new FBMS system. The Commission also notes that the Exchange represents that the proposal does not affect the priority of electronic AON orders. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.14

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.15

If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.16

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 email to rule-comments@sec.gov. Please include File Number SR-Phlx–2015–37 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–Phlx–2015–37. 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 Web site (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 Web site 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 such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx–2015–37, and should be submitted on or before June 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.17

Jill M. Peterson,
Assistant Secretary. [FR Doc. 2015–11273 Filed 5–8–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE OpenBook To Add a Late Fee in Connection With Failure To Submit the Non-Display Use Declaration

May 5, 2015.

Pursuant to Section 19(b)(1)1 of the Securities Exchange Act of 1934 (the “Act”)2 and Rule 19b–4 thereunder,3 notice is hereby given that, on April 24, 2015, New York Stock Exchange LLC (“NYSE” 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.

14 For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).
16 Id.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fees for NYSE OpenBook to add a late fee in connection with failure to submit the non-display use declaration, operative on May 1, 2015. The text of the proposed rule change is available on the Exchange’s Web site 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 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 fees for NYSE OpenBook, as set forth on the NYSE Proprietary Market Data Fee Schedule (“Fee Schedule”), to add a late fee in connection with failure to submit an updated non-display use declaration. The proposed change to the Fee Schedule would be operative on May 1, 2015.

The Exchange established the current fees for non-display services for NYSE OpenBook in April 2013 and amended those fees in September 2014.4 The 2013 Non-Display Filing established a requirement that data recipients that receive real-time NYSE market data subject to Non-Display Use fees submit a declaration with respect to their use of non-display data.5 In connection with the fee changes in the 2014 Non-Display

Filing, the Exchange required data recipients that receive real-time NYSE market data subject to Non-Display Use fees to complete and submit an updated Non-Display Use Declaration by September 1, 2014.6 The 2014 Non-Display Filing also established that data recipients are required to submit an updated annual Non-Display Use Declaration by January 31st of each year beginning in 2016. In addition, if a data recipient’s use of real-time NYSE market data changes at any time after the data recipient submits a Non-Display Use Declaration, the data recipient must inform the Exchange of the change by completing and submitting at the time of the change an updated declaration reflecting the change of use.

The Exchange notes that if a data recipient does not timely submit a Non-Display Use Declaration, the Exchange does not have up-to-date information about the data recipient’s data use and therefore may not be charging the correct fees to the data recipient. In order to correctly assess fees for the non-display use of NYSE OpenBook, the Exchange needs to have current and accurate information about the use of NYSE OpenBook. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting customer records in connection with late Non-Display Use Declarations. The purpose of the proposed late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations.

The Exchange proposes to establish a Non-Display Declaration Late Fee of $1,000 per month. The proposed fee would be charged to any data recipient that pays an Access Fee for NYSE OpenBook that has failed to timely complete and submit a Non-Display Use Declaration.

With respect to the Non-Display Use Declaration that was due by September 1, 2014, the Non-Display Declaration Late Fee would apply to NYSE OpenBook data recipients that have not submitted the Non-Display Use Declaration by June 30, 2015, and would apply beginning July 1, 2015 and for each month thereafter until the data recipient has submitted the Non-Display Use Declaration. With respect to the annual Non-Display Use Declaration due by January 31st of each year beginning in 2016, the Non-Display Declaration Late Fee would apply to data recipients that fail to complete and submit the annual Non-Display Use Declaration by the January 31st due date, and would apply beginning February 1st and for each month thereafter until the data recipient has completed and submitted the annual Non-Display Use Declaration.7 A Non-Display Use Declaration that is clearly incomplete would not be considered to have been completed and submitted to the Exchange on time.

In addition to adding the Non-Display Declaration Late Fee for NYSE OpenBook to the Fee Schedule, the Exchange proposes to add an endnote to the Fee Schedule that would specify the effective dates for the Non-Display Declaration Late Fee as described above, and to change the numbering for the existing endnotes as needed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,8 in general, and Sections 6(b)(4) and 6(b)(5) of the Act,9 in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that it is reasonable to impose a late fee in connection with the submission of the Non-Display Use Declaration. In order to correctly assess fees for the non-display use of NYSE OpenBook, the Exchange needs to have current and accurate information about the use of NYSE OpenBook. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting and following up on payments owed in connection with late Non-Display Use Declarations. The purpose of the late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations. The Non-Display Declaration Late Fee is equitable and not unfairly discriminatory because it will apply to all data recipients that choose to subscribe to the NYSE OpenBook feed.

