burden on Competition” in the following two ways:

The Exchange proposes to include information in the Filing regarding why it believes the proposed new rule would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Securities Exchange Act of 1934 (the “Act”).³⁴ Accordingly, the Exchange proposes to amend the section of the Filing titled “Self-Regulatory Organization’s Statement on Burden on Competition” in the following two ways.

First, to set the new text apart from the previous discussion regarding the burden on competition, the Exchange proposes to add the heading “Wireless Market Data Connectivity” immediately before the first full paragraph under the heading on page 20 of the Filing (page 48 of the Exhibit 1). The new heading would apply to the current text of the Filing.

Second, after the third full paragraph on page 22 of the Filing (first full paragraph on page 51 of the Exhibit 1), the Exchange proposes to add the heading “Proposed New Rule” and new paragraphs and accompanying footnotes (subsequent footnotes would be renumbered in a conforming change), as follows (all text is new):

Proposed New Rule

The Exchange does not believe that the proposed new rule would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Act.^{52/53}

With the exception of Anova, third parties do not have access to the data center pole. Under the proposed rule, the Exchange would always be obligated to ensure that the length of the connection between (a) the base of the Data Center Pole and (b) the point inside the Data Center where Exchange market data is produced, would be no less than the length of the connection between (x) the base of the closest Commercial Pole and (y) the point inside the Data Center where Exchange market data is produced.

IDS, not the Exchange, provides the Wireless Market Data Connections to market participants, and so it would be IDS that would have to slow its connection down as required by the rule. Accordingly, the Exchange believes that the only burden on competition of the proposed change would be on IDS.

Nonetheless, the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate because the proposed change would ensure that the IDS wireless network did not benefit from physical proximity “on the segment [of the network] closest to the Exchanges’

³⁴

15 U.S.C. 78f(b)(8).

data center that no competitor can replicate.”^{53/54} The networks for the Wireless Market Data Connections, and future wireless connections that use the Data Center Pole, would “operat[e] in the same manner as competitors do today without a latency subsidy or other advantage provided by the Exchanges....”^{54/55}

The proposed rule would not otherwise put a burden on competition. As noted above, access to the data center pole is not required for third parties to establish wireless networks that can compete with the Wireless Market Data Connections to the Carteret and Secaucus Third Party Data Centers, as evidenced by the existing wireless connections offered by third party competitors.^{55/56} Such competitors can offer wireless connectivity to Selected Market Data or other Exchange market data in the Third Party Data Centers by obtaining the market data at the Mahwah data center and sending it over their wireless network to the Third Party Data Centers.^{56/57} Indeed, the Exchange believes that its competitors’ wireless connections provide connectivity at the same or similar speed as the Wireless Market Data Connections, and at the same or similar cost. The McKay Letter acknowledges that McKay Brothers has the fastest wireless network.^{57/58}

The Exchange notes that proximity to a data center is not the only determinant of a wireless network’s latency. Rather, the latency of a wireless network depends on several factors. Variables include the wireless equipment utilized; the route of, and number of towers or buildings in, the network; and the fiber equipment used at either end of the connection. Moreover, latency is not the only consideration that a customer may have in selecting a wireless network to connect to for market data. Other considerations may include the amount of network uptime; the equipment that the network uses; the cost of the connection; and the applicable contractual provisions.

The proposed change does not affect competition among national securities exchanges or among members of the Exchange, but rather between IDS and its commercial competitors.

^{52/53} 15 U.S.C. 78f(b)(8).

^{53/54} McKay Letter, supra note 32/33, at note 33.

^{54/55} Id., at 7.

^{55/56} Based on the information available to it, the Exchange believes that a market participant in the Carteret or Secaucus Third Party Data Center may purchase a wireless connection to the NYSE and NYSE Arca Integrated Feed data feeds from at least two other providers of wireless connectivity.

^{56/57} A market participant in any of the Third Party Data Centers or the Mahwah data center also may create a proprietary wireless market data connection, connect through another market participant, or utilize fiber connections offered by the Exchange, ICE Affiliates, and other service providers and third party telecommunications providers.

57/58 Id., at 4.

