the Exchange’s Price List related to a wireless connection. In addition, the feeds from third party markets through located Users to receive market data Exchange to include a means for co-
co-location services offered by the
Statement of the Terms of Substance of
I. Self-Regulatory Organization’s change from interested persons.
solicit comments on the proposed rule
Commission is publishing this notice to
proposed rule change as described in
Commission (the “Commission”) the
LLC (“NYSE” or the “Exchange”) filed
November 5, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”) and Rule 19b-4 thereunder, notice is hereby given that, on October 23, 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.

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

The Exchange proposes to change the co-location services offered by the Exchange to include a means for Users to receive market data feeds from third party markets through a wireless connection. In addition, the proposed rule change reflects changes to the Exchange’s Price List related to these services. The text of the proposed rule change is available on the Exchange’s Web site at www.nypx.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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change the co-location services offered by the Exchange to include a means for Users to receive market data feeds from third party markets (the “Third Party Data”) through a wireless connection. In addition, this proposed rule change reflects changes to the Exchange’s Price List related to these co-location services.

The Exchange proposes to offer the wireless connection to provide Users with an alternative means of connectivity for Third Party Data. Wireless connections involve beaming signals through the air between antennas that are within sight of one another. Because the signals travel a straight, unimpeded line, and because light waves travel faster through air than through glass (fiber optics), wireless messages have lower latency than messages travelling through fiber optics. Under the proposed rule change, the Exchange would utilize a network vendor to provide a wireless connection to the Third Party Data through wireless connections from the Exchange access centers in Secaucus and Carteret, New Jersey, to its data center in Mahwah, New Jersey, through a series of towers equipped with wireless equipment.

The wireless connectivity would be an optional offering, offering an alternative method for connectivity to the Third Party Data.

A User that chooses this optional service would be able to receive data feeds from NASDAQ and BATS Exchange, Inc. over a wireless connection. To receive Third Party Data, the User would enter into a contract with the relevant third party market, which would charge the User the applicable market data fees for the Third Party Data. The Exchange would charge the User fees for the wireless connection for the Third Party Data.

A User would be charged a $5,000 non-recurring initial charge for each wireless connection and a monthly recurring charge (“MRC”) that would vary depending upon the feed that the User opts to receive. If a User purchased two wireless connections, it would pay two non-recurring initial charges. The Exchange proposes to waive the first month’s MRC, to allow Users to test the receipt of the feed(s) for a month before incurring any MRCs.

The Exchange proposes that the wireless connections would include the use of one port for connectivity to the Third Party Data. A User will only require one port to connect to the Third Party Data, irrespective of how many of the five wireless connections it orders. If a User that has more than one wireless connection wishes to use more than one port to connect to the Third Party Data, the Exchange proposes to make such additional ports available for a monthly fee per port of $3,000.

The Exchange proposes to revise its Price List to reflect fees related to these connections and ports, as follows:

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7 A User would only receive the Third Party Data for which it had entered into a contract. For example, a User that contracted with NASDAQ for the NASDAQ Totalview-ITCH data feed but did not contract to receive any other Third Party Data would receive only the NASDAQ Totalview-ITCH data feed through its wireless connection.
8 For example, a User with two wireless connections for Third Party Data may opt to purchase an additional port in order to route the options and equity data it receives to different cabinets.
Wireless connection of BATS Pitch BZX Gig shaped data ......................... $5,000 per connection initial charge plus monthly charge per connection of $6,000. Fees are subject to a 30-day testing period, during which the monthly charge per connection is waived.

Wireless connection of DirectEdge EDGX Gig shaped data ....................... $5,000 per connection initial charge plus monthly charge per connection of $6,000. Fees are subject to a 30-day testing period, during which the monthly charge per connection is waived.

Wireless connection of NASDAQ Totalview-ITCH data .............................. $5,000 per connection initial charge plus monthly charge per connection of $8,500. Fees are subject to a 30-day testing period, during which the monthly charge per connection is waived.

Wireless connection of NASDAQ BX Totalview-ITCH data ....................... $5,000 per connection initial charge plus monthly charge per connection of $6,000. Fees are subject to a 30-day testing period, during which the monthly charge per connection is waived.

Wireless connection of NASDAQ Totalview-ITCH and BX Totalview-ITCH data.

Port for wireless connection ........................................................................ $3,000 monthly charge per port, excluding first port.

There is limited bandwidth available on the wireless connection for data feeds from third parties, and so the Exchange has opted to offer only the Third Party Data, which are data feeds that are in high demand from Users. The wireless network offered by the Exchange, although constrained by bandwidth with respect to the number of feeds it can carry, can be made available to an unlimited number of Users.

The Exchange proposes to offer the wireless connection to provide Users with an alternative means of connectivity for Third Party Data. Currently, Users can receive Third Party Data from wireless networks offered by third party vendors. Users can also receive Third Party Data through other methods, including, for example, from another User, through a telecommunications provider, or over the internet protocol ("IP") network.

The wireless connection to the Third Party Data is expected to be available no later than March 1, 2016. The Exchange will announce the date that the wireless connection to the Third Party Data will be available through a customer notice.

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User’s customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (e.g., a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.

