

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-95360; File No. SR-NYSEArca-2022-41)

July 25, 2022

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

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 July 12, 2022, 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 Equities Fees and Charges and the NYSE Arca Options Fees and Charges (together, the “Fee Schedules”) related to co-location to 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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 colocation to remove obsolete text.⁴

(1) Proposal to Change Names of Select Third Party Systems and Third Party Data Feeds

As set forth in the Fee Schedules, the Exchange charges fees for connectivity to the execution systems of third party markets and other content service providers (“Third Party Systems”), and data feeds from third party markets and other content service providers (“Third Party Data Feeds”).⁵ The lists of Third Party Systems and Third Party Data Feeds are set forth in the Fee Schedules.

The Exchange proposes to amend the list of Third Party Systems in the Fee Schedules to reflect the following updated names for existing Third Party Systems:

- Change the name of the “Miami International Securities Exchange” to “MIAX Options,” and
- Change the name of the “MIAX PEARL” to “MIAX PEARL Options.”

⁴ The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (“ICE”). Each of the Exchange’s affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc. has submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2022-30, SR-NYSEAMER-2022-31, SR-NYSECHX-2022-17, and SR-NYSENAT-2022-12.

⁵ See Securities Exchange Act Release No. 80310 (March 24, 2017, 82 FR 15763 (March 30, 2017) (SR-NYSEArca-2016-89).

The Exchange also proposes to amend the list of Third Party Data Feeds in the Fee Schedules to reflect the following updated names for existing Third Party Data Feeds:

- Change the name “Miami International Securities Exchange/MIAX PEARL” to “MIAX Options/MIAX PEARL Options;” and
- Change “SR Labs – SuperFeed” data feeds to “Vela – SuperFeed,” to reflect the content provider’s recent change to the name of these products.

This change would update the names of these services, but would not make any change to the services provided.

(2) Proposal to Delete Discontinued Third Party Data Feed

The Exchange proposes to delete the “NASDAQ OMDF” data feed from the list of available Third Party Data Feeds, as it is no longer offered by the content service provider.

(3) Proposal to Remove References to ICE Data Global Index

The Exchange proposes to remove obsolete references to the ICE Data Global Index (the “GIF”) from the list of Third Party Data Feeds available for connectivity and related text.

In May 2020, ICE, which publishes the GIF, announced to its customers that before the end of 2020, it would cease offering the GIF as a stand-alone product. The Exchange accordingly amended the Fee Schedules to inform customers that it would cease offering connectivity to the GIF once it is no longer available.⁶

ICE has informed the Exchange that it ceased offering the GIF as a stand-alone product, making the references to the GIF obsolete. The operative date was announced through a customer notice. Accordingly, the Exchange proposes to remove “ICE Data Global Index*” and

⁶ See Securities Exchange Act Release No. 88980 (June 1, 2020), 85 FR 34697 (June 5, 2020) (SR-NYSEArca-2020-49).

the corresponding asterisked note from the Fee Schedules.

In order to implement the proposed change, the Exchange proposes to make the following changes to the sections of the Fee Schedules entitled “Connectivity to Third Party Data Feeds”:

- In the first paragraph and in the table of Third Party Data Feeds, delete “ICE Data Global Index*”.
- Following the table of Third Party Data Feeds, delete the following text:

** ICE will cease to offer the GIF as a stand-alone product, which the Exchange has been informed by ICE is currently expected to occur before the end of 2020. The Exchange will announce the operative date through a customer notice. Any change fees that a User would otherwise incur as a result of the proposed change will be waived.*

(4) Proposal to Remove the Temporary Waiver of Hot Hands Fees

The Exchange proposes to remove the obsolete reference to the waiver of Hot Hands fees in light of the reopening of the data center in Mahwah, New Jersey (“Mahwah Data Center” or “MDC”).

