

potential to impair revenues from both products. In this manner, the competition for order flow will constrain prices for proprietary data products.

#### Substitute Products

The price of depth-of-book data is constrained by the existence of competition from other exchanges, such as NYSE and BATS, which sell proprietary depth-of-book data. While a small number of highly sophisticated traders purchase depth-of-book products from multiple exchanges, most customers do not. Because most customers would not pay an excessive price for TotalView when substitute data is available from other proprietary sources, the Exchange is constrained in its pricing decisions.

#### Competition Among Distributors

Competition among Distributors provides another form of price discipline for proprietary data products. If the price of TotalView were set above competitive levels, Distributors purchasing TotalView would be at a disadvantage relative to their competitors, and would therefore either purchase a substitute or forego the product altogether.

In summary, market forces constrain the price of depth-of-book data such as TotalView through competition for order flow, competition from substitute products, and in the competition among vendors for customers. For these reasons, the Exchange has provided a substantial basis demonstrating that the fee is equitable, fair, reasonable, and not unreasonably discriminatory, and therefore consistent with and in furtherance of the purposes of the Exchange Act.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>22</sup>

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. 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](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2016-073 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-BX-2016-073. 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-BX-2016-073, and should be submitted on or before January 20, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2016-31681 Filed 12-29-16; 8:45 am]

BILLING CODE 8011-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-79682; File No. SR-FINRA-2016-048]

### **Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Eliminate Fees for Historical Trade Data Accessed Through the FINRA ADDS Web Site**

December 23, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 20, 2016, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as "establishing or changing a due, fee or other charge" under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon receipt of this filing by the Commission. 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 the Substance of the Proposed Rule Change**

FINRA is proposing to amend FINRA Rules 7510, 7710 and 7730 to eliminate the fees for historical trade data accessed through the FINRA Automated Data Delivery System ("FINRA ADDS") Web site relating to trades reported to the Alternative Display Facility ("ADF"), OTC Reporting Facility ("ORF") and Trade Reporting and Compliance Engine ("TRACE").

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

<sup>23</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>22</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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 these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

FINRA ADDS is a data delivery system that provides members, by market participant identifier ("MPID"), access to trade journal files containing key information regarding the member's trades reported to the ADF, ORF and TRACE. FINRA ADDS also provides member clearing firms access to data regarding their correspondents' trades reported to the ORF. Members use the trade journal files to reconcile the trade information captured by their own systems and the information captured by the FINRA trade reporting systems. Members can access FINRA ADDS data via the secure FINRA ADDS Web site and via Secure File Transfer Protocol ("SFTP").

Pursuant to Rules 7510(d), 7710(c) and 7730(g), FINRA makes recent ADF, ORF and TRACE trade journals available for free and offers subscribers the option of receiving historical data and retrieving data automatically via SFTP for a fee.<sup>5</sup> Specifically, a member has access via the FINRA ADDS Web site to ADF, ORF or TRACE trade data associated with its MPID for the three prior business days (ADF and ORF) or 30 prior business days (TRACE) free of charge without having to subscribe and pay for additional optional data services.

In addition, members can subscribe to receive their data for dates older than the most recent three or 30 business days through the Data Delivery Plus service for a monthly fee. Through this service, subscribers can access up to two years of trade journal files via the FINRA ADDS Web site. The fee is charged per month to an MPID that is

a subscriber for Data Delivery Plus reports ("Plus Reports"), which are provided in response to requests by the MPID. The monthly fees for ORF and TRACE data are based on the subscriber's reported volume and the number of Plus Reports the subscriber receives, and for ADF data, the fees are based on the number of Plus Reports the subscriber receives. The ORF and TRACE fees range from a low of \$10 to a high of \$100 a month, and the ADF fees range from a low of \$60 to a high of \$100 a month. Thus, subscribers' fees may vary during a calendar year, depending on the number of reports FINRA makes available to the subscriber in response to the subscriber's requests. Clearing firms that subscribe to access their correspondents' historic ORF data pay a flat fee of \$150 per Clearing Number per month, irrespective of the number of reports received.

FINRA is proposing to amend Rules 7510(d), 7710(c) and 7730(g) to eliminate the fees for historical data through the FINRA ADDS Web site. As such, all trade journals (recent and historical for up to two years) through the FINRA ADDS Web site will be free of charge.<sup>6</sup> The proposed rule change will enable all ADF, ORF and TRACE participants to look up their historical trade data free of charge via the FINRA ADDS Web site to reconcile with transaction and clearing data captured by their own systems.

