

Required fields are shown with yellow backgrounds and asterisks.

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2025 - * 04

Amendment No. (req. for Amendments *)

Filing by NYSE Arca, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to expand the application of the Per User Access Fee

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Samir Last Name * Patel

Title * Senior Counsel, NYSE Group Inc.

E-mail * Samir.Patel@ice.com

Telephone * (212) 656-2030 Fax (212) 656-8101

Signature

Pursuant to the requirements of the Securities Exchange of 1934, NYSE Arca, Inc. has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 01/16/2025

(Title *)

By Martha Redding

(Name *)

Corporate Secretary

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Martha Redding

Digitally signed by Martha Redding
Date: 2025.01.16 14:29:47 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

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NYSE Arca - Per User Access Fee - 1

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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Ex. 1 Re-file NYSE Arca Per User Acc

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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NYSE Arca - Per User Access Fee - E

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) proposes to expand the application of the Per User Access Fee.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

- (b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action by the Board of Directors or the membership of the Exchange is required. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Samir M. Patel
Senior Counsel
NYSE Group, Inc.
(212) 656-2030

3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

- (a) Purpose

The Exchange proposes to expand the application of the Per User Access Fee³ for

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Per User Access Fee is a lower access fee that applies for subscribers of NYSE Arca BBO and NYSE Arca Trades that receive a data feed and use those market data products in a display-only format. See Fee Schedule. See also Securities Exchange Act Release Nos. 87795 (December 18, 2019), 84 FR 71043 (December 26, 2019) (SR-NYSEArca-2019-88) (Notice of Filing and

certain NYSE Arca market data products, as set forth on the NYSE Arca Proprietary Market Data Fee Schedule (“Fee Schedule”), effective January 16, 2025.⁴ Specifically, the Exchange proposes to expand the application of the Per User Access Fee, which is currently available to Redistributors⁵ of NYSE Arca BBO, NYSE Arca Trades and NYSE ArcaBook that subscribe to only such data feeds and do not subscribe to any other market data product listed on the Fee Schedule and use such market data product for external distribution only. The Exchange now proposes to make the Per User Access Fee also available to Redistributors of the NYSE Arca Aggregated Lite (“NYSE Arca Agg Lite”) data feed.

The proposed fee change, taken together with similar fee changes filed by the Exchange’s affiliated exchanges, New York Stock Exchange LLC (“NYSE”) and NYSE American LLC (“NYSE American”),⁶ will reduce the fees associated with the NYSE BQT proprietary data product for Redistributors of the NYSE Arca Agg Lite data feed. As described below, NYSE BQT competes directly with similar products offered by both the Nasdaq and Cboe families of U.S. equity exchanges. Collectively, the proposed fee changes are intended to respond to the competition posed by similar products offered by the other exchange groups.

Background

The Securities and Exchange Commission (“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

Immediate Effectiveness of Proposed Rule Change, as Modified by Partial Amendment No. 1, To Amend the Fees for NYSE Arca BBO and NYSE Arca Trades) (“BQT Fee Reduction Filing”); and 90409 (November 12, 2020), 85 FR 73522 (November 18, 2020) (SR–NYSEArca–2020–95) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE Arca BBO and NYSE Arca Trades by Modifying the Application of the Access Fee and Amending the Fees for NYSE Arca Trades by Adopting a Waiver Applicable to the Redistribution Fee) (“Second BQT Fee Reduction Filing”).

⁴ The Exchange originally filed to amend the Fee Schedule on January 2, 2025 (SR-NYSEARCA-2025-01). On January 16, 2025, the Exchange withdrew SR-NYSEARCA-2025-01 and replaced it with this filing.

⁵ A Redistributor is a vendor or any other person that provides a NYSE Arca data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

⁶ See SR-NYSE-2025-02 and SR-NYSEAMER-2025-05.

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 Adopting Release”).