The Non-Display Declaration Late Fee is also consistent with similar pricing adopted in 2013 by the Consolidated Tape Association (‘‘CTA’’).10 The CTA imposes a monthly fee of $2,500 for each of Network A and Network B for firms that fail to comply with their reporting obligations in a timely manner.

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

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. An exchange’s ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange’s proprietary data. In addition to being able to choose which proprietary data products (if any) to use and how to use them, a user can avoid the late fees that are the subject of this filing entirely by simply complying with the requisite deadlines.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of fierce competition to sell proprietary data products and for order flow, as well as numerous alternatives to the Exchange’s products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase (the returns on use being a particularly important aspect of non-display uses of proprietary data).

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6 The current form of the Non-Display Use Declaration reflected the changes to the non-display fees set forth in the 2014 Non-Display Filing and replaced the NYSE Euronext Non-Display Use Declaration established in connection with the 2013 Non-Display Filing.

7 The Exchange will be proposing to establish the Non-Display Declaration Late Fee with respect to each Market Data product on the Fee Schedule that includes Non-Display Fees.


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 foregoing rule change is effective 
upon filing pursuant to Section 
19(b)(3)(A)11 of the Act and 
paragraph (f)(2) of Rule 19b–4 12 
thereunder, because it establishes a due, 
fee, or other charge imposed by the 
Exchange.

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)13 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 email to rule-comments@ 
sec.gov. Please include File Number SR– 
NYSE–2015–20 on the subject line.

Paper Comments
• Send paper comments in triplicate 
to Brent J. Fields, Secretary, 
Securities and Exchange Commission, 
100 F Street NE., Washington, DC 20549–1090. 
All submissions should refer to File 
Number SR–NYSE–2015–20. 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 Web site (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 Web site viewing and 
printing in the Commission’s 
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 
filings will also be available for 
inspection and copying at the NYSE’s 
principal office and on its Internet Web 
site at www.nyse.com. All comments 
received will be posted without change; 
the Commission does not edit personal 
identifying information from 
submissions. You should submit only 
information that you wish to make 
available publicly. All submissions 
should refer to File Number SR–NYSE– 
2015–20 and should be submitted on or 
before June 1, 2015.

For the Commission, by the Division of 
Trading and Markets, pursuant to delegated 
authority.14

Jill M. Peterson, 
Assistant Secretary.

[FR Doc. 2015–11270 Filed 5–8–15; 8:45 am]
BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74877; File No. SR– 
NYSEARCA–2015–37]

Self-Regulatory Organizations; NYSE 
Arca, Inc.; Notice of Filing and 
Immediate Effectiveness of Proposed 
Rule Change Amending the Fees for 
NYSE Arca Options Market Data To 
Add a Late Fee in Connection With 
Failure To Submit the Non-Display Use 
Declaration

May 5, 2015.

Pursuant to Section 19(b)(1)1 of the 
Securities Exchange Act of 1934 (the 
“Act”)2 and Rule 19b–4 thereunder,3 
notice is hereby given that, on April 27, 
2015, NYSE Arca, Inc. (the “Exchange” 
or “NYSE Arca”) 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 amend the 
fees for NYSE Arca Options market data 
to add a late fee in connection with 
failure to submit the non-display use 
declaration, operative on May 1, 2015. 
The text of the proposed rule change is 
available on the Exchange’s Web site 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 
discussed any comments it 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 
fees for NYSE Arca Options market data, 
as set forth on the NYSE Arca Options 
Proprietary Market Data Fee Schedule 
(“Fee Schedule”), to add a late fee in 
connection with failure to submit an 
updated non-display use declaration. 
The proposed change to the Fee 
Schedule would be operative on May 1, 
2015.

The Exchange established the current 
fees for non-display services for 
ArcaBook for Arca Options, which 
consists of ArcaBook for Arca Options— 
Trades, ArcaBook for Arca Options— 
Top of Book, ArcaBook for Arca 
Options—Depth of Book, ArcaBook for 
Arca Options—Complex, ArcaBook for 
Arca Options—Series Status, and 
ArcaBook for Arca Options—Order 
Imbalance, in May 2013 and amended 
those fees in September 2014.4 In 