

intra-day price information is available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted if the circuit breaker parameters in Nasdaq Rule 4120(a)(11) have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded fund that will enhance competition among market participants, to the benefit of investors and the marketplace.

#### *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**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period 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 such 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2015-095 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-2015-095. 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 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 available publicly. All submissions should refer to File Number SR-NASDAQ-2015-095 and should be submitted on or before September 15, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>30</sup>

**Jill M. Peterson,**  
Assistant Secretary.

[FR Doc. 2015-20937 Filed 8-24-15; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-75730; File No. SR-NSCC-2015-802]

### **Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Amendment No. 1 and No Objection to Advance Notice Filing, as Modified by Amendment No. 1, to Establish a Prefunded Liquidity Program As Part of NSCC's Liquidity Risk Management**

August 19, 2015.

On June 26, 2015, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") advance notice SR-NSCC-2015-802 ("Advance Notice") pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 ("Payment, Clearing and Settlement Supervision Act")<sup>1</sup> and Rule 19b-4(n)(1)(i)<sup>2</sup> under the Securities Exchange Act of 1934 ("Exchange Act") to establish a "Prefunded Liquidity Program" through the private placement of unsecured

<sup>30</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 12 U.S.C. 5465(e)(1). The Financial Stability Oversight Council designated NSCC a systemically important financial market utility on July 18, 2012. See Financial Stability Oversight Council 2012 Annual Report, Appendix A, <http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf>. Therefore, NSCC is required to comply with the Clearing Supervision Act and file advance notices with the Commission. See 12 U.S.C. 5465(e).

<sup>2</sup> 17 CFR 240.19b-4(n)(1)(i).

debt. The Advance Notice was published for comment in the **Federal Register** on August 3, 2015.<sup>3</sup> NSCC filed Amendment No. 1 to the Advance Notice on July 30, 2015.<sup>4</sup> The Commission did not receive any comments on the Advance Notice. This publication serves as notice of filing Amendment No. 1 and of no objection to the Advance Notice, as modified by Amendment No. 1.

### I. Description of the Advance Notice, as Modified by Amendment No. 1

As described by NSCC in its Advance Notice, as modified by Amendment No. 1, NSCC has proposed to establish the Prefunded Liquidity Program to raise prefunded liquidity and diversify its liquidity resources through the private placement of unsecured debt, consisting of a combination of short-term promissory notes (“Commercial Paper Notes”) and extendible-term promissory notes (“Extendible Notes,” together with the Commercial Paper Notes, “Notes”), to institutional investors in an aggregate amount not to exceed \$5 billion. The proceeds from the Prefunded Liquidity Program will supplement NSCC’s existing liquidity resources, which collectively provide NSCC with liquidity to complete end-of-day settlement in the event of the default of an NSCC Member.<sup>5</sup>

*Terms of the Prefunded Liquidity Program.* NSCC has engaged an issuing and paying agent, as well as certain placement agent dealers, to develop a program to issue the Notes. The Notes will be issued to institutional investors through a private placement and offered in reliance on an exemption from registration under Section 4(a)(2) of the Securities Act of 1933.<sup>6</sup> NSCC will be party to certain transaction documents required to establish the Prefunded Liquidity Program, including an issuing and paying agent agreement and a dealer agreement with each of the

placement agent dealers. The dealer agreements each will be based on the standard form of dealer agreement for commercial paper programs, which is published by the Securities Industry and Financial Markets Association. The material terms and conditions of the Prefunded Liquidity Program are summarized below.

The Prefunded Liquidity Program will be established as a combination of both Commercial Paper Notes, which typically have shorter maturities, and Extendible Notes, which typically have longer maturities. NSCC intends to structure the Prefunded Liquidity Program such that the maturities of the issued Notes are staggered to avoid concentrations of maturing liabilities. The average maturity of the aggregate Notes outstanding issued under the Prefunded Liquidity Program is broadly estimated to range between three and six months. The Commercial Paper Notes and the Extendible Notes will be represented by one or more master notes issued in the name of The Depository Trust Company (“DTC”) or its nominee. The Notes will be issued only through the book-entry system of DTC and will not be certificated.

