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For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100097; File No. SR–NYSEARCA–2024–35]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

May 9, 2024.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b–4 thereunder,³ notice is hereby given that, on April 29, 2024, NYSE Arca, Inc. (“NYSE Arca” 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

The Exchange proposes to amend the Connectivity Fee Schedule (“Fee Schedule”) regarding colocation services and fees to update the list of included data products. 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 amend the Connectivity Fee Schedule (“Fee Schedule”) regarding colocation services and fees to update the list of included data products (“Included Data Products”).

Currently, the table of Included Data Products in Colocation Note 4 sets forth the market data feeds that Users⁴ can connect to at no additional cost when they purchase a service that includes access to the LCN or IP network.⁵

The NYSE has filed to establish the “NYSE Pillar Depth” market data feed.⁶ Accordingly, the Exchange proposes to update the table of Included Data Products to include the NYSE Pillar

⁴ 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. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEARCA–2015–82). As specified in the 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 Exchange’s affiliates the New York Stock Exchange LLC (“NYSE”), NYSE American LLC (“NYSE American”), NYSE Chicago, Inc. (“NYSE Chicago”), and NYSE National Inc. (“NYSE National” and together, the “Affiliate SROs”). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR–NYSE–2024–25, SR–NYSEMER–2024–27, SR–NYSECHX–2024–16, and SR–NYSEENAT–2024–14.

⁵ See Securities Exchange Act Release No. 79729 (January 4, 2017), 82 FR 3061 (January 10, 2017) (SR–NYSEARCA–2016–172) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule and the NYSE Arca Equities Schedule of Fees and Charges Related to Co-Location Services To Increase LCN and IP Network Fees and Add a Description of Access to Trading and Execution Services and Connectivity to Included Data Products).

⁶ See Securities Exchange Act Release No. 100030 (April 25, 2024) (SR–NYSE–2024–24) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish the NYSE Pillar Depth Data Feed).

Depth market data feed. In addition, in the current table the NYSE American Options and NYSE Arca Options market data feeds offered are not broken out.⁷ Accordingly, the Exchange proposes to do so now.

To implement the proposed rule change, the Exchange proposes to update the table of Included Data Products as follows (proposed additions italicized):

NYSE:

NYSE Aggregated Lite.
NYSE Alerts.
NYSE BBO.
NYSE Integrated Feed.
NYSE OpenBook.
NYSE Order Imbalances.
NYSE Pillar Depth.
NYSE Trades.

NYSE American Options:

NYSE American Options Top Feed.
NYSE American Options Deep Feed.
NYSE American Options Complex Order Book.

NYSE Arca Options:

NYSE Arca Options Top Feed.
NYSE Arca Options Deep Feed.
NYSE Arca Options Complex Order Book.

The Exchange expects that the present filing will become operative on the later of (a) the present filing becoming operative; and (b) the filing to establish a fee for the NYSE Pillar Depth market data feed becoming operative.⁸ The Exchange expects such operative date to be no later than the end of the second quarter of 2024.

The Exchange does not charge for connectivity to the Included Data Feeds. Accordingly, it would not charge for connectivity to the NYSE Pillar Depth market data feed.

General

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally. As is currently the case, the purchase of any colocation service, including connectivity to the NYSE Pillar Depth market data feed, would be completely voluntary and the Fee Schedule would be applied uniformly to all Users. FIDS does not expect that the proposed rule change will result in new Users.

The proposed changes are not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that customers would have in complying with the proposed change.

⁷ See 82 FR 3061, Note 5, *supra*.

⁸ If no such filing is made, then the present filing would become operative upon the NYSE Pillar Depth market data feed becoming operative.

¹¹ 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.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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 mechanism 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 Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,¹¹ because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Proposed Change Is Reasonable

The Exchange believes that the proposed rule change is reasonable and 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 adding the NYSE Pillar Depth market data feed would increase the number of Included Data Products available to Users for no additional charge. All Users that voluntarily select to access the LCN or IP network would not be subject to a charge above and beyond the fee paid for the relevant LCN or IP network access. Accordingly, the Exchange believes that the proposed change is reasonable because the change would mean that a User would have the option of adding connectivity to the additional market data feed without paying additional charges.

