

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-99713; File No. SR-NYSEARCA-2024-22)

March 12, 2024

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish the NYSE Arca Aggregated Lite Market Data Feed

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 February 27, 2024, 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, II, and III 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 establish the NYSE Arca Aggregated Lite (“NYSE Arca Agg Lite”) market data feed. 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 received on the proposed rule change. The text of those statements may be examined at the

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 establish the NYSE Arca Agg Lite market data feed. The NYSE Arca Agg Lite is a NYSE Arca-only frequency-based depth of book market data feed of the NYSE Arca’s limit order book for up to ten (10) price levels for securities traded on the Exchange and for which the Exchange reports quotes and trades under the Consolidated Tape Association (“CTA”) Plan or the Nasdaq/UTP Plan. NYSE Arca Agg Lite would be a compilation of limit order data that the Exchange would provide to vendors and subscribers. As proposed, the NYSE Arca Agg Lite data feed would be updated no less frequently than once per second. The NYSE Arca Agg Lite would include depth of book order data as well as security status messages. The security status message would inform subscribers of changes in the status of a specific security, such as trading halts, short sale restriction, etc. In addition, the NYSE Arca Agg Lite would also include order imbalance information prior to the opening and closing of trading.

The Exchange proposes to offer NYSE Arca Agg Lite after receiving requests from vendors and subscribers that would like to receive the data described above in an integrated fashion at a pre-defined publication interval, in this case updates no less than once per second. An aggregated data feed may provide greater efficiencies and reduce errors for vendors and subscribers that currently choose to integrate the above data into a single offering after receiving it from the Exchange through existing products and adjust the publication frequency based on a subscriber’s needs. The Exchange believes that providing vendors and subscribers with the

option to subscribe to a market data product that integrates a subset of data from existing products and where such aggregated data is published at a pre-defined interval, thus lowering bandwidth, infrastructure and operational requirements, would allow vendors and subscribers to choose the best solution for their specific business needs. The Exchange notes that publishing only the top ten price levels on both the bid and offer sides of the order book where such data is communicated to subscribers at a pre-defined interval would reduce the overall volume of messages required to be consumed by subscribers when compared to a full order-by-order data feed or a full depth of book data feed. Providing data in this format and publication frequency would make NYSE Arca Agg Lite more easily consumable by vendors and subscribers, especially for display purposes.

The Exchange proposes to offer NYSE Arca Agg Lite through the Exchange's Liquidity Center Network ("LCN"), a local area network in the Exchange's Mahwah, New Jersey data center that is available to users of the Exchange's co-location services. The Exchange would also offer NYSE Arca Agg Lite through the ICE Global Network ("IGN"), through which all other users and members access the Exchange's trading and execution systems and other proprietary market data products.

The Exchange will file a separate rule filing to establish fees for NYSE Arca Agg Lite. The Exchange will announce the implementation date of this proposed rule change by Trader Update, which, subject to the effectiveness of this proposed rule change, will be no later than the second quarter of 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)⁴ of

⁴ 15 U.S.C. § 78f(b).

the Act (“Act”), in general, and furthers the objectives of Section 6(b)(5)⁵ 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 NYSE Arca Agg Lite to those interested in receiving it.

The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market data vendors and subscribers. The proposed rule change would benefit investors by facilitating their prompt access to the frequency-based depth of book information contained in the NYSE Arca Agg Lite market data feed.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act⁶ in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability of information with respect to quotations for and transactions in securities to brokers, dealers, and investors. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,⁷ which provides that any national securities exchange that distributes

⁵ 15 U.S.C. § 78f(b)(5).

⁶ 15 U.S.C. 78k-1.

⁷ See 17 CFR 242.603.

information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. The NYSE Arca Agg Lite market data feed would be accessed and subscribed to on a voluntary basis, in that neither the Exchange nor market data vendors are required by any rule or regulation to make this data available. Accordingly, vendors and subscribers can discontinue their use at any time and for any reason.