The Commercial Paper Notes either will be interest bearing or sold at a discount from their face amount, and the Extendible Notes will be interest bearing. Interest payable on the Notes will be at market rates customary for such type of debt and reflective of the creditworthiness of NSCC. The Commercial Paper Notes will have a maturity not to exceed 397 calendar days from the date of issue and will not be redeemable by NSCC prior to maturity, nor will they contain any provision for extension, renewal, automatic rollover or voluntary prepayment. The Extendible Notes will have an initial maturity of 397 calendar days from the date of issue. However, each month following the date of issue, the holder of an Extendible Note will be permitted to elect to extend the maturity of all or a portion of the principal amount of such Extendible Note for an additional 30 calendar days. A holder of an Extendible Note will be permitted to continue to extend its Extendible Note up to the final maturity date, which is expected to be a maximum of six years from the date of issue. If a holder of an Extendible Note fails to exercise its right to extend the maturity of all or a portion of the Extendible Note, such portion of the Extendible Note would be deemed to be represented by a new note (“Non-Extended Note”), and NSCC would have the option to redeem any Non-Extended Note in whole, but not in part, at any time prior to the maturity date of that

Non-Extended Note, which would be 12 months from the date on which they opted not to extend.

NSCC will hold the proceeds from the issuance of the Notes in a cash deposit account at the Federal Reserve Bank of New York (“FRBNY”) <sup>7</sup> and invest the proceeds in the same manner it invests Clearing Fund deposits in accordance with the DTCC Investment Policy.<sup>8</sup> Pending the establishment of NSCC’s account at the FRBNY, such proceeds will be maintained in accounts with creditworthy financial institutions and invested in the same manner as NSCC invests Clearing Fund deposits in accordance with the DTCC Investment Policy. Acceptable investments for Clearing Fund deposits under DTCC’s Investment Policy include reverse repurchase agreements, money market mutual fund investments, bank deposits and commercial paper bank sweep deposits. In all cases, amounts will be available to draw to complete settlement as needed.

*NSCC Liquidity Risk Management.* As described by NSCC, as a central counterparty (“CCP”), NSCC occupies an important role in the securities settlement system by interposing itself between counterparties to financial transactions, thereby reducing the risk faced by its Members and contributing to global financial stability. NSCC’s liquidity risk management framework plays an integral part in NSCC’s ability to perform this role and is designed to ensure that NSCC maintains sufficient liquid resources to timely meet its payment (principally settlement) obligations with a high degree of confidence.

NSCC’s liquidity needs are driven by the requirement to complete end-of-day settlement, on an ongoing basis, in the event of Member default. If an NSCC Member defaults, as a CCP for the cash markets, NSCC would need to complete settlement of guaranteed transactions on the failing Member’s behalf from the date of default through the remainder of

<sup>3</sup> See Securities Exchange Act Release No. 75541 (July 28, 2015), 80 FR 46072 (August 3, 2015) (File No. SR–NSCC–2015–802).

<sup>4</sup> In Amendment No. 1, NSCC further specifies the proposed investment of the proceeds of the Prefunded Liquidity Program, as described below.

<sup>5</sup> Terms not defined herein are defined in NSCC’s Rules and Procedures (“Rules”) available at [http://dtcc.com/~media/Files/Downloads/legal/rules/nsc\\_rules.pdf](http://dtcc.com/~media/Files/Downloads/legal/rules/nsc_rules.pdf). The events that constitute a Member default are specified in NSCC’s Rule 46 (Restrictions on Access to Services), which provides that NSCC’s Board of Directors may suspend a Member or prohibit or limit a Member’s access to NSCC’s services in enumerated circumstances; this includes default in delivering funds or securities to NSCC, or a Member’s experiencing such financial or operational difficulties that NSCC determines, in its discretion, that restriction on access to services is necessary for its protection and for the protection of its membership.