Adding the proposed additional Included Data Product would allow a User to connect to the NYSE Pillar Depth market data feed if it wished, but would not require it to do so. As now, a User would be able to determine which Included Data Products, if any, to which it connects, based on what would best serve its needs, tailoring the service to the requirements of its business operations.

The Exchange believes that the proposed rule change is reasonable because, as with the other Included Data Products, it believes it is not the exclusive method to connect to the NYSE Pillar Depth market data feed. As alternatives to connecting to the NYSE Pillar Depth market data feed as an Included Data Product, a User may connect to the market data feed through another User or through a connection to an Exchange access center outside the data center, third party access center, or third party vendor.

By adding the NYSE Pillar Depth market data feed and setting forth the NYSE American Options and NYSE Arca Options feeds already offered, the proposed change would ensure that the list of Included Data Products was up to date and consistent in the level of detail. Accordingly, the Exchange believes that the proposed rule change is reasonable and would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest, as it would ensure that the description of Included Data Products was complete, ensuring that it is accessible and transparent, and providing market participants with clarity as to what connectivity is included in the purchase of access to the LCN and IP networks.

The Proposed Change Is Equitable and Not Unfairly Discriminatory

The Exchange believes that the proposed change provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers because adding the NYSE Pillar Depth market data feed would increase the number of Included Data Products available to Users for no additional charge. All Users that voluntarily select to access the LCN or IP network would not be subject to a charge above and beyond the fee paid for the relevant LCN or IP network access. Accordingly, the Exchange believes that the proposed change is equitable and not unfairly discriminatory because the change would mean that a User would have the option of adding connectivity to the additional market data feed without paying additional charges.

Further, the Exchange believes that the proposed change is equitable and not unfairly discriminatory since, as is true now, the proposed change would not apply differently to distinct types or sizes of Users but would apply to all Users equally. Moreover, adding the NYSE Pillar Depth market data feed

would allow a User to connect to it if it wished, but would not require it to do so. As now, a User would be able to determine which Included Data Products, if any, to which it connects, based on what would best serve its needs, tailoring the service to the requirements of its business operations.

By adding the NYSE Pillar Depth market data feed and setting forth the NYSE American Options and NYSE Arca Options feeds already offered, the proposed change would ensure that the list of Included Data Products was up to date and consistent in the level of detail. Accordingly, the Exchange believes that the proposed rule change is equitable and not unfairly discriminatory, as it would ensure that the description of Included Data Products was complete, ensuring that it is accessible and transparent, and providing market participants with clarity as to what connectivity is included in the purchase of access to the LCN and IP networks.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms, and conditions established from time to time by the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

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

The Exchange believes that the proposed change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Act.¹²

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because adding the NYSE Pillar Depth market data feed would increase the number of Included Data Products available to Users for no additional charge. All Users that voluntarily select to access the LCN or IP network would not be subject to a charge above and beyond the fee paid for the relevant LCN or IP network access. Accordingly, the change would mean that a User would have the option of adding connectivity to the additional market data feed without paying additional charges.

Adding the proposed additional Included Data Products would allow a User to connect to the NYSE Pillar Depth market data feed if it wished, but

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78f(b)(8).

would not require it to do so. In this way, the proposed changes would enhance competition by, as now, enabling a User to determine to which Included Data Products, if any, it connects, based on what would best serve its needs, tailoring the service to the requirements of its business operations.

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, as with the other Included Data Products, it believes it is not the exclusive method to connect to the NYSE Pillar Depth market data feed. As alternatives to connecting to the NYSE Pillar Depth market data feed as an Included Data Product, a User may connect to the market data feed through another User or through a connection to an Exchange access center outside the data center, third party access center, or third party vendor.