While Regulation NMS has enhanced competition, it has also fostered a “fragmented” market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that “such competition can lead to the fragmentation of order flow in that stock.”⁸ Indeed, equity trading is currently dispersed across 16 exchanges,⁹ numerous alternative trading systems,¹⁰ and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 15% market share (whether including or excluding auction volume).¹¹

With the NYSE BQT market data product, NYSE Arca and its affiliates compete head-to-head with the Nasdaq Basic¹² and Cboe One Feed¹³ market data products. Similar to those market data products, NYSE BQT, which was established in 2014,¹⁴ consists of certain elements from the NYSE Arca BBO and NYSE Arca Trades market data products as well as from market data products from the Exchange’s affiliates, NYSE, NYSE American, NYSE Chicago, Inc. (“NYSE

⁸ See Securities Exchange Act Release No. 61358, 75 3594, 3597 (January 21, 2010) (File No. S7-02-10) (Concept Release on Equity Market Structure).

⁹ See Cboe U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

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/atlist.htm>.

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

¹² As described on the Nasdaq website, available here: <http://www.nasdaqtrader.com/Trader.aspx?id=NASDAQBasic>, Nasdaq Basic is a “low cost alternative” that provides “Best Bid and Offer and Last Sale information for all U.S. exchange-listed securities based on liquidity within the Nasdaq market center, as well as trades reported to the FINRA Trade Reporting Facility (“TRF”).”

¹³ As described on the Cboe website, available here: https://markets.cboe.com/us/equities/market_data_services/cboe_one/, the Cboe One Feed is a “market data product that provides cost-effective, high-quality reference quotes and trade data for market participants looking for comprehensive, real-time market data” and provides a “unified view of the market from all four Cboe equity exchanges: BZX Exchange, BYX Exchange, EDGX Exchange, and EDGA Exchange.”

¹⁴ See Securities Exchange Act Release Nos. 72750 (August 4, 2014), 79 FR 46494 (August 8, 2014) (notice - NYSE BQT); and 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (approval order - NYSE BQT) (SR-NYSE-2014-40) (“NYSE BQT Filing”).

Chicago”),¹⁵ and NYSE National, Inc. (“NYSE National”).¹⁶ Similar to both Nasdaq Basic and the Cboe One Feed, NYSE BQT provides investors with a unified view of comprehensive last sale and BBO data in all Tape A, B, and C securities that trade on the Exchange, NYSE, NYSE American, NYSE Chicago, and NYSE National. Also, similar to Nasdaq Basic and the Cboe One Feed, NYSE BQT is not intended to be used for purposes of making order-routing or trading decisions, but rather provides indicative prices for Tape A, B, and C securities.¹⁷

Currently, to subscribe to NYSE BQT, subscribers are charged an access fee of \$250 per month.¹⁸ Additionally, subscribers must also subscribe to, and pay applicable fees for NYSE Arca BBO, NYSE Arca Trades, NYSE BBO, NYSE Trades, NYSE American BBO, NYSE American Trades, NYSE Chicago BBO, NYSE Chicago Trades, NYSE National BBO, and NYSE National Trades. Thus, an NYSE BQT subscriber who also subscribes to NYSE Arca Agg Lite currently pays the \$250 access fee for NYSE BQT, plus a \$1,500 access fee for each of NYSE BBO and NYSE Trades,¹⁹ plus a \$750 access fee for each of NYSE American BBO and NYSE American Trades,²⁰ plus a \$750 access fee for each of NYSE Arca BBO and NYSE Arca trades,²¹ for a total of \$6,250 (\$250 + \$3,000 + \$1,500 + \$1,500).²² In addition, an NYSE BQT subscriber would need to pay for the applicable Professional or Non-Professional User Fees for the underlying market data products, as applicable.²³

¹⁵ In 2019, NYSE BQT was amended to include NYSE Chicago BBO and NYSE Chicago Trades. See Securities Exchange Act Release No. 87511 (November 12, 2019), 84 FR 63689 (November 18, 2019) (SR-NYSE-2019-60).

¹⁶ In 2018, NYSE BQT was amended to include NYSE National BBO and NYSE National Trades. See Securities Exchange Act Release No. 83359 (June 1, 2018), 83 FR 26507 (June 7, 2018) (SR-NYSE-2018-22).

¹⁷ See NYSE BQT Filing, supra note 14.

¹⁸ See NYSE Proprietary Market Data Fees, available here: https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.

¹⁹ See id.

²⁰ See NYSE American Market Data Fees, available here: https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf.

²¹ See Fee Schedule, available here: https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Fee_Schedule.pdf.

²² There are currently no fees charged for the NYSE Chicago BBO, NYSE Chicago Trades, NYSE National BBO, or NYSE National Trades market data products.

