

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-87511; File No. SR-NYSE-2019-60)

November 12, 2019

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Content of the NYSE Best Quote & Trades Data Feed to Include Data Feeds from NYSE Chicago BBO and Trades

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on November 4, 2019, New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“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 content of the NYSE Best Quote & Trades (“NYSE BQT”) data feed. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the content of NYSE BQT to include data feeds from the Exchange’s affiliate, NYSE Chicago, Inc. (“NYSE Chicago”). NYSE Chicago recently filed a proposed rule change to establish NYSE Chicago market data feeds, including NYSE Chicago BBO (“NYSE Chicago BBO”) and NYSE Chicago Trades (“NYSE Chicago Trades”).<sup>4</sup> The Exchange now proposes to amend the content of the NYSE BQT market data feed to include NYSE Chicago BBO and NYSE Chicago Trades.

The NYSE BQT<sup>5</sup> data feed currently provides a unified view of best bid and offer (“BBO”) and last sale information for the Exchange and its affiliates, NYSE Arca, Inc. (“NYSE Arca”), NYSE American LLC (“NYSE American”) and NYSE National, Inc. (“NYSE National”) and consists of data elements from eight existing market data feeds: NYSE Trades,<sup>6</sup>

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<sup>4</sup> See Securities Exchange Act Release No. 87389 (October 23, 2019), 84 FR 57904 (October 29, 2019) (SR-NYSEChicago-2019-15).

<sup>5</sup> See Securities Exchange Act Release No. 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (Notice of Amendment No. 1 and Order Granting Accelerated Approval to a Proposed Rule Change, as Modified by Amendment No. 1, To Establish the NYSE Best Quote and Trades Data Feed).

<sup>6</sup> See Securities Exchange Act Release Nos. 59290 (January 23, 2009), 74 FR 5707 (January 30, 2009) (SR-NYSE-2009-05); and 59606 (March 19, 2009), 74 FR 13293 (March 26, 2009) (SR-NYSE-2009-04).

NYSE BBO,<sup>7</sup> NYSE Arca Trades,<sup>8</sup> NYSE Arca BBO,<sup>9</sup> NYSE American Trades,<sup>10</sup> NYSE American BBO,<sup>11</sup> NYSE National Trades and NYSE National BBO.<sup>12</sup>

NYSE BBO, NYSE Arca BBO, NYSE American BBO and NYSE National BBO are existing data feeds that distribute on a realtime basis the same BBO information that NYSE, NYSE Arca, NYSE American and NYSE National, respectively, report under the Consolidated Quotation (“CQ”) Plan for inclusion in the CQ Plan’s consolidated quotation information data stream. NYSE Trades, NYSE Arca Trades, NYSE American Trades and NYSE National Trades are existing data feeds that distribute on a real-time basis the same last sale information that NYSE, NYSE Arca, NYSE American and NYSE National, respectively, report under the Consolidated Tape Association (“CTA”) Plan for inclusion in the CTA Plan’s consolidated data streams.

The NYSE BQT data feed has three channels: one channel for the last sale data (the “last sale channel”); another channel for the BBO data (the “best quotes channel”); and a third channel for consolidated volume data (the “consolidated volume channel”).

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<sup>7</sup> See Securities Exchange Act Release No. 62181 (May 26, 2010), 75 FR 31488 (June 3, 2010) (SR-NYSE-2010-30).

<sup>8</sup> See Securities Exchange Act Release Nos. 59289 (January 23, 2009), 74 FR 5711 (January 30, 2009) (SR-NYSEArca-2009-06); and 59598 (March 18, 2009), 74 FR 12919 (March 25, 2009) (SR-NYSEArca-2009-05).

<sup>9</sup> See Securities Exchange Act Release No. 62188 (May 27, 2010), 75 FR 31484 (June 3, 2010) (SR-NYSEArca-2010-23).

<sup>10</sup> See Securities Exchange Act Release No. 62187 (May 27, 2010), 75 FR 31500 (June 3, 2010) (SR-NYSEAmex-2010-35).