FINRA believes that the proposed rule change will assist members in meeting their trade reporting and trade management obligations and will not result in any burden on members. The overall revenue that FINRA collects from fees for Plus Reports through the FINRA ADDS Web site is de minimis, and as such, FINRA does not believe that the fees warrant the administrative burden of calculating members' fees based on reported volume and number of reports under the current fee schedule. In addition, the proposed rule change would eliminate the uncertainty of the current fee schedule for members, whose fees may vary according to the number of Plus Reports the member requests. Under the proposed rule change, members will be able to request an unlimited number of reports through the FINRA ADDS Web site at no charge.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date will be January 3, 2017.

#### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,<sup>7</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. All similarly situated members are subject to the same fee structure and access to the ADF, ORF and TRACE is offered on fair and non-discriminatory terms. FINRA believes that the proposed rule change provides for the equitable allocation of reasonable fees in that it will eliminate a fee and enable all ADF, ORF and TRACE participants to access their trade data through the FINRA ADDS Web site at no charge. Thus, all ADF, ORF and TRACE participants will have the ability to look up their historical trade data via the FINRA ADDS Web site to reconcile with transaction and clearing data captured by their own systems. Members will continue to have the option of subscribing and paying for FINRA ADDS data delivered via SFTP, if they prefer automated retrieval of their trade data.

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

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA believes that the proposed rule change, by eliminating the fee for historical ADF, ORF and TRACE data via the FINRA ADDS Web site and enabling all ADF, ORF and TRACE participants to access their trade data at no charge, will assist members in meeting their trade reporting and trade management obligations and will not result in any burden on members. To the extent that the fees that are being proposed to be eliminated were viewed as burdensome among market participants, those participants may choose to utilize the data accessed through the FINRA ADDS Web site to reconcile with transaction and clearing data captured by their own systems, which would permit members to mitigate any direct or indirect costs imposed by the inability to reconcile such data.

<sup>5</sup> FINRA notes that a member that subscribes to the optional FINRA ADDS services via the FINRA ADDS Web site or SFTP for ADF, ORF and TRACE data pays three separate fees under Rules 7510(d), 7710(c) and 7730(g).

<sup>6</sup> FINRA notes that the proposed rule change does not modify the fees for FINRA ADDS data delivered via SFTP under Rules 7510(d), 7710(c) and 7730(g).

<sup>7</sup> 15 U.S.C. 78o-3(b)(5).

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and paragraph (f)(2) of Rule 19b-4 thereunder.<sup>9</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2016-048 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-FINRA-2016-048. 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 office of FINRA. 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-FINRA-2016-048, and should be submitted on or before January 20, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2016-31682 Filed 12-29-16; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-79686; File No. SR-ISE-2016-31]**

**Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change to Amend the Supplementary Material to ISE Rule 1901**

December 23, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 22, 2016, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 Supplementary Material to ISE Rule 1901, titled "Order Protection" in

connection with a system migration to Nasdaq INET technology.

The text of the proposed rule change is available on the Exchange's Web site at [www.ise.com](http://www.ise.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 Exchange 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 these 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 aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this rule change is to amend the Supplementary Material to ISE Rule 1901, titled "Order Protection" to reflect the ISE, ISE Gemini, LLC and ISE Mercury, LLC technology migration to a Nasdaq, Inc. ("Nasdaq") supported architecture. INET is the proprietary core technology utilized across Nasdaq's global markets and utilized on The NASDAQ Options Market LLC ("NOM"), NASDAQ PHLX LLC ("Phlx") and NASDAQ BX, Inc. ("BX") (collectively, "Nasdaq Exchanges"). The migration of ISE to the Nasdaq INET architecture would result in higher performance, scalability, and more robust architecture. With this system migration, the Exchange intends to adopt certain trading functionality currently utilized at Nasdaq Exchanges. The functionality being adopted is described in this filing.

Generally

With the re-platform, the Exchange will now be built on the Nasdaq INET architecture, which allows certain trading system functionality to be performed in parallel. The Exchange believes that this architecture change will improve the member experience by reducing overall latency compared to the current ISE, ISE Gemini, LLC and ISE Mercury, LLC system because of the manner in which the system is segregated into component parts to handle processing.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.