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 believes that NYSE Arca Agg Lite is precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS would itself further the Act’s goals of facilitating efficiency and competition:

Efficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.⁸

In addition, NYSE Arca Agg Lite removes impediments to and perfects the mechanism of a free and open market and a national market system by providing investors with alternative

⁸ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (Regulation NMS Adopting Release).

market data and would compete with similar market data products currently offered by the four U.S. equities exchanges operated by Cboe Exchange, Inc. - Cboe BZX Exchange, Inc. (“BZX”), Cboe BYX Exchange, Inc. (“BYX”), Cboe EDGA Exchange, Inc. (“EDGA”), and Cboe EDGX Exchange, Inc. (“EDGX”), each of which offers a market data product called BZX Summary Depth, BYX Summary Depth, EDGA Summary Depth and EDGX Summary Depth, respectively (collectively, the “Cboe Summary Depth”).⁹ Similar to Cboe Summary Depth, NYSE Arca Agg Lite can be utilized by vendors and subscribers to quickly access and distribute aggregated order book data. As noted above, NYSE Arca Agg Lite, similar to Cboe Summary Depth, would provide aggregated depth per security, including the bid, ask and share quantity for orders received by NYSE Arca, except unlike Cboe Summary Depth, which provides aggregated depth per security for up to five price levels, NYSE Arca Agg Lite would provide aggregated depth per security for up to ten price levels on both the bid and offer sides of the NYSE Arca limit order book. The proposed market data product is also similar to the NYSE Arca Integrated Feed,¹⁰ and Nasdaq TotalView.¹¹

⁹ See BZX Rule 11.22(m) BZX Summary Depth; BYX Rule 11.22(k) BYX Summary Depth; EDGA Rule 13.8(f) EDGA Summary Depth; and EDGX Rule 13.8(f) EDGX Summary Depth. The Cboe Summary Depth offered by BZX, BYX, EDGA and EDGX are each a data feed that offers aggregated two-sided quotations for all displayed orders for up to five (5) price levels and contains the individual last sale information, market status, trading status and trade break messages.

¹⁰ The NYSE Arca Integrated Feed provides a real-time market data in a unified view of events, in sequence, as they appear on the NYSE Arca matching engine. The NYSE Arca Integrated Feed includes depth of book order data, last sale data, and opening and closing imbalance data, as well as security status updates (e.g., trade corrections and trading halts) and stock summary messages. See also Securities Exchange Act Release No. 65669 (November 2, 2011), 76 FR 69311 (November 8, 2011) (SR-NYSEArca-2011-78) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Offering a Market Data Product to Vendors and Subscribers That Combines Three Existing Market Data Feeds as Well as Additional Market Data From the Exchange Into One Integrated Product, the NYSE Arca Integrated Data Feed).

¹¹ Nasdaq TotalView displays the full order book depth on Nasdaq, including every single quote and order at every price level in Nasdaq-, NYSE-, NYSE American- and regional-listed securities on Nasdaq. See https://www.nasdaq.com/solutions/nasdaq-totalview?bt=659478569450&bk=totalview&bm=b&bn=g&bg=144616828050&utm_term=totalview&utm_campaign=&utm_source=google&utm_medium=ppc&gclid=EAIaIQobChMIzqiorTS_wIV2Y5bCh2xxQdUEAAYASAAEgKlyfD_BwE.

The Exchange notes that the existence of alternatives to the Exchange's proposed 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.

The NYSE Arca Agg Lite market data feed will help to protect a free and open market by providing additional data to the marketplace and by giving investors greater choices. In addition, the proposal would not permit unfair discrimination because the data feed would be available to all vendors and subscribers through both the LCN and IGN.

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

In accordance with Section 6(b)(8) of the Act,¹² 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. Because other exchanges already offer similar products, the Exchange's proposed NYSE Arca Agg Lite will enhance competition. The NYSE Arca Agg Lite will foster competition by providing an alternative to similar products offered by other exchanges, including the Cboe Summary Depth.¹³ The NYSE Arca Agg Lite market data feed would provide investors with a new option for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.¹⁴ Thus, the Exchange believes the proposed rule change is necessary to permit fair competition among national securities exchanges.

¹² 15 U.S.C. 78f(b)(8).

¹³ See supra, note 9.

¹⁴ See supra, note 8, at 37503.

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 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.

¹⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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).

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEARCA-2024-22 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSEARCA-2024-22. This file number should be included on the subject line if email 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office

of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEARCA-2024-22 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,

Assistant Secretary.

¹⁹ 17 CFR 200.30-3(a)(12).