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–NYSENAT–2020–10 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–NYSENAT–2020–10. 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 website (*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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSENAT–2020–10 and should be submitted on or before April 13, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06001 Filed 3–20–20; 8:45 am]

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[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88401; File No. SR–NYSEAMER–2020–17]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Its Price List

March 17, 2020.

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 March 11, 2020, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend its Price List to (1) revise the requirements for the current monthly quoting credit for quoting in UTP Securities, and (2) offer an additional monthly quoting credit for quoting in UTP Securities. The Exchange proposes to implement the rule change on March 11, 2020. The proposed change is available on the Exchange's website 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.

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

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

[3] 17 CFR 240.19b–4.

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 its Price List to (1) revise the requirements for the current monthly quoting credit for quoting in UTP Securities, and (2) offer an additional monthly quoting credit for quoting in UTP Securities.[4]

The proposed change responds to the current competitive environment where order flow providers have a choice of where to direct orders by offering further incentives for Equity Trading Permit (''ETP'') Holders[5] to quote and trade on the Exchange in UTP Securities.

The Exchange proposes to implement the rule change on March 11, 2020.[6]

Competitive Environment

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[7]

As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.''[8] Indeed, equity trading is currently dispersed across 13 exchanges,[9] 31 alternative trading systems,[10] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on

[4] *See* Rule 1.1E(ii) (definition of UTP Security).

[5] *See id.* at (m) (definition of ETP) & (n) (definition of ETP Holder).

[6] The Exchange originally filed to amend the Price List on March 2, 2020 (SR–NYSEAmer–2020–15). SR–NYSEAmer–2020–15 was subsequently withdrawn and replaced by this filing.

[7] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS'').

[8] *See* Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule) (''Transaction Fee Pilot'').

[9] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[10] *See* FINRA ATS Transparency Data, available at *https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

publicly-available information, no single exchange has more than 20% market share (whether including or excluding auction volume).[11] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange's market share of trading in Tapes A, B and C securities combined is less than 1%.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable order flow that would provide liquidity on an Exchange, ETP Holders can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

In response to this competitive environment, the Exchange proposes to revise its incentives in order to encourage ETP Holders to quote on the Exchange in UTP Securities by revising the requirements, including the number of UTP Securities needed to the meet the quoting requirement, for the current Monthly Quoting Credit and introducing a new monthly quoting credit for ETP Holders that meet certain quoting requirements in UTP Securities.

Proposed Rule Change

Revisions to Current Monthly Quoting Credit

Currently, the Exchange offers a credit in addition to the transaction fees and credits specified in Section I.B of the Price List to encourage quoting on the Exchange in UTP Securities. Specifically, each ETP Holder's MPID quoting at the national best bid or offer (''NBBO'') [12] an average of at least 10% of the time in 750 securities or more UTP Securities in the billing month is eligible for a credit of $10,000 per qualifying MPID in the first month that an MPID qualifies for the credit for the first time, up to a maximum of $50,000 per ETP Holder for all of the ETP Holder's MPIDs.

The Exchange proposes to revise the current monthly quoting credit in order to encourage additional quoting and trading on the Exchange in UTP Securities. The Exchange proposes lowering the eligible number of securities to satisfy the quoting requirement at the NBBO from 750 to 500. The Exchange also proposes to clarify that the quoting requirement would be on an average daily basis, calculated monthly. Further, the Exchange proposes that the current credit would be a monthly credit in any month that an MPID qualifies for the credit. Finally, the Exchange proposes that the current maximum of $50,000 per ETP Holder for all of the ETP Holder's MPIDs would be on a per month basis.