8. The Exchange proposes to add a list under “Exhibit 5 – Text of the Proposed Rule Change” on page 22 of the Filing:

The Exchange proposes to add a new Exhibit 5B. Accordingly, the Exchange proposes to add a list under “Exhibit 5 – Text of Proposed Rule Change” on page 22 of the Filing, as follows (new text underlined):

Exhibit 5 – Text of the Proposed Rule Change

A. Text of the Proposed Schedule of Wireless Connectivity Fees and Charges

B. Text of the Proposed Rule

9. The Exchange proposes to add new text to the first full paragraph of Section I on page 23 of the Exhibit 1:

The Exchange proposes to add new text to the first full paragraph of Section I on page 23 of the Exhibit 1, as follows (new text underlined):

The Exchange proposes to add wireless connectivity services that transport the market data certain affiliates of the Exchange to the schedule of Wireless Connectivity Fees and Charge (the “Wireless Fee Schedule”) and add a new rule to place restrictions on the use of a pole on the grounds of the Mahwah, New Jersey data center that is used for such wireless connectivity services. 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.

10. The Exchange proposes to amend “Exhibit 5” to “Exhibit 5A” on page 54 of the Exhibit 5:

To reflect the addition of a new Exhibit 5B, the Exchange proposes to add “A” to “EXHIBIT 5” on page 54 of the Exhibit 5, to make it “EXHIBIT 5A”.

All other representations in the Filing remain as stated therein and no other changes are being made.

No changes from Exhibit 5 to SR-NYSEAMER-2020-10

All text is new

**New York Stock Exchange LLC
NYSE American LLC
NYSE Arca, Inc.
NYSE Chicago, Inc.
NYSE National, Inc.**

Wireless Connectivity Fees and Charges

Last Updated: ●, 2020

B. Wireless Connectivity to Market Data

The following fees are subject to a 30-day testing period, during which the monthly charge per connection is waived.

Type of Service	Amount of Charge
NYSE Integrated Feed: Wireless Connection in Carteret access center	\$5,000 per connection initial charge plus monthly charge per connection of \$10,500
NYSE Arca Integrated Feed: Wireless Connection in Carteret access center	\$5,000 per connection initial charge plus monthly charge per connection of \$10,500
NYSE National Integrated Feed: Wireless Connection in Carteret access center	\$5,000 per connection initial charge plus monthly charge per connection of \$5,250
NYSE Integrated Feed and NYSE Arca Integrated Feed: Wireless Connection in Carteret access center	\$5,000 per connection initial charge plus monthly charge per connection of \$18,500
NYSE Integrated Feed, NYSE Arca Integrated Feed, and NYSE National Integrated Feed: Wireless Connection in Carteret access center	\$5,000 per connection initial charge plus monthly charge per connection of \$21,000
NYSE Integrated Feed: Wireless Connection in Secaucus access center	\$5,000 per connection initial charge plus monthly charge per connection of \$10,500
NYSE Arca Integrated Feed: Wireless Connection in Secaucus access center	\$5,000 per connection initial charge plus monthly charge per connection of \$10,500
NYSE National Integrated Feed: Wireless Connection in Secaucus access center	\$5,000 per connection initial charge plus monthly charge per connection of \$5,250
NYSE Integrated Feed and NYSE Arca Integrated Feed: Wireless Connection in Secaucus access center	\$5,000 per connection initial charge plus monthly charge per connection of \$18,500

NYSE Integrated Feed, NYSE Arca Integrated Feed, and NYSE National Integrated Feed: Wireless Connection in Secaucus access center	\$5,000 per connection initial charge plus monthly charge per connection of \$21,000
NYSE BBO and Trades: Wireless Connection in Markham, Canada access center	\$5,000 per connection initial charge plus monthly charge per connection of \$6,500
NYSE Arca BBO and Trades: Wireless Connection in Markham, Canada access center	\$5,000 per connection initial charge plus monthly charge per connection of \$6,500

All text added to Exhibit 5 to SR-NYSEAMER-2020-10 in Amendment No. 1

Additions underscored

Rules of NYSE American LLC

RULE 3E ORGANIZATION AND ADMINISTRATION

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Rule 3.14E. Data Center Pole Latency Restrictions--Connectivity to Production of Exchange Market Data

(a) For purposes of this rule the terms below are defined as follows:

(1) “Commercial Pole” means a pole (a) on which one or more third parties locate wireless equipment used to offer wireless connectivity to other third parties, and (b) from which a fiber connection extends from third party equipment on the pole to the Data Center.