²³ The Exchange is not proposing any changes to the User Fees. Currently, the Professional User Fees for each of NYSE BBO and NYSE Trades is \$4 per month, and the Non-Professional User Fees for each of NYSE BBO and NYSE Trades is \$0.20 per month. See NYSE Proprietary Market Data Fees, available here: https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf. The Professional User Fees for each of NYSE American BBO and NYSE American Trades is \$4 per

Because NYSE BQT is priced based on the fees associated with the underlying ten market data feeds, the Exchange and its affiliates propose to compete with the Nasdaq Basic and Cboe One Feed by reducing fees for the underlying market data products that comprise NYSE BQT. Together with NYSE and NYSE American, the Exchange proposes to compete for subscribers to NYSE BQT by designing the proposed fee change to be attractive to Redistributors of NYSE Arca Agg Lite that intend to subscribe to and externally redistribute NYSE BQT. Currently, Redistributors of NYSE Arca Agg Lite that want to subscribe to and redistribute NYSE BQT must pay the General Access Fee instead of the lower Per User Access Fee. Redistributors of NYSE Arca Agg Lite who have data recipient customers interested in NYSE BQT may not be inclined to subscribe to NYSE BQT. When Redistributors do not subscribe to NYSE BQT, the prospective data recipients that are the customers of such Redistributors are unable to subscribe to NYSE BQT. The proposed fee change is therefore designed to provide a financial incentive for such Redistributors to subscribe to NYSE BQT so that their customers, who have expressed an interest in subscribing to NYSE BQT, would be able to access the product via such Redistributors.

Access Fee - NYSE Arca BBO and NYSE Arca Trades

NYSE Arca BBO is a NYSE Arca-only market data product that allows a vendor to redistribute on a real-time basis the same best-bid-and-offer information that NYSE Arca reports under the Consolidated Quotation Plan (“CQ Plan”) for inclusion in the CQ Plan’s consolidated quotation information data stream (“NYSE Arca BBO Information”).²⁴ NYSE Arca BBO Information includes the best bids and offers for all securities that are traded on the Exchange and for which NYSE Arca reports quotes under the CQ Plan. NYSE Arca BBO is available over a single data feed, regardless of the markets on which the securities are listed. NYSE Arca BBO is made available to its subscribers no earlier than the information it contains is made available to the processor under the CQ Plan.

NYSE Arca Trades is a NYSE Arca-only market data product that allows a vendor to redistribute on a real-time basis the same last sale information that NYSE Arca reports to the Consolidated Tape Association (“CTA”) for inclusion in the CTA’s consolidated data stream and certain other related data elements

month, and the Non-Professional User Fees for each of NYSE American BBO and NYSE American Trades is \$0.25 per month. See NYSE American Market Data Fees, available here: https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf. The Professional User Fees for each of NYSE Arca BBO and NYSE Arca Trades is \$4 per month, and the Non-Professional User Fees for each of NYSE Arca BBO and NYSE Arca Trades is \$0.25 per month. See Fee Schedule, available here: https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Proprietary_Data_Fee_Schedule.pdf.

²⁴ See Securities Exchange Act Release Nos. 61937 (April 16, 2010), 75 FR 21378 (April 23, 2010) (SR-NYSEArca-2010-23) (notice – NYSE Arca BBO); and 62188 (May 27, 2010), 75 FR 31484 (June 3, 2010) (SR-NYSEArca-2010-23) (approval order – NYSE Arca BBO).

(“NYSE Arca Last Sale Information”).²⁵ NYSE Arca Last Sale Information includes last sale information for all securities that are traded on the Exchange. NYSE Arca Trades is made available to its subscribers at the same time as the information it contains is made available to the processor under the CTA Plan.