Proposed Additional Monthly Quoting Credit

In order to further encourage quoting on the Exchange in UTP Securities, the Exchange proposes to offer a monthly quoting credit in addition to the transaction fees and credits specified in Section I.B of the Price List and in addition to the current monthly quoting credit discussed above. Specifically, the Exchange proposes that ETP Holders that have one or more MPIDs quoting at the NBBO an average of at least 10% of the time in 1,000 or more UTP Securities each in the billing month would be eligible for a monthly credit of $25,000 per qualifying ETP Holder.[13]

Application and Impact of Proposed Rule Change

The following example demonstrates the application and impact of the proposed changes to the current monthly quoting credit and the new proposed monthly quoting credit.

For example, assume that an ETP Holder has 8 MPIDs and that in the billing month 6 of those 8 MPIDs quotes at least 10% at the NBBO in 800 UTP Securities each on an average daily basis, calculated monthly, while the 2 remaining MPIDs quote at least 10% in 1,200 UTP Securities each on an average daily basis, calculated monthly. In this scenario, as a result of the $50,000 cap on MPID credits per ETP Holder, only 5 of the 8 MPIDs would qualify for the monthly credit of $10,000 per MPID, for a total of $50,000, and the ETP Holder would qualify for the monthly credit of $25,000 since it had a least one MPID meeting the 1,000 symbol requirement. The ETP Holder would accordingly receive $50,000 in MPID credits and $25,000 in firm credits, for a total of $75,000 in combined credits for the billing month.

The purpose of the proposed changes is to provide ETP Holders with incentives to increase quoting on the Exchange in UTP Securities, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders. As noted, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. The Exchange believes that incentivizing ETP Holders to quote at the NBBO in UTP Securities more frequently could attract additional orders to the Exchange and contribute to price discovery, especially in less liquid securities that may quote but not trade. In addition, additional liquidity-providing quotes benefit all market participants because they provide greater execution opportunities on the Exchange and improve the public quotation.

The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Currently, no ETP Holders qualify for the monthly quoting credit in UTP Securities and the Exchange believes that at least 3 additional ETP Holders could qualify for the credit based on the proposed changes. Since the proposed additional monthly credit for quoting on the Exchange in UTP Securities would be new, no ETP Holder currently qualifies for the proposed credit. However, without having a view of ETP Holder's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder increasing quoting on the Exchange in UTP Securities in order to qualify for revised current credit and the proposed new credit.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that ETP Holders 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,[14] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[15] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members,

[11] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/*.

[12] *See* Rule 1.1E(dd) (definition of NBBO, Best Protected Bid, Best Protected Offer, Protected Best Bid and Offer (PBBO)).

[13] The Exchange also proposes two non-substantive changes. First, the heading of Section I.B. of the Price List would be changed to the plural ''Monthly Quoting Credits.'' Second, the phrase ''ETP Holders are eligible for the following credits:'' would be added to the first sentence of Section I.B. and the two monthly quoting credits broken out separately.

[14] 15 U.S.C. 78f(b).

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

issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposal Is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [16]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable order flow that would provide liquidity on an Exchange, ETP Holders can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

Given this competitive environment, the proposal represents a reasonable attempt to increase quoting on the Exchange. As noted, the Exchange's market share of trading in Tapes A, B and C securities combined is under 1%.

Specifically, the Exchange believes that revising the requirements to qualify for the current credit for quoting on the Exchange in UTP Securities and the proposed additional credit for quoting on the Exchange in UTP Securities are reasonable. The revised requirements for the current monthly credit and the proposed additional credit would provide ETP Holders with added incentives to increase quoting on the Exchange in UTP Securities, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders. The Exchange believes that incentivizing ETP Holders on the Exchange to quote at the NBBO more frequently could attract additional orders to the Exchange and contribute to price discovery. In addition, additional liquidity-providing quotes benefit all market participants because they provide greater execution opportunities on the Exchange and improve the public quotation. Similarly, the Exchange believes that revising the current credit to be a monthly credit in any month that an MPID qualifies for the credit is reasonable. The Exchange believes that a recurring monthly credit for meeting specified quoting requirements would encourage member organizations to increase their quoting on the Exchange in UTP Securities and would provide member organizations with an ongoing incentive to maintain that increased quoting from month to month in order to continue qualifying for the credit, up to the monthly maximum. The Exchange thus believes that a recurring monthly credit for meeting specified quoting requirements is a fair and reasonable way to increase and maintain quoting levels in UTP Securities on the Exchange. The Exchange notes that other exchanges offer similar recurring monthly credits to members based on quoting. For instance, the Exchange's affiliate New York Stock Exchange LLC offers recurring monthly credits to its Designated Market Makers for meeting specified quoting percentage and other requirements in NYSE listed securities.[17]

