



**FIA Principal Traders Group**  
2001 Pennsylvania Avenue NW  
Suite 600 | Washington, DC 20006

**T** 202 466 5460  
**F** 202 296 3184

[fia.org/ptg](http://fia.org/ptg)

April 27, 2020

Vanessa Countryman  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-0609

Re: Notice of Filing of Proposed Rule Change to Establish a Schedule of Wireless Connectivity Fees and Charges with Wireless Connections (Release No. 34- 88171; File No. SR-NYSENAT-2020-03)

Dear Ms. Countryman:

The FIA Principal Traders Group (“FIA PTG”)<sup>1</sup> appreciates the opportunity to comment on the above-referenced proposed rule change (the “Proposal”) by NYSE National, Inc. (the “Exchange”), which would set forth fees for the Exchange’s wireless connections available through third-party data centers.<sup>2</sup>

Specifically, the Proposal would establish a schedule of fees for wireless connections in third-party data centers located in (i) Carteret, New Jersey, (ii) Secaucus, New Jersey, and (iii) Markham, Canada (the “Third-Party Data Centers”) that connect to the Exchange’s data center in Mahwah, New Jersey (the “Wireless Connections”).

As defined in the Securities Exchange Act of 1934 (“Exchange Act”), these Wireless Connections are a “facility” of the Exchange<sup>3</sup> and therefore are subject to the exchange rule-filing process and Commission review. We are pleased this filing gives the Commission the opportunity to review what we have long believed is an anti-competitive structure.

---

<sup>1</sup> FIA PTG is an association of firms who trade their own capital on exchanges in futures, options and equities markets worldwide. FIA PTG members engage in manual, automated and hybrid methods of trading, and they are active in a wide variety of asset classes, including equities, fixed income, foreign exchange and commodities. FIA PTG member firms serve as a critical source of liquidity, allowing those who use the markets, including individual investors, to manage their risks and invest effectively. The presence of competitive professional traders contributing to price discovery and the provision of liquidity is a hallmark of well-functioning markets. FIA PTG advocates for open access to markets, transparency and data-driven policy.

<sup>2</sup> Securities Exchange Act Release No. 88171, 85 FR 8930 (Feb. 18, 2020).

<sup>3</sup> 15 U.S.C. 78c(a)(2).

Our membership strongly supports the comment letters on this proposed rule change submitted by XR Securities,<sup>4</sup> IMC<sup>5</sup> and Virtu Financial.<sup>6</sup> We agree with their well-articulated assessment of the ways in which the latency advantage created by the Wireless Connections unfairly discriminates against market participants that do not use or choose to use the Wireless Connections and is in contravention of Section 6(b)(5) of the Exchange Act.

The Exchange has a vested financial interest in creating a latency advantage for its own Wireless Connections (which are provided through its affiliate). Specifically, as a for-profit entity, the Exchange has intentionally created an advantage for its own Wireless Connections by blocking those seeking to compete with the Exchange's own wireless service provider from accessing its superior geographical location. Currently, the Exchange has its own wireless equipment located on a private pole closer to the data center than all of its competitors. Their plans to move their equipment to the roof of the data center, while still keeping competitors' equipment outside the perimeter of the facility, only serves to increase their competitive advantage. We believe the Act requires the opposite, and that all interested parties be able to locate their equipment equidistant to the data center.

This could be remedied if the Exchange pursued the more equitable approach taken by other exchanges in which co-location services are designed to ensure fair and equal access. The CME's data center at Aurora, IL, provides one such example in which it facilitated space for 35 equidistant microwave dishes. The Exchange's affiliate, NYSE Euronext Inc., itself allows market participants to place equipment on the datacenter roof at its Basildon datacenter in the U.K. We struggle to understand why two affiliates of the same company take dramatically different approaches when it comes to how to provide access to market participants.

The Exchange's Wireless Connection should not be afforded an inherent speed advantage that is unavailable to competing providers. No other wireless service provider can replicate this latency advantage for users because they do not possess the same control the Exchange has over its Mahwah datacenter. As a result, we believe the latency advantage inappropriately burdens competition by unfairly advantaging the Exchange's services over all other competitors and is therefore inconsistent with Section 6(b)(8) of the Exchange Act.<sup>7</sup>

Nothing is more critical in trading than timely access to exchange systems to submit orders and receive market data, and the Wireless Connections have the fastest means of access to the Exchange via the on-premises private pole. The Commission has repeatedly acknowledged that in

---

<sup>4</sup> Letter to Vanessa Countryman, Secretary, Commission, from Matt Haraburda, President, XR Securities LLC, re: SR-NYSENAT-2020-03 (Release No. 34-88171) (Mar. 18, 2020), <https://www.sec.gov/comments/sr-nysenat-2020-03/srnysenat202003.htm>.

<sup>5</sup> Letter to Vanessa Countryman, Secretary, Commission, from Andrew Stevens, General Counsel, IMC, re: SR-NYSENAT-2020-03 (Release No. 34-88171) (Mar. 12, 2020), <https://www.sec.gov/comments/sr-nysenat-2020-03/srnysenat202003.htm>.

<sup>6</sup> Letter to Vanessa Countryman, Secretary, Commission, from Thomas M. Merritt, Deputy General Counsel, Virtu Financial, Inc., re: SR-NYSENAT-2020-03 (Release No. 34-88171) (Mar. 10, 2020), <https://www.sec.gov/comments/sr-nysenat-2020-03/srnysenat202003.htm>.

<sup>7</sup> 15 U.S.C. 78f(b)(8) (requiring that the rules of an exchange "not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Exchange Act]").

April 27, 2020

Page 3

today's markets, "small degrees of latency affect trading strategies"<sup>8</sup> and being faster, "even if only by a microsecond,"<sup>9</sup> can make a competitive difference. It is therefore imperative that the Commission closely scrutinize the unfairly discriminatory and anti-competitive latency advantage provided to the Wireless Connections.<sup>10</sup>

Thus, while we support the Commission's conclusion that the Wireless Connections are facilities of the Exchange, we believe that the Wireless Connections as currently operated are inconsistent with Exchange Act requirements.

If you have any questions about these comments, or if we can provide further information, please contact Joanna Mallers [REDACTED]

Respectfully,

FIA Principal Traders Group



Joanna Mallers  
Secretary

cc: Walter J. Clayton, Chairman  
Hester M. Peirce, Commissioner  
Elad L. Roisman, Commissioner  
Allison H. Lee, Commissioner

Brett Redfearn, Director, Division of Trading and Markets  
Christian Sabella, Deputy Director, Division of Trading and Markets  
Elizabeth Baird, Deputy Director, Division of Trading and Markets  
David S. Shillman, Associate Director, Division of Trading and Markets  
John Roeser, Associate Director, Division of Trading and Markets  
S.P. Kothari, Director, Division of Economic and Risk Analysis

---

<sup>8</sup> Exchange Act Release No. 88216 at n.13 (Feb. 14, 2020).

<sup>9</sup> Exchange Act Release No. 61358, 75 FR 3593, 3610 (Jan. 21, 2010).

<sup>10</sup> 15 U.S.C. 78f(b)(5) and (8).