<sup>11</sup> See Securities Exchange Act Release No. 62187 (May 27, 2010), 75 FR 31500 (June 3, 2010) (SR-NYSEAmex-2010-35).

<sup>12</sup> See Securities Exchange Act Release No. 83350 (May 31, 2018), 83 FR 26332 (June 6, 2018) (SR-NYSENAT-2018-09).

The last sale channel provides an aggregation of the same data that is currently available through NYSE Trades, NYSE Arca Trades, NYSE American Trades and NYSE National Trades. With this proposed rule change, the last sale channel would also include data available through NYSE Chicago Trades.

The best quotes channel provides the NYSE BQT BBO, which is the best quote from among the NYSE BBO, NYSE Arca BBO, NYSE American BBO and NYSE National BBO based on the following criteria, in order:

- Price: the exchange with the highest bid or the lowest offer has overall priority;
- Size: the largest size takes precedence when multiple exchanges submit the same bid and/or offer price; and
- Time: the earliest time takes precedence when multiple exchanges submit the same bid and/or offer price with the same sizes.

With this proposed rule change, the best quotes channel would also include data available through NYSE Chicago BBO.

For each security, the best quotes channel would only include one best bid and one best offer from among the five exchanges. The NYSE BQT BBO would be marked with a market center ID identifying the exchange from which the BBO originated.

The consolidated volume channel carries consolidated volume for all listed equities in a manner consistent with the requirements for redistributing such data as set forth in the securities information processor plans.

As it does today, NYSE BQT would also provide related data elements for NYSE Chicago, such as trade and security status updates (e.g., trade corrections and trading halts).

The Exchange believes that NYSE BQT would continue to provide high-quality, comprehensive last sale and BBO data for the Exchange, NYSE Arca, NYSE American, NYSE National and now, NYSE Chicago, in a unified view and would respond to subscriber demand for such a product.

The NYSE BQT data feed is offered in a capacity similar to that of a vendor. The Exchange, NYSE Arca, NYSE American, NYSE National and NYSE Chicago are the exclusive distributors of the 10 BBO and Trades feeds<sup>13</sup> from which certain data elements is taken to create the NYSE BQT. By contrast, the Exchange would not be the exclusive distributor of the aggregated and consolidated information that composes the NYSE BQT data feed. Other vendors would be able, if they chose, to create a data feed with the same information included in NYSE BQT, and to distribute it to clients with no greater latency than the Exchange would be able to distribute NYSE BQT.

With respect to latency, the Exchange, NYSE American, NYSE Arca, NYSE National and NYSE Chicago are located in the same data center in Mahwah, New Jersey. The system creating and supporting the NYSE BQT data feed would need to obtain the 10 underlying data feeds from these five exchanges before it could aggregate and consolidate information to create NYSE BQT and then distribute it to end users. NYSE BQT distributes this data feed through SFTI and market data vendors. The Exchange also offers third parties access to its data center through co-location. Accordingly, a competing market data vendor co-located in the Exchange's Mahwah, New Jersey facility offering a similar competing product would similarly need to obtain the 10 underlying data feeds.

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<sup>13</sup> These other data feeds are offered pursuant to pre-existing and already effective rules filed with the Commission; those rules will not be altered by this filing.

The path for distribution by the Exchange of this data is not faster than a vendor that independently creates an NYSE BQT-like product could distribute its own product. As such, the NYSE BQT data feed is a data product that a competing vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with NYSE Arca, NYSE American, NYSE National and NYSE Chicago, the Exchange represents that the source of the market data it uses to create NYSE BQT is the same as the source available to other vendors.

The NYSE BQT data feed is designed so that the Exchange would not have a competitive advantage over a competing vendor with respect to the speed of access to the 10 underlying data feeds. Likewise, the NYSE BQT data feed would not have a speed advantage vis-à-vis competing vendors co-located in the data center with respect to access to end user customers, whether those end users are also co-located or not. As such, a market data vendor could perform the aggregation and consolidation function in the Mahwah facility and redistribute a competing product from that location to similarly situated customers on a level playing field with respect to the speed that the Exchange could create and redistribute the NYSE BQT data feed.