In March 2020, ICE announced to each User that, starting on March 16, 2020, the MDC would be closed to third parties in response to COVID-19. The Exchange temporarily waived all Hot Hands fees from the date of the closing through the date of the reopening of the MDC, and added a note to the fees for the Hot Hands service stating as much.⁷

⁷ The Exchange first waived the Hot Hands Fee in a March 17, 2020 filing, and subsequently extended the waiver four times. See Securities Exchange Act Release Nos. 88398 (March 17, 2020), 85 FR 16398 (March 23, 2020) (SRNYSEArca-2020-22); 88520 (March 31, 2020), 85 FR 19208 (April 6, 2020) (SRNYSEArca-2020-26); 88961 (May 27, 2020), 85 FR 33755 (June 2, 2020) (SRNYSEArca-2020-47); 89174 (June 29, 2020), 85 FR 40349 (July 6, 2020) (SRNYSEArca-2020-58); and 89652 (August 25, 2020), 85 FR 53885 (August 31, 2020) (SR-NYSEArca-2020-74).

The MDC reopened on October 1, 2020. The date of the reopening was announced through a customer notice. As a result of the reopening, the waiver of Hot Hands fees ceased, and the note became obsolete. The Exchange now proposes to remove the obsolete text.

In order to implement this proposed change, the Exchange proposes to make the following changes to the Fee Schedules:

- In the Types of Service table, remove the “†” symbol after “Hot Hands Service***”.
- Following the Types of Service table, remove the following text:
† Fees for Hot Hands Services will be waived beginning on March 16, 2020 through the reopening of the Mahwah, New Jersey data center. The date of the reopening will be announced through a customer notice.

(5) Proposal to Remove Obsolete Text about Transition Period for Suspended Services

The Exchange proposes to remove obsolete text regarding the transition period that expired on May 24, 2021 concerning the Exchange’s provision of suspended services at no charge.

As background, on March 10, 2021, the Exchange filed with the Commission a proposed rule change for immediate effectiveness that amended the colocation services offered by the Exchange to provide Users the option to access the systems and data feeds of various additional third parties.⁸ The proposed rule change became operative on April 9, 2021, and five Users subsequently contracted to receive the services that were added in the filing.

On May 7, 2021, the Commission suspended the filing and instituted proceedings to

⁸ See Securities Exchange Act Release No. 91388 (March 23, 2021), 86 FR 16433 (March 29, 2021) (NYSEArca-2021-15).

determine whether the proposed rule change should be approved or disapproved.⁹ Such action suspended the Exchange’s ability to offer access to Third Party Systems from Long Term Stock Exchange, Members Exchange, MIAX Emerald, MIAX PEARL Equities, Morgan Stanley, and TD Ameritrade, and to offer connectivity to Third Party Data Feeds from ICE Data Services - ICE TMC, Members Exchange, MIAX Emerald, and MIAX PEARL Equities (together, the “Suspended Services”).

On May 12, 2021, the Commission approved for immediate effectiveness the Exchange’s filing proposing to provide the Suspended Services to all Users, at no charge, for a period of 14 days (“Transition Period”) through May 24, 2021, to enable current Users to maintain their connectivity while establishing alternate connectivity.¹⁰

Given that the Transition Period has expired, the Exchange proposes to remove the obsolete text regarding this provision. To that end, the Exchange proposes to delete the following text:

Connectivity to Suspended Third Party Systems and Suspended Third Party Data Feeds

Connectivity to the Third Party Systems and Third Party Data Feeds listed below (“Suspended Services”) is available until May 24, 2021 (“Transition Period”).

During the Transition Period, the Exchange will not charge any fees for the Suspended Services. At the conclusion of the Transition Period, any remaining customers of Suspended Services will have their Suspended Services terminated.

⁹ See Securities Exchange Act Release No. 91790 (May 7, 2021) (SR-NYSE-2021-15, SR-NYSEAMER-2021-13, SR-NYSEArca-2021-15, SR-NYSECHX-2021-04, SR-NYSENAT-2021-05).