Finally, the Exchange also believes the proposed non-substantive changes are reasonable and would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased clarity and transparency on the Price List, thereby reducing potential confusion.

Given the competitive environment in which the Exchange currently operates, the proposed rule change accordingly constitutes a reasonable attempt to increase liquidity on the Exchange and improve the Exchange's market share relative to its competitors.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes the proposal equitably allocates its fees among its market participants by fostering liquidity provision and stability in the marketplace. Moreover, the proposal is an equitable allocation of fees because it would reward ETP Holders for increasing their quoting on the Exchange in UTP Securities. As such, it is equitable to offer ETP Holders an additional, higher credit for quoting in UTP Securities.

Currently, no ETP Holders qualify for the current monthly quoting credit for quoting on the Exchange in UTP Securities. As previously noted, there are a number of other ETP Holders that could qualify for the current credit based on the proposed changes but without a view of ETP Holder activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether the proposed rule change would result in any ETP Holder qualifying for either the proposed revised current credit or the proposed additional credit. The Exchange believes the proposed credits are reasonable as they would provide an incentive for ETP Holders to direct order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the credits, thereby contributing to depth and market quality on the Exchange.

The proposal neither targets nor will it have a disparate impact on any particular category of market participant. All ETP Holders would be eligible to qualify for the proposed credits by quoting on the Exchange in UTP Securities. ETP Holders must have an assigned MPID to quote and trade on the Exchange, and are thus all ETP Holders would be equally eligible to receive the current and proposed credit. As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. The Exchange believes that revising the requirements to qualify for the current credit for quoting in UTP Securities and offering an additional, higher credit for quoting on the Exchange in UTP Securities would provide an added incentive to increase quoting on the Exchange in UTP Securities, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, ETP Holders are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

The Exchange believes it is not unfairly discriminatory to lower the requirements to qualify for the current quoting credit and to provide a higher credit based on enhanced quoting at the

[16] *See* Regulation NMS, 70 FR at 37499.

[17] *See* New York Stock Exchange Price List 2020 at pp. 11–12, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf.*

NBBO in UTP Securities insofar as the proposed lower requirements and new credit would be provided on an equal basis to all similarly situated ETP Holders that add liquidity to the Exchange, who would all be eligible for the same credits if they meet the quoting and other requirements on an equal basis. Moreover, providing the current quoting credit in any month that an MPID qualifies and providing the cap per ETP Holder of $50,000 for the current credit on a per month basis would also be provided on equal basis to all ETP Holders. ETP Holders must have an assigned MPID to quote and trade on the Exchange, and are thus all ETP Holders would be equally eligible to receive the same proposed credit.

The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume. The Exchange believes the proposed credits would incentivize ETP Holders to send more orders to the Exchange and to increase quoting on the Exchange in order to qualify for the proposed credits, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders. Further, quoting and submitting orders to the Exchange is optional for ETP Holders in that they could choose whether to quote or submit orders to the Exchange and, if they do, the extent of their activity in this regard.

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 the foregoing 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,[18] 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. Instead, as discussed above, the Exchange believes that the proposed changes would encourage additional quoting in UTP Securities and the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for ETP Holders. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small." [19]

Intramarket Competition. The proposed changes are designed to increase quoting on the Exchange in UTP Securities and attract additional order flow to the Exchange. The Exchange believes that the proposed changes would continue to incentivize market participants to quote in UTP Securities and direct order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages ETP Holders to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants on the Exchange. The proposed revised requirements for the current credit and the proposed new credit would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted, the Exchange's market share of trading in Tapes A, B and C securities combined is less than 1%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

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) [20] of the Act and subparagraph (f)(2) of Rule 19b–4 [21] 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) [22] 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–NYSEAMER–2020–17 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–NYSEAMER–2020–17. 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 website (*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

[18] 15 U.S.C. 78f(b)(8).