<sup>6</sup> 15 U.S.C. 77d(a)(2).

<sup>7</sup> Pursuant to Section 806(a) under the Payment, Clearing and Settlement Supervision Act, and Section 234.6 of the Federal Reserve Regulation HH promulgated thereunder, NSCC, as a designated systemically important financial market utility under the Payment, Clearing and Settlement Supervision Act, has applied for a cash deposit account at the FRBNY, as well as subscription to ancillary FRBNY services that would facilitate the use of the requested cash deposit account. See 12 U.S.C. 5465(a); 12 CFR 234.6. The application is pending with the FRBNY as of the date of this notice.

<sup>8</sup> NSCC will submit a proposed rule change with the Commission pursuant to Section 19(b)(1) of the Exchange Act, and the rules thereunder, which specify how NSCC will invest the proceeds of the Notes under the DTCC Investment Policy. See 15 U.S.C. 78s(b)(1).

the settlement cycle (currently three days for securities that settle on a regular way basis in the U.S. equities markets).

NSCC measures and manages its liquidity risk by performing daily simulations that measure the amount of liquidity NSCC would require in a number of scenarios, including amounts required over the settlement cycle in the event that the Member or Member family to which NSCC has the largest aggregate liquidity exposure defaults. NSCC seeks to maintain qualified liquidity resources in an amount sufficient to meet this requirement. NSCC's existing liquidity resources include: (1) The cash in NSCC's Clearing Fund; (2) the cash that would be obtained by drawing upon NSCC's committed 364-day credit facility with a consortium of banks ("Line of Credit"); and (3) additional cash deposits, known as "Supplemental Liquidity Deposits," designed to cover the heightened liquidity exposure arising around monthly option expiry periods, required from those Members whose activity would pose the largest liquidity exposure to NSCC.<sup>9</sup> The proceeds from the Prefunded Liquidity Program will supplement these liquidity resources. Further, NSCC will consider the proceeds from the Prefunded Liquidity Program to be qualifying liquidity resources under NSCC's Rule 4A.

NSCC states that by providing NSCC with additional, prefunded, and readily available liquidity resources to be used to complete end-of-day settlement as needed in the event of a Member default, the proposed Prefunded Liquidity Program will provide additional certainty, stability, and safety to NSCC, its Members, and the U.S. equities market that it serves. The Prefunded Liquidity Program also is designed to reduce NSCC's concentration risk with respect to its liquidity resources because it is anticipated that many of the potential institutional investors who would be purchasers of the Notes are not currently providing liquidity resources to NSCC.

The Prefunded Liquidity Program was developed in coordination with a standing advisory group, the Clearing Agency Liquidity Council ("CALC"), which includes representatives of NSCC's Members and participants of NSCC's affiliate, the Fixed Income Clearing Corporation. The CALC was established in 2013 to facilitate dialogue between these clearing agencies and

<sup>9</sup> Supplemental Liquidity Deposits are described in NSCC Rule 4A.

their participants regarding liquidity initiatives.

## II. Discussion and Commission Findings

Although the Payment, Clearing and Settlement Supervision Act does not specify a standard of review for an advance notice, the Commission believes that the stated purpose of the Payment, Clearing and Settlement Supervision Act is instructive.<sup>10</sup> The stated purpose of the Payment, Clearing and Settlement Supervision Act is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.<sup>11</sup>

Section 805(a)(2) of the Payment, Clearing and Settlement Supervision Act<sup>12</sup> authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the supervisory agency or the appropriate financial regulator. Section 805(b) of the Payment, Clearing and Settlement Supervision Act<sup>13</sup> states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.

