

that submit deposit-guaranteed orders during the Ordering Window to be assured of receiving at least some additional power. The Exchange does not expect the proposed rule change to impact intra-market or intermarket competition between exchanges, Users, or any other market participants.

*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**

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 the 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 (<https://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-NYSEAMER-2023-39 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-2023-39. 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEAMER-2023-39 and should be submitted on or before September 12, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Sherry R. Haywood**,  
*Assistant Secretary*.

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**SECURITIES AND EXCHANGE COMMISSION**

[SEC File No. 270-137, OMB Control No. 3235-0145]

**Proposed Collection; Comment Request; Extension: Regulation 13D and Regulation 13G; Schedule 13D and Schedule 13G**

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the office of Management and Budget for extension and approval.

Schedules 13D and 13G (17 CFR 240.13d-101 and 240.13d-102) are filed pursuant to Sections 13(d) and 13(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d) and 78m(g)) ("Exchange Act") and Regulations 13D and 13G (17 CFR 240.13d-1—240.13d-7) thereunder to report beneficial ownership of equity securities registered under Section 12 (15 U.S.C. 78l) of the Exchange Act. Regulations 13D and 13G provide investors, the subject issuers, and market participants with information about the accumulation of equity securities that may have the potential to change or influence control of an issuer. Schedules 13D and 13G are filed by persons, including small entities, to report their ownership of more than 5% of a class of equity securities registered under Section 12. We estimate that it takes approximately 14.5 burden hours to prepare a Schedule 13D and it is filed by approximately 1,508 filers. In addition, we estimate that 25% of the 14.5 hours per response (3.625 hours per response) is carried internally by the filer for a total annual reporting burden of 5,467 hours (3.625 hours per response × 1,508 responses).

We estimate that it takes approximately 12.4 hours per response to prepare a Schedule 13G and it is filed by approximately 7,079 filers. In addition, we estimate 25% of the 12.4 hours per response (3.1 hours per response) is carried internally by the filer for a total annual reporting burden of 21,945 hours (3.1 hours per response × 7,079 responses).

The Schedules combined are filed by 8,587 filers and they take approximately 12.769 hours per response. In addition, we estimate 25% of the 12.769 (3.19225 hours per response) is carried internally by the filer for a total annual reporting burden of 27,412 hours (3.1923 hours per response × 8,587 responses). The estimated burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

*Written comments are invited on:* (a) whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

<sup>20</sup> 17 CFR 200.30-3(a)(12).

technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by October 23, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: August 17, 2023.

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98151; File No. SR-NYSECHX-2023-16]

### Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing of Proposed Rule Change To Amend the Connectivity Fee Schedule Regarding Power Allocation

August 16, 2023.

Pursuant to section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on August 3, 2023, 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 amend the Connectivity Fee Schedule to provide an alternative procedure by which the Exchange can allocate power in the Mahwah Data Center via deposit-guaranteed orders from Users made within a 90-day “Ordering Window.” The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://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 Connectivity Fee Schedule to provide an alternative procedure by which the Exchange can allocate power in the Mahwah Data Center (“MDC”)<sup>4</sup> via deposit-guaranteed orders from Users made within a 90-day “Ordering Window.”

###### Background

Shortly after the onset of the Covid-19 pandemic, the Exchange began experiencing unprecedented User<sup>5</sup> demand for cabinets and power at the MDC. In order to manage its inventory, in late 2020, the Exchange filed to create purchasing limits and a waitlist for cabinet orders.<sup>6</sup> In early 2021, the

<sup>4</sup> Through its Fixed Income and Data Services (“FIDS”) business, Intercontinental Exchange, Inc. (“ICE”) operates the MDC. The Exchange and its affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (the “Affiliate SROs”) are indirect subsidiaries of ICE. Each of the Exchange’s Affiliate SROs has submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2023-29, SR-NYSEAMER-2023-39, SR-NYSEARCA-2023-53, and SR-NYSEAT-2023-16.

<sup>5</sup> For purposes of the Exchange’s colocation services, a “User” means any market participant that requests to receive colocation services directly from the Exchange. See Securities Exchange Act Release No. 87408 (October 28, 2019), 84 FR 58778 (November 1, 2019) (SR-NYSECHX-2019-12). As specified in the Connectivity Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Affiliate SROs.

<sup>6</sup> See Securities Exchange Act Release No. 90732 (December 18, 2020), 85 FR 84443 (December 28, 2020) (SR-NYSE-2020-73, SR-NYSEAMER-2020-66, SR-NYSEARCA-2020-82, SR-NYSECHX-2020-26, SR-NYSEAT-2020-28.) (establishing the procedures in current Colocation Note 6(a) and 7(a)).

Exchange filed to create additional purchasing limits and a waitlist for orders for additional power in the MDC.<sup>7</sup> Pursuant to the terms of those filings, a Combined Waitlist is currently in place.

In 2021 and 2022, the Exchange expanded the amount of space and power available in the MDC by opening a new colocation hall (*i.e.*, Hall 4), yet User demand for additional power continues to climb. Currently, the waitlist includes 27 Users collectively requesting in excess of an additional 700 kilowatts (“kW”) of power. That number, however, may be a mere fraction of Users’ true demand for additional power at the MDC, since, due to the existing waitlist procedures, the Exchange may not accept orders for more than 32 kW of power, and a User and its Affiliates<sup>8</sup> may have only one order on the waitlist at a time. Of the 27 Users on the current waitlist, many have mentioned that they are actually interested in purchasing much more than 32 kW of power, with several claiming that they are seeking additional power of several hundred kilowatts.<sup>9</sup>

ICE is currently expanding the amount of colocation space and power available at the MDC. ICE is already developing a new colocation hall (*i.e.*, Hall 5) to deliver power that would satisfy all orders currently on the waitlist with some extra power remaining.

ICE proposes this rule change to address two issues posed by the current situation. First, while the development of Hall 5 is underway, ICE must also evaluate whether customer demand would support additional expansion projects to provide further power. ICE must anticipate future demand now because each colocation expansion project is a significant capital project requiring long lead times, especially given current supply-chain constraints

<sup>7</sup> See Securities Exchange Act Release No. 91515 (April 8, 2021), 86 FR 19674 (April 14, 2021) (SR-NYSE-2021-12, SR-NYSEAMER-2021-08, SR-NYSEARCA-2021-11, SR-NYSECHX-2021-02, SR-NYSEAT-2021-03) (establishing the procedures in current Colocation Note 6(b) and 7(b)).

<sup>8</sup> An “Affiliate” of a User is defined as “any other User or Hosted Customer that is under 50% or greater common ownership or control of the first User.” Connectivity Fee Schedule, at 1.

<sup>9</sup> Such demand for increased power is not unique to the MDC. Customers have told the Exchange that available power is in short supply at several other data centers as well, including the Equinex-owned data center in Secaucus, New Jersey, the Equinex-owned data center in Carteret, New Jersey, and the Digital Realty-owned data center at Cermak, Illinois. Since none of those data centers is operated by an exchange or regulated by the Commission, the operators of those data centers are free to ask customers to indicate their interest in future build-outs by submitting orders guaranteed by deposits.

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.