[19] Regulation NMS, 70 FR at 37498–99.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(2).

[22] 15 U.S.C. 78s(b)(2)(B).

available for website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2020–17 and should be submitted on or before April 13, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06003 Filed 3–20–20; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88400; File No. SR–NYSECHX–2020–07]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change of a Temporary Waiver of the Co-Location Hot Hands Fee

March 17, 2020.

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 March 16, 2020 the NYSE Chicago, Inc. ("NYSE Chicago" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes a temporary waiver of the co-location "Hot Hands" fee beginning on March 16, 2020 through March 29, 2020. The proposed rule change is available on the Exchange's website 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.

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 a temporary suspension of the co-location[4] "Hot Hands" fee beginning on March 16, 2020 through March 29, 2020, after which the Mahwah, New Jersey data center ("Data Center") is scheduled to reopen to third parties.

The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. ("ICE"). Through its ICE Data Services ("IDS") business, ICE operates the Data Center, from which the Exchange provides co-location services to Users.[5]

Among those services is a "Hot Hands" service, which allows Users to use on-site Data Center personnel to maintain User equipment, support network troubleshooting, rack and stack a server in a User's cabinet; power recycling; and install and document the fitting of cable in a User's cabinet(s).[6] The Hot Hands fee is $100 per half hour.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission ("Commission") in October 2019. *See* Securities Exchange Act Release No. 87408 (October 28, 2019), 84 FR 58778 (November 1, 2019) (SR–NYSECHX–2019–27).

[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 id.* at note 6. As specified in the Fee Schedule of NYSE Chicago, Inc. ("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 the New York Stock Exchange LLC ("NYSE"), NYSE American LLC ("NYSE American"), NYSE Arca, Inc. ("NYSE Arca"), and NYSE National, Inc. ("NYSE National" and together, the "Affiliate SROs"). *See id.* at 58779. Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2020–18, SR–NYSEAmer–2020–19, SR–NYSEArca–2020–22, and SR–NYSENAT–2020–10.

ICE has announced to each User that, starting March 16, 2020, the Data Center will be closed to third parties through March 29, 2020. Pursuant to the ICE contingency plan, the Data Center is being closed to third parties to help avoid the spread of COVID–19, which could negatively impact Data Center functions. The Chief Executive Officer of the Exchange has taken the actions required under NYSE Chicago Rule 7.1 to close the co-location facility of the Exchange to third parties.[7] While the Rule 7.1 closure is in effect, User representatives will not be allowed access to the Data Center.

If a User's equipment requires work while the Rule 7.1 closure is in effect, the User will have no option but to use the Hot Hands service and, absent the proposed waiver, would incur Hot Hands fees for the work. Given that, the Exchange proposes to waive all Hot Hands fees from the date of the closing through March 29, 2020, and to add text to the Hot Hands Fee in the Fee Schedule noting the waiver. The Exchange believes that there will be sufficient Data Center staff on-site to comply with User requests for Hot Hands service.

The proposed waiver would apply equally to all Users. The proposed fee waiver would not apply differently to distinct types or sizes of market participants. Rather, it would apply uniformly to all Users.

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,[8] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[9] 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,

[6] *See* 84 FR 58778, *supra* note 4.

[7] *See* NYSE Chicago Rule 7.1 (c) through (e). *See also* NYSE Rule 7.1, NYSE Arca Rules 7.1–E and 7.1–O, NYSE American Rules 7.1E and 901NY, and NYSE National Rule 7.1.

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

[9] 15 U.S.C. 78f(b)(4) and (5).