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–2013–91 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR– NYSEMKT–2013–91. 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 will also 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 publicly available. All submissions should refer to File Number SR–NYSEMKT–2013–91 and should be submitted on or before December 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. [43]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–28415 Filed 11–26–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70914; File No. SR–NYSEMKT–2013–93]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE MKT Equities Price List and the NYSE Amex Options Fee Schedule Related to Co-Location Services

November 21, 2013.

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 November 8, 2013, 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 amend the NYSE MKT Equities Price List (''Price List'') and the NYSE Amex Options Fee Schedule (''Fee Schedule'') related to co-location services in order to provide further specification regarding the fees applicable to cabinets for which power is not utilized (''PNU cabinets''). 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 Price List and the Fee Schedule related to co-location services in order to provide further specification regarding the fees applicable to PNU cabinets.[4] The Exchange proposes to implement the change immediately.

A User is currently able to obtain one or more PNU cabinets in the data center.[5] A PNU cabinet is an unused cabinet in proximity to a User's existing cabinet(s), which the User reserves for future use, i.e., a cabinet that the User does not anticipate using until some point in the future and therefore is reserved but not currently utilized. Although PNU cabinets do not use power, when the Exchange establishes a PNU cabinet, it includes wiring, circuitry, and hardware and allocates either four kilowatts (''kW'') or eight

[43] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Securities and Exchange Commission (''Commission'') initially approved the Exchange's co-location services in Securities Exchange Act Release No. 62961 (September 21, 2010), 75 FR 59299 (September 27, 2010) (SR–NYSEAmex–2010–80) (the ''Original Co-location Approval''). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users. The Exchange's co-location services allow Users to rent space in the data center so they may locate their electronic servers in close physical proximity to the Exchange's trading and execution system. *See id.* at 59299.

[5] For purposes of the Exchange's co-location services, the term ''User'' includes (i) member organizations, as that term is defined in the definitions section of the General and Floor Rules of the NYSE MKT Equities Rules, and ATP Holders, as that term is defined in NYSE Amex Options Rule 900.2NY(5); (ii) Sponsored Participants, as that term is defined in Rule 123B.30(a)(ii)(B)—Equities and NYSE Amex Options Rule 900.2NY(77); and (iii) non-member organization and non-ATP Holder broker-dealers and vendors that request to receive co-location services directly from the Exchange. *See, e.g.,* Securities Exchange Act Release Nos. 65974 (December 15, 2011), 76 FR 79249 (December 21, 2011) (SR–NYSEAmex–2011–81) and 65975 (December 15, 2011), 76 FR 79233 (December 21, 2011) (SR–NYSEAmex–2011–82). 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 13, 2013), 78 FR 50471 (August 19, 2013) (SR–NYSEMKT–2013–67).

kWs of unused power capacity, depending on the User's requirements, as it does for all cabinets.[6] This allows the PNU cabinet to be powered and used promptly upon the User's request.

The applicable monthly fee for PNU cabinets (the ''PNU Fee'') was described within the Original Co-location Approval as 40% of the applicable per kW monthly fee.[7] Accordingly, since the Exchange began offering co-location services in the data center, the amount of the PNU Fee charged for a cabinet per month depended on the number of kWs of power allocated to that PNU cabinet. The Exchange subsequently specified that the PNU Fee would be $360 per month, which is 40% of the lowest per kW monthly cabinet fee specified in the Price List and Fee Schedule for cabinets in use (i.e., 40% of $900).[8] The Exchange continued to charge the PNU Fee on a per kW basis. To provide greater specificity with respect to the PNU Fee and better align the Price List and Fee Schedule with the Exchange's billing practice, the Exchange proposes to amend the Price List and Fee Schedule to explicitly provide that the applicable monthly PNU Fee is $360 per kW of power allocated to the PNU cabinet.[9]

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, an ATP Holder, 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;[10] 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.[11]

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,[12] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[13] 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 consistent with the Act because the Exchange offers the co-location services described herein (i.e., PNU cabinets) as a convenience to Users, but in doing so incurs certain costs, including costs related to the data center facility, including maintaining an adequate level of power so that PNU cabinets can be available and powered on promptly at the request of a User. As such, the proposed fees relate to the level of services provided by the Exchange and, in turn, received by the User.