With respect to cost, the Exchange will file a separate rule filing to amend the fees for NYSE BQT. To ensure that vendors could continue to compete with the Exchange by creating the same product as NYSE BQT and selling it to their clients, the Exchange would continue to charge its clients for the NYSE BQT feed an amount that represents the cost to a market data vendor to obtain the underlying data feeds, plus an access fee to perform an aggregation and consolidation function that the Exchange performs in creating NYSE BQT. The Exchange believes that a competing vendor could create and offer a product similar to the proposed NYSE

BQT data feed at a similar cost. For these reasons, the Exchange continues to believe that vendors could readily offer a product similar to NYSE BQT on a competitive basis.

This proposed change to NYSE BQT will not be operative until NYSE Chicago has established the NYSE Chicago BBO and NYSE Chicago Trades and any related fees via a proposed rule change and NYSE Chicago has transitioned trading to the Pillar trading platform.<sup>14</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>15</sup> of the Act (“Act”), in general, and furthers the objectives of Section 6(b)(5)<sup>16</sup> of the Act, in particular, in that 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 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 it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of the NYSE BQT market data feed to those interested in receiving it.

The NYSE BQT data feed is a product that relies on the Exchange’s receipt of underlying data, which is available to all market participants, before it can aggregate and consolidate

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<sup>14</sup> NYSE Chicago has announced that, subject to rule approvals, it will transition to trading on Pillar on November 4, 2019. See Trader Update, [available here: https://www.nyse.com/publicdocs/nyse/notifications/trader-update/NYSEChicago\\_Migration\\_update\\_9.4.pdf](https://www.nyse.com/publicdocs/nyse/notifications/trader-update/NYSEChicago_Migration_update_9.4.pdf).

<sup>15</sup> 15 U.S.C. § 78f(b).

<sup>16</sup> 15 U.S.C. § 78f(b)(5).

information to create the NYSE BQT; this is a process that a vendor could also perform. Accordingly, the Exchange is not the only distributor of the NYSE BQT data feed.

The Exchange believes that the proposed rule change is consistent with Rule 603 of Regulation NMS,<sup>17</sup> which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data.

The Exchange further notes that the existence of alternatives to the Exchange’s product, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, as well as the continued availability of the Exchange’s separate data feeds, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives as their individual business cases warrant. Additionally, the Exchange has taken into consideration its affiliated relationship with NYSE Arca, NYSE American, NYSE National and NYSE Chicago in its design of the NYSE BQT data feed to assure that similarly situated competing vendors would be able to offer a similar product on the same terms as the Exchange, both from the perspective of latency and cost.

The Exchange believes that NYSE BQT offers an alternative to the use of consolidated data products and proprietary data products such as NASDAQ Basic and NLS Plus. NASDAQ Basic, which is offered by The NASDAQ Stock Market, Inc. (“NASDAQ”) provides best bid

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<sup>17</sup> 17 CFR 242.603.



and offer and last sale information for all U.S. exchange-listed securities (including NYSE and its affiliates) based on liquidity within NASDAQ, as well as trades reported to the FINRA/NASDAQ Trade Reporting Facility (“TRF”), including NASDAQ last sale, NASDAQ BBO, NASDAQ opening and closing prices, and other market status information.<sup>18</sup> Further, NLS Plus provides all trade data from NASDAQ, the FINRA/NASDAQ TRF, NASDAQ BX, and NASDAQ PSX, as well as consolidated volume information as part of each trade message.<sup>19</sup>

Cboe Global Markets, Inc. (“Cboe”) also offers a market data product that provides a unified view of the aggregated quote and trade updates for all the Cboe equity exchanges.<sup>20</sup> The Exchange believes that NYSE BQT offers a competitive alternative to the two existing NASDAQ products and the Cboe product.