By adding the NYSE Pillar Depth market data feed and setting forth the NYSE American Options and NYSE Arca Options feeds already offered the proposed change would ensure that the list of Included Data Products was up to date and consistent in the level of detail. Accordingly, the Exchange believes that the proposed additions to the description of Included Data Products would make the description more accessible and transparent. In this manner, the proposed change would provide market participants with clarity as to what connectivity is included in the purchase of access to the LCN and IP networks, thereby enhancing competition by ensuring that all Users have access to the same information regarding the Included Data Products.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on

competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.¹⁵

A proposed rule change filed under Rule 19b-4(f)(6)¹⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁷ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay would be consistent with the protection of investors and the public interest because it would allow the Exchange to offer, and therefore ensure that Users could access, the NYSE Pillar Depth market data feed when it is available. For these reasons, the Commission finds that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹⁸

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)¹⁹ of the Act to determine whether the proposed rule change should be approved or disapproved.

¹³ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁸ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁹ 15 U.S.C. 78s(b)(2)(B).

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. Please include file number SR-NYSEARCA-2024-35 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-NYSEARCA-2024-35. 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-NYSEARCA-2024-35 and should be submitted on or before June 5, 2024.

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6).

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

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100086; File No. SR-ISE-2024-12]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Adopt Rules To List and Trade FLEX Options

May 9, 2024.

On March 11, 2024, Nasdaq ISE, LLC (“ISE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt rules that will govern the listing and trading of flexible exchange options (“FLEX Options”). The proposed rule change was published for comment in the **Federal Register** on March 29, 2024.³

Section 19(b)(2) of the Act⁴ provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is May 13, 2024. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁵ designates June 27, 2024, as the date by which the

Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-ISE-2024-12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-10589 Filed 5-14-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100085; File No. SR-IEX-2024-08]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Pursuant to IEX Rule 15.110 To Amend IEX's Fee Schedule To Adopt a Physical Connectivity Fee and Increase Certain Port Fees

May 9, 2024.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”) ² and Rule 19b-4 thereunder,³ notice is hereby given that, on May 2, 2024, the Investors Exchange LLC (“IEX” or “Exchange”) filed with the Securities and Exchange Commission (“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

Pursuant to the provisions of Section 19(b)(1) under the Act,⁴ and Rule 19b-4 thereunder,⁵ the Exchange is filing with the Commission a proposed rule change to modify its Fee Schedule, pursuant to IEX Rules 15.110(a) and (c), to amend certain connectivity fees. IEX will implement the proposed fees beginning on June 1, 2024.

The text of the proposed rule change is available at the Exchange's website at www.iextrading.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 the 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

IEX is proposing to modify its Fee Schedule, pursuant to IEX Rules 15.110(a) and (c), to add a new fee for physical connections to its Primary Data Center,⁶ Disaster Recovery Data Center⁷ and the IEX Testing Facility (“ITF”) (“physical connectivity fees”),⁸ and increase fees for logical order entry ports (also referred to as “Order Entry Ports”)⁹ in excess of five per subscriber (“port fees”). IEX has not previously imposed any physical connectivity fees but has charged port fees since October 1, 2019.¹⁰ The Exchange has not changed the port fees since they were implemented, but since that time, the Exchange has experienced increases in related operational expenses including significant upgrades to its trading platform infrastructure. As discussed more fully below, the Exchange recently calculated its aggregate annual costs of \$12,904,100 for providing physical

⁶ All connections to the IEX Primary Data Center (including for order entry and market data receipt) are made through IEX's point-of-presence (“IEX POP”) in Secaucus, NJ. From the IEX POP, messages travel to IEX's Primary Data Center.

⁷ The Disaster Recovery Data Center, also known as the “Secondary Data Center”, is the physical location of IEX's backup trading platform. It is located in Chicago, Illinois.

⁸ The only connections offered to the Primary Data Center are 10 gigabit (“10G”) physical port connections. The Exchange offers both 10G and 1 gigabit (“1G”) physical port connections to the ITF, for which it incurs physical connectivity-related costs; however, as discussed below, the Exchange is not proposing to charge for the connections to the ITF itself.

⁹ Order Entry Ports are used for sending and receiving order messages. Other uses for logical ports, which are not subject to the fees proposed herein, include drop copy ports and market data ports.

¹⁰ See Securities Exchange Act Release No. 86626 (August 9, 2019), 84 FR 41793 (August 15, 2019) (SR-IEX-2019-07) (“Port Fee Filing”).

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 99825 (March 21, 2024), 89 FR 22294.

⁴ 15 U.S.C. 78s(b)(2).

⁵ *Id.*

⁶ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b-4.