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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-91862; File No. SR-NYSECHX-2021-10)

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Continue Offering Certain Connectivity Services That Have Been Suspended by the Securities and Exchange Commission

May 12, 2021.

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 May 7, 2021, 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 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 continue offering certain connectivity services that have been suspended by the Securities and Exchange Commission ("Commission") at no charge, for a period of 14 days, in order to provide affected Users time to acquire substitute services before their connectivity is terminated. 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

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

2 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to continue offering certain connectivity services that have been suspended by the Commission at no charge, for a period of 14 days, in order to provide affected Users[3] time to acquire substitute services before their connectivity is terminated.

As background, on March 10, 2021, the Exchange filed with the Commission a proposed rule change for immediate effectiveness (the "Filing") that amended the colocation services offered by the Exchange to provide Users the option to access to the systems and data feeds of various additional third parties.[4] The proposed rule change became operative on April 9, 2021. Since then, five Users have contracted to receive the services that were added in the Filing.

On May 7, 2021, the Commission suspended the Filing and instituted proceedings to determine whether the proposed rule change should be approved or disapproved.[5] Such action suspended the Exchange's ability to offer access to Third Party Systems from Long Term Stock Exchange, Members Exchange, MIAX Emerald, MIAX PEARL Equities, Morgan Stanley, and

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[3] 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 NYSE Chicago Fee Schedule ("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 New York Stock Exchange LLC ("NYSE"), 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-2021-31, SR-NYSEAMER-2021-26, SR-NYSEArca-2021-38, and SR-NYSENAT-2021-13.

[4] See Securities Exchange Act Release No. 91390 (March 23, 2021), 86 FR 16424 (March 29, 2021) (SR-NYSECHX-2021-04).

[5] See Securities Exchange Act Release No. 91790 (May 7, 2021) (SR-NYSE-2021-15, SR-NYSEAMER-2021-13, SR-NYSEArca-2021-15, SR-NYSECHX-2021-04, SR-NYSENAT-2021-05).

TD Ameritrade, and to offer connectivity to Third Party Data Feeds from ICE Data Services - ICE TMC, Members Exchange, MIAX Emerald, and MIAX PEARL Equities (together, the "Suspended Services").

The Commission's suspension of such services is likely to cause disruption to the current Users of such services, who must now acquire substitutes for the Suspended Services. As an accommodation to such current Users, the Exchange now proposes to provide the Suspended Services to all Users, at no charge, for a period of 14 days from the date of filing ("Transition Period"), to enable current Users to maintain their connectivity while establishing alternate connectivity.

Specifically, the Exchange proposes to amend its Fee Schedule relating to colocation to provide:

> *Connectivity to Suspended Third Party Systems and Suspended Third Party Data Feeds*
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> Connectivity to the Third Party Systems and Third Party Data Feeds listed below ("Suspended Services") is available until May 24, 2021 ("Transition Period"). During the Transition Period, the Exchange will not charge any fees for the Suspended Services. At the conclusion of the Transition Period, any remaining customers of Suspended Services will have their Suspended Services terminated.

Suspended Third Party Systems
Long Term Stock Exchange (LTSE)
Members Exchange (MEMX)
MIAX Emerald
MIAX PEARL Equities
Morgan Stanley
TD Ameritrade

Suspended Third Party Data Feeds
ICE Data Services - ICE TMC
Members Exchange (MEMX)
MIAX Emerald
MIAX PEARL Equities

Application and Impact of the Proposed Changes

The proposed rule change would apply to all Users, each of which would be eligible to receive the Suspended Services, at no charge, for a period of up to 14 days.

Competitive Environment

The proposed changes are not intended to address any other issues relating to colocation 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,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] 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 believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system, and would further the protection of investors and the public interest. Without the proposed rule change, the Suspended Services would be terminated immediately, leaving the current Users without access and connectivity to the Suspended Services. As a result, the Commission's suspension of the services at issue is likely to cause disruption to the current Users of the Suspended Services, who must now acquire substitute services. The Exchange's proposal to provide the Suspended Services, at no charge, to all Users during the Transition Period would give such current Users an

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6 15 U.S.C. 78f(b).

7 15 U.S.C. 78f(b)(5).

opportunity to transition to substitute services without a gap in their service, which would mitigate the disruption and lessen the burden on such current Users.

Further, the Exchange believes that providing a 14-day Transition Period would remove impediments to and perfect the mechanism of a free and open market and a national market system and would protect investors and the public interest. Current Users that wish to replace the Suspended Services will have to investigate their other options, negotiate new terms, and establish and test their new connections. The proposed Transition Period gives current Users time to complete all the steps required to make the transition without having a gap in their connectivity to the Suspended Services.

The Exchange believes that its proposed rule change would perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because it would highlight that the Suspended Services are only available during the Transition Period, that no fee will be charged for the Suspended Services during the Transition Period. At the end of the Transition Period, all Users will have their Suspended Services terminated. It would thereby reduce any potential ambiguity and provide current Users and other market participants with clarity concerning the terms and period of availability of the Suspended Services.

In addition, the Exchange believes that the proposed rule change would promote just and equitable principles of trade. In light of the Commission's suspension, the current Users of the affected services are faced with an unexpected, immediate disruption of their connectivity, while market participants that opted to obtain similar connectivity from alternate providers are is not. The Exchange's proposal to allow all Users to receive the Suspended Services at no charge during the Transition Period would help equalize the treatment of these two groups of market participants by providing the same 14 day prospective period to both groups and giving current Users time to make the transition without having a gap in their connectivity to the third party systems and data feeds at issue.

Finally, the proposed rule change is not designed to permit unfair discrimination between market participants. The proposed rule change would apply equally to all Users. All Users would be entitled to receive the Suspended Services at no charge during the Transition Period. At the conclusion of the Transition Period, any remaining customers of Suspended Services would have their Suspended Services terminated.

For all these 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,[8] 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.

The Exchange believes that the proposed rule change would not place any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to give current Users time to make a fair and orderly transition to substitute services without the disruptions to their operations and, potentially, to the markets that would be caused by an immediate termination of the Suspended Services.

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 Act[9] and Rule 19b-4(f)(6) thereunder.[10] 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

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

9 15 U.S.C. 78s(b)(3)(A)(iii).

10 17 CFR 240.19b-4(f)(6).

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.

A proposed rule change filed under Rule 19b-4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the 14 day period to take effect immediately. For this reason, the Commission designates the proposed rule change to be operative upon filing.[13]

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)[14] 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

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[11] 17 CFR 240.19b-4(f)(6).

[12] 17 CFR 240.19b-4(f)(6)(iii).

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2)(B).

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 e-mail to rule-comments@sec.gov. Please include File Number SR-NYSECHX-2021-10 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, D.C. 20549-1090.

All submissions should refer to File Number SR-NYSECHX-2021-10. This file number should be included on the subject line if e-mail 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, D.C. 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-NYSECHX-2021-10, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,
Assistant Secretary.

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[15] 17 CFR 200.30-3(a)(12).