(2) “Data Center” means the Mahwah, New Jersey data center where the Exchange’s matching engine is located, or its successor.

(3) “ICE Affiliate” means Intercontinental Exchange, Inc. (“ICE”) and any entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with ICE, where “control” means that one entity possesses, directly or indirectly, voting control of the other entity either through ownership of capital stock or other equity securities or through majority representation on the board of directors or other management body of such entity.

(4) “Data Center Pole” means a pole that (a) holds wireless equipment, (b) is located within the grounds of the Data Center, and (c) cannot be used by third parties other than third parties with which the Exchange or an ICE Affiliate has an agreement to provide services in the name of the Exchange or an ICE Affiliate.

(b) The length of the connection between the base of the Data Center Pole and the point inside the Data Center where Exchange market data is produced shall be no less than the length of the connection between the base of the closest Commercial Pole and the point inside the Data Center where Exchange market data is produced.

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All text is new

**New York Stock Exchange LLC
NYSE American LLC
NYSE Arca, Inc.
NYSE Chicago, Inc.
NYSE National, Inc.**

Wireless Connectivity Fees and Charges

Last Updated: ●, 2020

B. Wireless Connectivity to Market Data

The following fees are subject to a 30-day testing period, during which the monthly charge per connection is waived.

Type of Service	Amount of Charge
NYSE Integrated Feed: Wireless Connection in Carteret access center	\$5,000 per connection initial charge plus monthly charge per connection of \$10,500
NYSE Arca Integrated Feed: Wireless Connection in Carteret access center	\$5,000 per connection initial charge plus monthly charge per connection of \$10,500
NYSE National Integrated Feed: Wireless Connection in Carteret access center	\$5,000 per connection initial charge plus monthly charge per connection of \$5,250
NYSE Integrated Feed and NYSE Arca Integrated Feed: Wireless Connection in Carteret access center	\$5,000 per connection initial charge plus monthly charge per connection of \$18,500
NYSE Integrated Feed, NYSE Arca Integrated Feed, and NYSE National Integrated Feed: Wireless Connection in Carteret access center	\$5,000 per connection initial charge plus monthly charge per connection of \$21,000
NYSE Integrated Feed: Wireless Connection in Secaucus access center	\$5,000 per connection initial charge plus monthly charge per connection of \$10,500
NYSE Arca Integrated Feed: Wireless Connection in Secaucus access center	\$5,000 per connection initial charge plus monthly charge per connection of \$10,500
NYSE National Integrated Feed: Wireless Connection in Secaucus access center	\$5,000 per connection initial charge plus monthly charge per connection of \$5,250
NYSE Integrated Feed and NYSE Arca Integrated Feed: Wireless Connection in Secaucus access center	\$5,000 per connection initial charge plus monthly charge per connection of \$18,500
NYSE Integrated Feed, NYSE Arca Integrated Feed, and NYSE National Integrated Feed: Wireless Connection in Secaucus access center	\$5,000 per connection initial charge plus monthly charge per connection of \$21,000

NYSE BBO and Trades: Wireless Connection in Markham, Canada access center	\$5,000 per connection initial charge plus monthly charge per connection of \$6,500
NYSE Arca BBO and Trades: Wireless Connection in Markham, Canada access center	\$5,000 per connection initial charge plus monthly charge per connection of \$6,500

Additions underscored

Rules of NYSE American LLC

RULE 3E ORGANIZATION AND ADMINISTRATION

* * * * *

Rule 3.14E. Data Center Pole Latency Restrictions--Connectivity to Production of Exchange Market Data

(a) For purposes of this rule the terms below are defined as follows:

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(b) The length of the connection between the base of the Data Center Pole and the point inside the Data Center where Exchange market data is produced shall be no less than the length of the connection between the base of the closest Commercial Pole and the point inside the Data Center where Exchange market data is produced.

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