The Exchange believes that the proposal is reasonable because it would better align the Price List and Fee Schedule with the Exchange's billing practices and provide further specificity in the Price List and Fee Schedule regarding such fees. The proposal is further reasonable because pricing for PNU cabinets is comparable to pricing for the ''Cabinet Proximity Option'' available to users of co-location facilities of The NASDAQ Stock Market LLC (''NASDAQ''), which varies based on the power capacity of the cabinet.[14]

As with fees for existing co-location services, the PNU cabinet fees are charged only to those Users that voluntarily select the related services, which are available to all Users. The Exchange therefore believes that the proposed change is equitable and not unfairly discriminatory because it would continue to result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services are available to all Users. As such, the proposed change would 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,[15] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because any 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 could have access to the co-location services provided in the data center. This is also true because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (i.e., the same range of products and services are available to all Users).

The Exchange further believes that the proposal would not impose any burden on competition that is not necessary or

[6] A User is generally able to determine an approximate amount of power that it will typically consume in its cabinet. A User would request either a four or eight kW cabinet based on its anticipated peak power consumption.

[7] *See* Original Co-location Approval at 59299, n. 5. Users pay a monthly per kW fee for cabinets in use, which is based on the number of kWs allocated to the User's cabinets. The fee ranges from $1,200 per kW, for Users utilizing four to eight kWs, to $900 per kW, for Users utilizing more than 41 kW.

[8] *See* Securities Exchange Act Release Nos. 67664 (August 15, 2012), 77 FR 50733, 50734 (August 22, 2012) (SR–NYSEMKT–2012–10) and 67665 (August 15, 2012), 77 FR 50734, 50735 (August 22, 2012) (SR–NYSEMKT–2012–11).

[9] For example, if a User has a PNU cabinet allocated four kWs of power, the Exchange would charge the User $1,440 per month (i.e., $360 × four). If a User has a PNU cabinet allocated eight kWs of power, the Exchange would charge the User $2,880 per month (i.e., $360 × eight). Users are not otherwise charged for PNU cabinets until power is activated, at which point the fees applicable to other cabinets are charged (i.e., the $5,000 initial fee per cabinet and the full, monthly fee per kW).

[10] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[11] *See* SR–NYSEMKT–2013–67, *supra* note 5 at 50471. The Exchange's affiliates have also submitted the same proposed rule change to provide further specification regarding the fees applicable to PNU cabinets. *See* SR–NYSE–2013–74 and SR–NYSEArca–2013–124.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* NASDAQ Rule 7034. Fees for NASDAQ's Cabinet Proximity Option are $1,000 per medium or low density cabinet or $1,500 per medium/high or high density cabinet. The Exchange understands that NASDAQ's Cabinet Proximity Option gives its co-location customers the ability to reserve contiguous or near contiguous cabinets and power at a reduced rate, similar to manner in which Users are able to request PNU cabinets in the Exchange's data center for future use.

[15] 15 U.S.C. 78f(b)(8).

appropriate in furtherance of the purposes of the Act because it would result in further specification in the Price List and Fee Schedule regarding the fees applicable to PNU cabinets. Although PNU cabinets do not use power, when the Exchange establishes a PNU cabinet, it includes wiring, circuitry, and hardware and allocates either four kWs or eight kWs of unused power capacity, depending on the User's requirements, as it does for all cabinets. This allows the cabinet to be powered and used promptly upon the User's request. The proposed amendment to the Price List and Fee Schedule would therefore specify that the applicable monthly PNU Fee is $360 per kW of power allocated to the PNU cabinet.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if, for example, they deem fee levels at a particular venue to be excessive or if they determine that another venue's products and services are more competitive than on the Exchange. In such an environment, the Exchange must continually review, and consider adjusting, the services it offers as well as any corresponding 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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [16] of the Act and subparagraph (f)(2) of Rule 19b–4 [17] 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) [18] 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–NYSEMKT–2013–93 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–93. 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–NYSEMKT–2013–93 and should be submitted on or before December 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–28419 Filed 11–26–13; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(2).

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70909; File No. SR–NYSE–2013–72]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Establish an Institutional Liquidity Program on a One-Year Pilot Basis

November 21, 2013.

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 November 7, 2013, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II 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 a one-year pilot program that would add new Rule 107D to establish an Institutional Liquidity Program (''Program'' or ''proposed rule change'') to attract buying and selling interest in greater size to the Exchange for NYSE-listed securities by facilitating interactions between institutional customers (and others with block trading interest) and providers of liquidity exceeding minimum size requirements. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.