The proposed change is not otherwise intended to address any other issues relating to co-location 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, in general, and furthers the objectives of Sections 6(b)(5) of the Act, 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 mechanisms 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 the proposed services are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the wireless connection for Third Party Data would provide Users with an alternative means of connectivity for Third Party Data. Users that do not opt to utilize the Exchange’s proposed wireless connections would still be able to obtain Third Party Data through other methods, including, for example, from wireless networks offered by third party vendors, another User, through a telecommunications provider, or over the IP network. Users that opt to use wireless connections for Third Party Data that is not available to all Users, as all market participants that contract with the relevant third party market for the Third Party Data may receive it.

The Exchange believes that this removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because it would provide Users with choices with respect
to the form and optimal latency of the connectivity they use to receive Third Party Data, allowing a User that opts to receive Third Party Data to select the connectivity and number of ports that better suit its needs, helping it tailor its data center operations to the requirements of its business operations.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(4) of the Act, in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

Overall, the Exchange believes that the proposed change is reasonable because the Exchange proposes to offer wireless connection for Third Party Data described herein as a convenience to Users, but in doing so would incur certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and monitoring, support and maintenance of such services. The costs associated with the wireless connections are incrementally higher than fiber optics-based solutions due to the expense of the wireless equipment, cost of installation and testing and ongoing maintenance of the network.

The Exchange believes that the proposed pricing for the wireless connection for Third Party Data is reasonable because it allows Users to select the Third Party Data connectivity option and number of ports that better suit their needs. The fees also reflect the benefit received by Users in terms of lower latency over the fiber optics option. The Exchange believes that the proposed waiver of the first month’s MRC is reasonable as it would allow Users to test the receipt of the feed(s) for a month before incurring any monthly recurring fees and may act as an incentive to Users to utilize the new service.

The Exchange believes that the proposed change is equitable and not unfairly discriminatory because it will result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services will be available to all Users. Furthermore, the Exchange believes that the services and fees proposed herein are not unfairly discriminatory and are equitably allocated because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (i.e., the same products and services are available to all Users). All Users that voluntarily select wireless connections and ports would be charged the same amount for the same services and would have their first month MRC for wireless connections waived.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange’s statement regarding the burden on competition.

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, 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 because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (i.e. the same products and services are available to all Users).

The Exchange believes that allowing Users to receive Third Party Data through a wireless connection will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because such access will satisfy User demand for additional options for connectivity for Third Party Data. Currently, Users can receive Third Party Data from wireless networks offered by third party vendors. Based on the information available to it, the Exchange believes that its proposed wireless connection would provide data at the same or similar speed, and at the same or similar cost, as its proposed wireless network.

Moreover, access to the pole or roof is not required for third parties to establish wireless networks that can compete with the Exchange’s proposed service, as witnessed by the existing wireless networks currently serving Users. Based on the information available to it, the Exchange believes that its proposed wireless connection would provide data at the same or similar speed, and at the same or similar cost, as its proposed wireless connection, thereby enhancing competition.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its services and related fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed wireless connections would be able to obtain Third Party Data through other methods, including, for example, from another User, through a telecommunications provider, or over the IP network. In this way, the proposed changes would enhance competition by helping Users tailor their connectivity for Third Party Data to the needs of their business operations by allowing them to select the form and optimal latency of the connectivity they use to receive Third Party Data that best suits their needs, helping them tailor their data center operations to the requirements of their business operations.

The proposed wireless connection to the Third Party Data would traverse wireless connections through a series of towers equipped with wireless equipment, including a pole on the grounds of the data center. The proposed wireless network would have exclusive rights to operate wireless equipment on the data center pole. The Exchange will not sell rights to third parties to operate wireless equipment on the pole, due to space limitations, security concerns, and the interference that would arise between equipment placed too closely together. In addition to space issues, there are contractual restrictions on the use of the roof that the Exchange has determined would not be met if it offered space on the roof for third party wireless equipment.

Moreover, access to the pole or roof is not required for third parties to establish wireless networks that can compete with the Exchange’s proposed service, as witnessed by the existing wireless networks currently serving Users. Based on the information available to it, the Exchange believes that its proposed wireless connection would provide data at the same or similar speed, and at the same or similar cost, as its proposed wireless connection, thereby enhancing competition.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its services and related fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed wireless connection would provide data at the same or similar speed, and at the same or similar cost, as its proposed wireless connection, thereby enhancing competition.


17 The Exchange notes that the distance of a wireless network provider’s wireless equipment from the User is the only factor in determining overall latency. Other factors include the number of repeaters in the route, the number of switches the data has to travel through, and the millimeter wave and switch technology used.
I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to change its rules to provide that the co-location services offered by the Exchange include 40 gigabit (“Gb”) internet protocol (“IP”) network connections in the Exchange’s data center. The Exchange proposes to amend the NYSE MKT Equities Price List (“Price List”) and the NYSE Amex Options Fee Schedule (“Fee Schedule”) to implement fees for the new service.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change its rules to provide that the co-location services offered by the Exchange include 40 Gb IP network connections in the Exchange’s data center. The Exchange proposes to amend the Price List and the Fee Schedule to implement fees for the new service.

Currently, the Exchange’s co-location services offer Users access to two local...