The Commission has adopted risk management standards under Section 805(a)(2) of the Payment, Clearing and Settlement Supervision Act ("Clearing Agency Standards") and the Exchange Act.<sup>14</sup> The Clearing Agency Standards became effective on January 2, 2013, and require registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.<sup>15</sup> As

<sup>10</sup> See 12 U.S.C. 5461(b).

<sup>11</sup> *Id.*

<sup>12</sup> 12 U.S.C. 5464(a)(2).

<sup>13</sup> 12 U.S.C. 5464(b).

<sup>14</sup> 17 CFR 240.17Ad-22.

<sup>15</sup> The Clearing Agency Standards are substantially similar to the risk management standards established by the Board of Governors of the Federal Reserve System governing the operations of designated financial market utilities that are not clearing entities and financial institutions engaged in designated activities for which the Commission or the Commodity Futures Trading Commission is the Supervisory Agency.

such, it is appropriate for the Commission to review advance notices against these Clearing Agency Standards, and the objectives and principles of these risk management standards as described in Section 805(b) of the Payment, Clearing and Settlement Supervision Act.<sup>16</sup>

The Commission believes the proposal in the Advance Notice is consistent with the objectives and principles described in Section 805(b) of the Payment, Clearing and Settlement Supervision Act,<sup>17</sup> and the Clearing Agency Standards, in particular, Rule 17Ad-22(b)(3)<sup>18</sup> under the Exchange Act, as described in detail below.

The objectives and principles of Section 805(b) of the Payment, Clearing and Settlement Supervision Act are to promote robust risk management, promote safety and soundness, reduce systemic risks, and support the stability of the broader financial system.<sup>19</sup> By diversifying the type and source of NSCC's liquidity, the Commission believes that the Prefunded Liquidity Program will reduce NSCC's overall liquidity risk consistent with prudent risk-management practices. Given that NSCC has been designated as a systemically important financial market utility,<sup>20</sup> NSCC's ability to provide its clearing services upon a member default contributes to safety, soundness, and reduces systemic risks, all of which supports the stability of the broader financial system. Therefore, the Commission believes the proposal is consistent with the objectives and principles described in Section 805(b) of the Payment, Clearing and Settlement Supervision Act.

Rule 17Ad-22(b)(3)<sup>21</sup> under the Exchange Act requires a CCP, such as NSCC, to "establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [m]aintain sufficient financial resources to withstand, at a minimum, a default by the participant family to which it has the largest exposure in extreme but plausible market conditions . . . ." NSCC's proposal to establish a Prefunded Liquidity Program will diversify NSCC's liquidity resources, further reduce NSCC's overall liquidity

See Financial Market Utilities, 77 FR 45907 (August 2, 2012).

<sup>16</sup> 12 U.S.C. 5464(b).

<sup>17</sup> *Id.*

<sup>18</sup> 17 CFR 240.17Ad-22(b)(3).

<sup>19</sup> 12 U.S.C. 5464(b).

<sup>20</sup> Financial Stability Oversight Council, 2012 Annual Report, Appendix A, p. 110 and Appendix A, available at <http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Appendix%20A%20Designation%20of%20Systemically%20Important%20Market%20Utilities.pdf>.

<sup>21</sup> 17 CFR 240.17Ad-22(b)(3).

risk, and, thus, help it maintain sufficient financial resources to withstand, at a minimum, a default by an NSCC member to which NSCC has the largest exposure. As such, the Commission believes that the proposal is consistent with Rule 17Ad-22(b)(3).

### III. Conclusion

*It is therefore noticed*, pursuant to Section 806(e)(1)(I) of the Payment, Clearing and Settlement Supervision Act,<sup>22</sup> that the Commission *does not object* to Advance Notice, as modified by Amendment No. 1, and that NSCC is *authorized* to implement the proposal.

By the Commission.

Jill M. Peterson,  
Assistant Secretary.

[FR Doc. 2015-20929 Filed 8-24-15; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75735; File No. SR-MIAX-2015-52]

### Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

August 19, 2015.

