

Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁵ which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act¹⁶ which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,¹⁷ which governs minor rule violation plans.

As stated above, the Exchange proposes to add the CAT Compliance Rules to the list of minor rule violations in IM-9216, Options 11, and the Equity Minor Rule Violations to be consistent with the approach FINRA has taken for minor violations of its corresponding CAT Compliance Rules.¹⁸ The Commission has already approved FINRA's treatment of CAT Compliance Rules violations when it approved the addition of CAT Compliance Rules to FINRA's MRVP.¹⁹ As noted in that order, and similarly herein, the Commission believes that Exchange's treatment of CAT Compliance Rules violations as part of its MRVP provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. However, the Commission expects that, as with FINRA, the Exchange will continue to conduct surveillance with due diligence and make determinations based on its findings, on a case-by-case basis, regarding whether a sanction under the rule is appropriate, or

whether a violation requires formal disciplinary action. Accordingly, the Commission believes the proposal raises no novel or significant issues.

For the same reasons discussed above, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,²⁰ for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The proposal merely adds the CAT Compliance Rules to the Exchange's MRVP and harmonizes its application with FINRA's application of CAT Compliance Rules under its own MRVP. Accordingly, the Commission believes that a full notice-and-comment period is not necessary before approving the proposal.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act²¹ and Rule 19d-1(c)(2) thereunder,²² that the proposed rule change (SR-PHLX-2020-40) be, and hereby is, approved on an accelerated basis.

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

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89654; File No. SR-NYSECHX-2020-25]

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

August 25, 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 August 11, 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 to extend the temporary waiver of the co-location "Hot Hands" fee. 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.

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 extend of the temporary waiver of the co-location⁴ "Hot Hands" fee through the reopening of the Mahwah, New Jersey data center ("Data Center"). The waiver of the Hot Hands fee is scheduled to expire on August 31, 2020.⁵

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.⁶ Among those services is a

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 *See* Securities Exchange Act Release No. 89176 (June 29, 2020), 85 FR 40377 (July 6, 2020) (SR-NYSECHX-2020-19).

⁶ 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* 84 FR 58778, *supra* note 4, 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

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¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ 15 U.S.C. 78f(b)(1) and 78f(b)(6).

¹⁷ 17 CFR 240.19d-1(c)(2).

¹⁸ As discussed above, the Exchange has entered into a Rule 17d-2 Plan and an RSA with FINRA with respect to the CAT Compliance Rules. The Commission notes that, unless relieved by the Commission of its responsibility, as may be the case under the Rule 17d-2 Plan, the Exchange continues to bear the responsibility for self-regulatory conduct and liability for self-regulatory failures, not the self-regulatory organization retained to perform regulatory functions on the Exchange's behalf pursuant to an RSA. *See* Securities Exchange Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR-BATS-2009-031), note 93 and accompanying text.

¹⁹ *See* SR-FINRA-2020-013.

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 15 U.S.C. 78s(b)(2).

²² 17 CFR 240.19d-1(c)(2).

²³ 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.

“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).⁷ The Hot Hands fee is \$100 per half hour.

ICE previously announced to Users that the Data Center would be closed to third parties starting on March 16, 2020, to help avoid the spread of COVID-19, which could negatively impact Data Center functions. Prior to the closure of the Data Center, the Chief Executive Officer of the Exchange took the actions required under NYSE Chicago Rule 7.1 to close the co-location facility of the Exchange to third parties. The closure period was extended three times, through August 31, 2020 (the “Initial Closure”).⁸

ICE has announced to Users that, because the concerns that led to the Initial Closure still apply, the closure of the Data Center will be extended, with the date of the reopening announced through a customer notice.

If a User’s equipment requires work while a Rule 7.1 closure is in effect, the User has to use the Hot Hands service and, absent a waiver, incurs Hot Hands fees for the work. Given that, the Exchange waived all Hot Hands fees for the duration of the Initial Closure.⁹ Because the period has been extended, the Exchange proposes to extend the waiver of the Hot Hands Fee for the length of the period. To that end, the Exchange proposes to revise the footnote to the Hot Hands Fee in the Fee Schedule as follows (deletions bracketed, additions underlined):

† Fees for Hot Hands Services will be waived beginning on March 16, 2020 through [the earlier of August 31, 2020 and] the reopening of the Mahwah, New Jersey data center. *The date of the reopening will be announced through a customer notice.*

The Exchange believes that there will be sufficient Data Center staff on-site to

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 American LLC, NYSE Arca, Inc., and NYSE National, Inc. (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-2020-69, SR-NYSEAmer-2020-63, SR-NYSEArca-2020-74, and SR-NYSENat-2020-26.

