

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80002; File No. SR-NYSE-2016-45)

February 9, 2017

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendment Nos. 1 - 4, to Amend the Co-location Services Offered by the Exchange to Add Certain Access and Connectivity Fees

On July 29, 2016, the New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to (1) provide additional information regarding access to various NYSE trading and execution services and establish fees for connectivity to certain NYSE market data feeds; and (2) provide and establish fees for connectivity to data feeds from third party markets and other content service providers; access to the trading and execution services of Third Party markets and other content service providers; connectivity to Depository Trust & Clearing Corporation services; connectivity to third party testing and certification feeds; and the use of virtual control circuits by Users in the Data Center.

The Commission published the proposed rule change for comment in the Federal Register on August 17, 2016.³ The Exchange filed Amendment No. 1 to the proposed rule change on August 16, 2016.⁴ The Commission published Amendment No. 1 for comment in the Federal

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 34-78556 (August 11, 2016), 81 FR 54877.

⁴ Amendment No. 1 (i) amended the third party data feed MSCI from 20 Gigabits (“Gb”) to 25 Gb and amended the price from \$2000 to \$1200; (ii) clarified the costs associated with providing a greater amount of bandwidth for Premium NYSE Data Products for a particular market as compared to the bandwidth requirements for the Included Data Products for that same market; (iii) provided further details on Premium NYSE Data

Register on September 26, 2016.⁵ The Commission received one comment in response to the proposed rule change, as modified by Amendment No. 1, to which the Exchange responded.⁶ On October 4, 2016, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to November 15, 2016.⁷

On November 2, 2016, the Exchange filed Amendment No. 2 to the proposed rule change.⁸ On November 21, 2016, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment Nos. 1 and 2.⁹ Following the Order Instituting Proceedings, the Commission received several additional comment letters.¹⁰ On December 9, 2016, the Exchange filed Amendment No. 3 to the proposed

Products, including their composition, product release dates, and further detail on the reasonableness of their applicable fees; (iv) added an explanation for the varying fee differences for the same Gb usage for third party data feeds, DTCC, and Virtual Control Circuit.

⁵ See Securities Exchange Act Release No. 34-78887 (September 20, 2016), 81 FR 66095.

⁶ See letter to Brent J. Fields, Secretary, Commission, from John Ramsay, Chief Market Policy Officer, Investors Exchange LLC (“IEX Letter I”), dated September 9, 2016.

On September 23, 2016, the NYSE submitted a response to the IEX letter (“Response Letter I”) which is available at <https://www.sec.gov/comments/sr-nyse-2016-45/nyse201645-3.pdf>.

⁷ See Securities Exchange Act Release No. 34-78966 (September 28, 2016), 81 FR 68475.

⁸ Amendment No. 2 is available on the Commission’s website at <https://www.sec.gov/comments/sr-nyse-2016-45/nyse201645-4.pdf>.

⁹ See Securities Exchange Act Release 34-79316 (November 15, 2016), 81 FR 83303.

¹⁰ See letter to Brent J. Fields, Commission, from Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, dated December 12, 2016 (“Citadel Letter”); letter to Brent J. Fields, Commission, from Melissa MacGregor, Managing Director and Associate General Counsel, SIFMA, dated December 12, 2016 (“SIFMA Letter I”); letter to Brent J. Fields, Commission, from Joe Wald, Chief Executive Officer, Clearpool Group, dated December 16, 2016 (“Clearpool Letter”); letter to Brent J. Fields, Secretary, Commission, from John Ramsay, Chief Market Policy Officer, Investors Exchange LLC (IEX), dated December 21, 2016 (“IEX Letter II”); letter to Brent J.

rule change.¹¹ Amendment No. 3, which supersedes and replaces the proposed rule change, as modified by Amendment Nos. 1 and 2, in its entirety, was published for comment in the Federal Register on December 29, 2016.¹² On January 17, 2017, the Exchange responded to the comment letters submitted after the OIP and prior to January 17, 2017.¹³ On February 7, 2017, the Exchange filed Amendment No. 4 to the proposed rule change.¹⁴

Section 19(b)(2) of the Act¹⁵ provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on August 17, 2016.¹⁶ February 13,

Fields, Commission, from David L. Cavicke, Chief Legal Officer, Wolverine LLC (“Wolverine Letter”); letter to Bent J. Fields, Secretary, Commission, from Stefano Durdic, Managing Director, R2G Services, LLC, dated January 21, 2017 (“R2G Letter”); letter to Brent J. Fields, Commission, from Melissa MacGregor, Managing Director and Associate General Counsel, SIFMA, dated February 6, 2017 (“SIFMA Letter II”). All comments received by the Commission on the proposed rule change are available on the Commission’s website at: <https://www.sec.gov/comments/sr-nyse-2016-45/nyse201645.shtml>.

¹¹ Amendment No. 3, as filed by the Exchange, is available at <https://www.sec.gov/comments/sr-nyse-2016-45/nyse201645-5.pdf>.

¹² See Securities Exchange Act Release No. 34-79674 (December 22, 2016), 81 FR 96053 (“Notice of Current Proposal”).

¹³ See NYSE Response Letter II (“Response Letter II”), available at <https://www.sec.gov/comments/sr-nyse-2016-45/nyse201645-1502013-130586.pdf>. The R2G and SIFMA II Letters, supra note 10, were submitted after the Response Letter II.

¹⁴ Amendment No. 4, as filed by the Exchange, is available at <https://www.sec.gov/comments/sr-nyse-2016-45/nyse201645-1570711-131690.pdf>.

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ See supra note 3.

2017 is 180 days from that date, and April 14, 2017 is an additional 60 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment Nos. 1-4, the issues raised in the comment letters that have been submitted in connection therewith, and the Exchange's response to the comments.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁷ designates April 14, 2017 as the date by which the Commission should either approve or disapprove the proposed rule change, as modified by Amendments Nos. 1 - 4.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Eduardo A. Aleman
Assistant Secretary

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(57).