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. A proposed rule change filed under Rule 19b–4(f)(6)(iii) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), 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 Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to incorporate changes required under Regulation SCI, such as establishing standards for designating BC/DR participants, prior to the November 3, 2015 compliance date. Accordingly, the Commission designates the proposed rule change to be operative upon filing.

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 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 to determine whether the proposed rule 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–NASDAQ–2015–134 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–NASDAQ–2015–134. 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 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; 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–NASDAQ–2015–134 and should be submitted on or before December 3, 2015.

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

Robert W. Errett,
Deputy Secretary.

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change to the Co-Location Services Offered by the Exchange (the Offering of a Wireless Connection To Allow Users To Receive Market Data Feeds From Third Party Markets) and To Reflect Changes to the NYSE MKT Equities Price List and the NYSE Amex Options Fee Schedule Related to These Services

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, NYSE MKT LLC (the “Exchange” or “NYSE MKT”) 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 co-located Users to receive market data feeds from third party markets through a wireless connection. In addition, the proposed rule change reflects changes to the NYSE MKT Equities Price List (“Price List”) and the NYSE Amex Options Fee Schedule (“Fee Schedule”) related to these services. 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


18 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.
21 For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).
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 Price List and the Fee Schedule 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.

As specified in the Price List and the Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange’s affiliates New York Stock Exchange LLC and NYSE Arca, Inc. See Securities Exchange Act Release No. 70176 (August 30, 2013) (SR–NYSEArca–2013–67). As a result of the proposed rule change, a User with two wireless connections to the Exchange would not be subject to two non-recurring initial charges.

As an example, a User with two wireless connections to the Exchange would not be subject to 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 and the Fee Schedule to reflect fees related to these connections and ports, as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount of charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wireless connection of BATS Pitch BZX Gig shaped data</td>
<td>$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.</td>
</tr>
<tr>
<td>Wireless connection of DirectEdge EDGX Gig shaped data</td>
<td>$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.</td>
</tr>
<tr>
<td>Wireless connection of NASDAQ Totalview-ITCH data</td>
<td>$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.</td>
</tr>
<tr>
<td>Wireless connection of NASDAQ BX Totalview-ITCH data</td>
<td>$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.</td>
</tr>
<tr>
<td>Wireless connection of NASDAQ Totalview-ITCH and BX Totalview-ITCH data</td>
<td>$5,000 per connection initial charge plus monthly charge per connection of $12,000. Fees are subject to a 30-day testing period, during which the monthly charge per connection is waived.</td>
</tr>
</tbody>
</table>


5 For purposes of the Exchange’s co-location services, a “User” means any market participant that requests to receive co-location services directly from the Exchange. See Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR–NYSEMKT–2015–67). 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.


7 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.

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.
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 further 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 furthering the objectives of Sections 6(b) and 6(c) of the Act, and to protect investors and the public interest.

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 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 cost as the existing wireless networks. Accordingly, the proposed wireless connection for Third Party Data would provide Users with an additional wireless connectivity option, thereby enhancing competition.

The Exchange notes that the proposed wireless connection would compete not just with other wireless connections, but also with fiber optic networks, which may be more attractive to some Users as they are more reliable and less susceptible to weather conditions. Users that do not opt to utilize 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 rule change reflects this competitive environment.

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

Within 45 days of the date of publication of this notice in the Federal Register or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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–NYSEMKT–2015–85 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–NYSEMKT–2015–85. 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 communications relating to the proposed rule change between the


17 The Exchange notes that the distance of a wireless network provider’s wireless equipment from the User is only one 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.
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 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; 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–NYSEArca–2015–85 and should be submitted on or before December 3, 2015.

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

Robert W. Errett, Deputy Secretary.

[FR Doc. 2015–28686 Filed 11–10–15; 8:45 am]
BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change to the Co-Location Services Offered by the Exchange (the Offering of a Wireless Connection To Allow Users To Receive Market Data Feeds From Third Party Markets) and To Reflect Changes to the NYSE Arca Options Fee Schedule and the NYSE Arca Equities Schedule of Fees and Charges Related to These Services

November 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 October 23, 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 change the co-location services offered by the Exchange to include a means for co-located Users to receive market data feeds from third party markets through a wireless connection. In addition, the proposed rule change reflects changes to the NYSE MKT Equities Price List (“Price List”) and the NYSE Arca Options Fee Schedule (“Fee Schedule”) related to these services. 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 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. 4 In addition, this proposed rule change reflects changes to the Fee Schedules 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. 5 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. 6 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.


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.