⁷ See 84 FR 58778, *supra* note 4.

⁸ See Securities Exchange Act Release Nos. 88400 (March 17, 2020), 85 FR 16434 (March 23, 2020) (SR-NYSECHX-2020-07); 88522 (March 31, 2020), 85 FR 19191 (April 6, 2020) (SR-NYSECHX-2020-10); and 88957 (May 27, 2020), 85 FR 33766 (June 2, 2020) (SR-NYSECHX-2020-15).

⁹ See 85 FR 40377, *supra* note 5.

comply with User requests for Hot Hands service.

The proposed extension of the waiver would apply equally to all Users. The proposed extension of the fee waiver would not apply differently to distinct types or sizes of market participants. Rather, it would continue to 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,¹⁰ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹¹ 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. In addition, it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposed Rule Change Is Reasonable

The Exchange believes that the proposed rule change is reasonable for the following reasons.

Given that the closure of the Data Center has been extended, the Exchange believes that it is reasonable to grant the proposed corresponding extension of the waiver of the Hot Hands Fee. While a Rule 7.1 closure is in effect, User representatives are not allowed access to the Data Center. If a User’s equipment requires work during such period, the User has to use the Hot Hands service. Absent a waiver, the User would incur Hot Hands fees for the work.

The proposed extension of the waiver would allow a User to have work carried out on its equipment notwithstanding the closure of the Data Center without incurring Hot Hands fees.

The Exchange does not know when the Mahwah data center will be reopened, and so believes it is reasonable to leave the date open ended. Adding a revised potential reopening date to the footnote may create an expectation that the closure has a stated end point. The Exchange believes that it is more reasonable to state that the waiver will continue until the data center is reopened, and to inform Users how they will receive notice of the reopening. The change would also be consistent with the announcement that ICE has made to Users.

The Proposed Rule Change Is Equitable

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits for the following reasons.

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

The Exchange believes that the proposal is equitable because the extension of the waiver would mean that for the duration of the closure of the Data Center all similarly-situated Users would not be charged a fee to use the Hot Hands service.

The Proposed Change Is Not Unfairly Discriminatory and Would Protect Investors and the Public Interest

The Exchange believes that the proposed change is not unfairly discriminatory for the following reasons.

The proposed extension of the waiver would not apply differently to distinct types or sizes of market participants. Rather, all Users whose equipment requires work during the extension of the Data Center closure would have the resulting fees waived, and the extension of the waiver would apply uniformly to all Users during the period. For the reasons above, the proposed changes do not unfairly discriminate between or among market participants.

In addition, the Exchange believes that the proposed rule change would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest because it would allow a User to have work carried out on its equipment notwithstanding a Rule 7.1 closure without incurring Hot Hands fees. Accordingly, the Exchange believes that the requested extension of the waiver is designed to perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4) and (5).

interest by facilitating the uninterrupted availability of Users' equipment.

For all of the above 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,¹² the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that the proposed change would place any burden on intramarket competition that is not necessary or appropriate.

The proposed extension of the waiver is not designed to affect competition, but rather to provide relief to Users that, while a Rule 7.1 closure is in effect, have no option but to use the Hot Hands service.

The proposed extension of the waiver would not apply differently to distinct types or sizes of market participants. Rather, all Users whose equipment requires work during the extension of the Data Center closure would have the resulting fees waived, and the extension of the waiver would apply uniformly to all Users during the period.

Intermarket Competition

The Exchange does not believe that the proposed change would impose any burden on intermarket competition that is not necessary or appropriate.

The Exchange believes that the proposed change would not affect the competitive landscape among the national securities exchanges, as the Hot Hands service is solely charged within co-location to existing Users, and would be temporary.

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)¹³ of the Act and

subparagraph (f)(2) of Rule 19b-4¹⁴ 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)¹⁵ 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-NYSECHX-2020-25 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-NYSECHX-2020-25. 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 the comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSECHX-2020-25 and should be submitted on or before September 21, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89668; File No. SR-LTSE-2020-13]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.410(a)

August 25, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 18, 2020, Long-Term Stock Exchange, Inc. ("LTSE" or the "Exchange") filed with the Securities and Exchange Commission (the "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

LTSE proposes a rule change to amend Rule 11.410(a) to (i) update the Exchange's source of data feeds for purposes of order handling and execution, and regulatory compliance, to include data regarding MEMX LLC ("MEMX"); and (ii) make ministerial changes to the existing list of exchanges

¹⁶ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹² 15 U.S.C. 78f(b)(8).

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(2).

¹⁵ 15 U.S.C. 78s(b)(2)(B).