In addition, this proposal would not permit unfair discrimination because NYSE BQT will continue to be available to all of the Exchange’s customers through SFTI and market data vendors on an equivalent basis. In addition, any customer that wished to continue to be able to purchase one or more of the individual underlying data feeds would be able to do so.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>21</sup> the Exchange does not believe that the proposed rule change will 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

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<sup>18</sup> See NASDAQ Basic, available at <http://www.nasdaqtrader.com/Trader.aspx?id=NASDAQBasic>.

<sup>19</sup> See NLS Plus, available at <http://www.nasdaqtrader.com/Trader.aspx?id=NLSplus>.

<sup>20</sup> See [https://markets.cboe.com/us/equities/market\\_data\\_products/bats\\_one/](https://markets.cboe.com/us/equities/market_data_products/bats_one/). The Cboe One Premium Feed also includes five levels of aggregate depth information for all four Cboe equity exchanges.

<sup>21</sup> 15 U.S.C. 78f(b)(8).

will enhance competition because it would enable the Exchange to include NYSE Chicago BBO and NYSE Chicago Trades as part of NYSE BQT, thereby enabling it to better compete with market data products offered by NASDAQ and Cboe.<sup>22</sup> As noted above, the Exchange already offers NYSE BQT and this proposed rule change simply amends the content of the current market data product to include data elements from two additional data feeds from the Exchange's affiliate, NYSE Chicago. Although the Exchange, NYSE Arca, NYSE American, NYSE National and NYSE Chicago are the exclusive distributors of the ten BBO and Trades feeds from which certain data elements are taken to create NYSE BQT, the Exchange would not be the exclusive distributor of the aggregated and consolidated information that would compose the amended NYSE BQT data feed. Vendors would be able, if they chose, to create a data feed with the same information as NYSE BQT and distribute it to their clients on a level-playing field with respect to latency and cost as compared to the Exchange's product.

With respect to latency, the Exchange, NYSE Arca, NYSE American, NYSE National and NYSE Chicago are located in the same data center in Mahwah, New Jersey. The system creating and supporting the NYSE BQT data feed would need to obtain the ten underlying data feeds from the five exchanges before it could aggregate and consolidate information to create NYSE BQT and then distribute it to end users. Likewise, a competing market data vendor co-located at the Exchange's Mahwah, New Jersey facility could perform the aggregation and consolidation function in the Mahwah facility and redistribute a competing product from that location to similarly situated customers on a level-playing field with respect to the speed that the Exchange could create and redistribute the NYSE BQT data feed.

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<sup>22</sup> See supra notes 18- 20.

The Exchange believes that NYSE BQT will continue to promote competition among exchanges by offering an alternative to NASDAQ Basic, NLS Plus and Cboe One Feed.<sup>23</sup> For these reasons, the Exchange believes that NYSE BQT will continue to promote, rather than unnecessarily or inappropriately burden, competition for market data products that are offered in the capacity as a vendor and are not core exchange market data products.

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) of the Act<sup>24</sup> and Rule 19b-4(f)(6) thereunder.<sup>25</sup> 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.<sup>26</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>27</sup> normally does not become

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<sup>23</sup> See *supra* notes 18 - 20.

<sup>24</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>25</sup> 17 CFR 240.19b-4(f)(6).

<sup>26</sup> In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 Commission has determined to waive this requirement.

<sup>27</sup> 17 CFR 240.19b-4(f)(6).

operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),<sup>28</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay would allow the Exchange to provide an amended NYSE BQT market data feed that will include NYSE Chicago data feeds immediately upon the launch of NYSE Chicago, and will further allow the Exchange to compete with similar Nasdaq and Cboe market data products on a timely basis. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and designates the proposed rule change as operative upon filing.<sup>29</sup>

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)<sup>30</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

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<sup>28</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>29</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>30</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2019-60 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-NYSE-2019-60. 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-NYSE-2019-60 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.<sup>31</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>31</sup> 17 CFR 200.30-3(a)(12).