Pursuant to the provisions of 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 August 11, 2015, Miami International Securities Exchange LLC (“MIAX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a 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 is filing a proposal to amend the MIAX Options Fee Schedule (the “Fee Schedule”) to establish fees for the MIAX Financial Information Exchange (“FIX”) Drop Copy Port.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on September 1, 2015.

The text of the proposed rule change is available on the Exchange’s Web site at [http://www.miaxoptions.com/filter/wotitle/rule\\_filing](http://www.miaxoptions.com/filter/wotitle/rule_filing), at MIAX’s principal office, 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 the proposed rule change is to establish a monthly port fee of \$500 per port for the use of the new MIAX FIX Drop Copy Port.

Currently, the Exchange assesses fees for the use of its FIX Ports. A FIX Port is an interface with MIAX systems that enables the Port user (typically an Electronic Exchange Member (“EEM”)<sup>3</sup> or a Market Maker<sup>4</sup>) to submit orders electronically to MIAX.

The proposed FIX Drop Copy Port is a messaging interface that will provide a copy of real-time trade execution information to FIX Drop Copy Port users who subscribe to the service. FIX Drop Copy Port users are those users who are designated by an EEM to receive the information and the information is restricted for use by the EEM only. The Exchange proposes to assess a monthly

<sup>3</sup> The term “Electronic Exchange Member” means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

<sup>4</sup> The term “Market Makers” refers to “Lead Market Makers,” “Primary Lead Market Makers” and “Registered Market Makers” collectively. A Lead Market Maker is a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of these Rules with respect to Lead Market Makers. A Primary Lead Market Maker is a Lead Market Maker appointed by the Exchange to act as the Primary Lead Market Maker for the purpose of making markets in securities traded on the Exchange. A Registered Market Maker is a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange, who is not a Lead Market Maker. See Exchange Rule 100.

per port fee to users of the FIX Drop Copy Ports.

MIAX currently assesses fees for Exchange connectivity and services used by Members. Such Exchange connectivity is gained through various ports. MIAX currently assesses monthly per port fees for FIX Ports. Similarly, the Exchange is proposing to establish a monthly per port fee for the use of the FIX Drop Copy Port.

The FIX Drop Copy Port provides the user with a copy of real-time trade execution updates. The updates contain a copy of trade execution messages on a low latency, real-time basis. A FIX Drop Copy Port can be configured to monitor any number of FIX Ports used by that EEM and a FIX Port user can have any number of FIX Drop Copy Ports. The FIX Drop Copy Port will send messages containing reports of order executions to the user based upon the group of FIX Ports that it is configured to monitor. Other order related messages will not be sent via the FIX Drop Copy port.

MIAX will assess a FIX Drop Copy Port fee of \$500 per port per month. Similar to the FIX Port Fees, the FIX Drop Copy Port Fee will be based on the number of FIX Drop Copy Ports to which a user subscribes and the fee includes connectivity to the Exchange’s primary, secondary and disaster recovery data centers at no additional cost. The Exchange intends to assess the fee on a per port basis for the data and information used in trading options contracts and ongoing entitlement management and configuration. The Exchange believes that this should enable it to remain competitive with other exchanges with respect to fees charged for similar ports.<sup>5</sup>

The Exchange is also proposing to amend the Fee Schedule’s Table of Contents to reflect the addition of the FIX Drop Copy Port Fee in new Section (5)(d)(iv).

###### 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>7</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges.

<sup>5</sup> See NYSE Arca Options Fees and Charges, p. 12 [sic]; NYSE Amex Options Fee Schedule, p. 24. Both NYSE Arca Options and NYSE Amex Options charge \$500 per port per month for a drop copy port and do not charge for a drop copy port which is connected to their respective backup datacenters if it is configured such that it is duplicative of other drop copy ports.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>22</sup> 12 U.S.C. 5465(e)(1)(I).

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

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