¹⁰ See Securities Exchange Act Release No. 91861 (May 12, 2021) (SR-NYSEArca-2021-38).

Suspended Third Party Systems
Long Term Stock Exchange (LTSE)
Members Exchange (MEMX)
MIAX Emerald
MIAX PEARL Equities
Morgan Stanley
TD Ameritrade

Suspended Third Party Data Feeds
ICE Data Services - ICE TMC
Members Exchange (MEMX)
MIAX Emerald
MIAX PEARL Equities

(6) Proposal to Remove LCN Access - 1 Gb Circuit

The Exchange proposes to delete the service “LCN Access - 1 Gb Circuit” from the list of available types of services. The number of 1 Gb LCN ports purchased by Users has steadily declined from 4 in 2017, to 2 in 2018, to 1 in 2021, to zero currently. 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. Indeed, the last remaining User with a 1 Gb LCN port discontinued that port in June 2022 and has switched to a 10 Gb LCN port instead. The Exchange believes that there is no remaining User demand for the 1 Gb LCN port, and accordingly, the Exchange proposes to discontinue the service as obsolete.

Application and Impact of the Proposed Changes

The Exchange does not expect that the proposed changes would have any impact. The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users¹¹ equally. As is currently the case, the purchase of any

¹¹ 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. 76010 (September 29, 2015), 80 FR 60197

colocation service is completely voluntary and the Fee Schedules are applied uniformly to all Users.

Competitive Environment

The proposed changes are not otherwise intended to address any other issues relating to 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,¹² in general, and furthers the objectives of Section 6(b)(5) of the Act,¹³ 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 updating the names of existing Third Party Services and Third Party Data Feeds and removing obsolete text from the Fee Schedules would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. Updating the names of the Third Party Services and Third Party

(October 5, 2015) (SR-NYSEArca-2015-82). As specified in the Fee Schedules, 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.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

Data Feeds at issue will enhance the clarity and transparency of the Fee Schedules and reduce potential customer confusion. Removing obsolete references to (i) the GIF and its associated fee, (ii) the note regarding the Hot Hands service, and (iii) the availability of the Suspended Services would make it easier to read, understand, and administer the Fee Schedules, enhancing their clarity and transparency and alleviating possible customer confusion.

Similarly, the Exchange believes that discontinuing offering the 1 Gb LCN connection would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. Demand for the 1 Gb LCN connection has declined in recent years and there are currently no Users that subscribe to the service. The Exchange does not expect demand to rebound given Users' overall preference for larger port sizes to accommodate larger market data feeds. Removing references to the fees for this obsolete service from the Price List would make the Price List easier to read, understand, and administer.

The Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest. The proposed rule change would update obsolete product names, delete obsolete services, and remove obsolete text from the Fee Schedules, in order to enhance transparency and alleviate potential customer confusion.

The Exchange believes that updating the names of existing Third Party Systems and Third Party Data Feeds and removing obsolete text from the Fee Schedules would not permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed changes would apply equally to all Users: the names of the existing systems and data feeds at issue would be updated and clarified in the Fee Schedules for all Users; the obsolete 1 Gb LCN connection would be removed for all Users; and obsolete text regarding the GIF, the note to the Hot Hands

service, and the availability of the Suspended Services would be removed from the Fee Schedules as 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,¹⁴ 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 Fee Schedules and alleviate possible customer confusion that may arise from the inclusion of obsolete services and product names.

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 Act¹⁵ and Rule 19b-4(f)(6) thereunder.¹⁶ 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

¹⁴ 15 U.S.C. 78f(b)(8).

¹⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁶ 17 CFR 240.19b-4(f)(6).

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.¹⁷

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)¹⁸ 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-NYSEArca-2022-41 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.

¹⁷ 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.

¹⁸ 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR-NYSEArca-2022-41. 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-2022-41 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.¹⁹

J. Matthew DeLesDernier

Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).