Subscribers of each of the NYSE Arca BBO and NYSE Arca Trades products that receive a data feed pay an Access Fee of \$750 per month. In February 2020, the Exchange added the Per User Access Fee, which is a reduced Access Fee of \$100 per month available at that time only for subscribers of NYSE Arca BBO and NYSE Arca Trades that receive those products in a display-only format, including for internal use for Professional Users and external distribution to both Professional and Non-Professional Users.²⁶

In November 2020, the Exchange expanded the application of the reduced Per User Access Fee to Redistributors of NYSE Arca BBO and NYSE Arca Trades data feeds that do not subscribe to any other market data product listed on the Fee Schedule, and use such market data products for external distribution only.²⁷

In November 2023, the Exchange expanded the application of the reduced Per User Access Fee to Redistributors of NYSE Arca BBO and NYSE Arca Trades data feeds that do not subscribe to any other market data product listed on the Fee Schedule other than NYSE ArcaBook and use such market data product for external distribution only.²⁸

As noted above, the Exchange now proposes to further expand the application of the reduced Per User Access Fee. Specifically, the Exchange proposes that Redistributors of NYSE Arca BBO and NYSE Arca Trades that do not subscribe to any other market data product listed on the Fee Schedule, other than NYSE ArcaBook and/or NYSE Arca Agg Lite, and use such market data products for external distribution only, would be eligible for the reduced Per User Access Fee. A Redistributor that receives such data feeds and uses the market data products for any other purpose (such as internal use) would continue to pay the \$1,500 per month General Access Fee. And, as currently set forth in footnote 3 to the Fee Schedule, a subscriber would be charged only one access fee for each of the NYSE Arca BBO and NYSE Arca Trades products, depending on the use of that product.

²⁵ See Securities Exchange Act Release Nos. 59308 (January 28, 2009), 74 FR 5955 (February 3, 2009) (SR-NYSEArca-2009-05) (notice - NYSE Arca Trades); 59598 (March 18, 2009), 74 FR 12919 (March 25, 2009) (SR-NYSEArca-2009-05) (approval order - NYSE Arca Trades).

²⁶ See BQT Fee Reduction Filing, *supra*, note 3.

²⁷ See Second BQT Fee Reduction Filing, *supra*, note 3.

²⁸ See Securities Exchange Act Release No. 98974 (November 16, 2023), 88 FR 81468 (November 22, 2023) (SR-NYSEARCA-2023-78) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Application of the Per User Access Fee for Use of Certain Market Data Products by Redistributors) (“Third BQT Fee Reduction Filing”).

To effect this change, the Exchange proposes to modify footnote 3 to the Fee Schedule as follows (proposed text underlined, proposed deletions bracketed):

The Per User Access Fee is charged to: (i) a subscriber that receives a data feed and uses the market data product only for Professional Users and Non-Professional Users in a display-only format, including for internal use and external redistribution in a display-only format, and (ii) a Redistributor that subscribes to the NYSE Arca BBO and NYSE Arca Trades data feeds, and does not subscribe to any other Products listed on this Fee Schedule other than the NYSE ArcaBook data feed and/or the NYSE Arca Aggregated Lite data feed, and uses these market data products for external distribution only. A subscriber that receives a data feed and uses the market data product for any other purpose, including if combined with Per User use, will be charged the General Access Fee. A subscriber will be charged only one access fee for each of the NYSE Arca BBO and NYSE Arca Trades products, depending on the use of that product.

The proposed rule change would result in lower fees for Redistributors that subscribe to NYSE Arca BBO and NYSE Arca Trades, and do not subscribe to any other data feed listed on the Fee Schedule other than NYSE ArcaBook and/or NYSE Arca Agg Lite, and use such market data products for external distribution only.²⁹ The Exchange believes that the proposed expansion of the reduced Per User Access Fee would provide an incentive for Redistributors that currently subscribe to NYSE Arca Agg Lite to also subscribe to the NYSE BQT data feeds so that such product would be available to their customers, who have expressed an interest in subscribing to NYSE BQT.

The proposed rule change is intended to encourage greater use of NYSE BQT by making it more affordable for Redistributors that subscribe to NYSE Arca Agg Lite and also have customers interested in subscribing to NYSE BQT. The proposed fee change would allow the Exchange to compete more effectively with Nasdaq Basic and the Cboe One Feed by expanding the number of Redistributors that would subscribe to NYSE BQT, and therefore make the product available to data subscribers interested in NYSE BQT.

Applicability of Proposed Rule Change

As noted above, the proposed rule change is designed to reduce the overall cost for Redistributors of NYSE BQT that also redistribute NYSE Arca Agg Lite by expanding the application of the Per User Access Fee. Today, the Exchange has

²⁹ The Per User Access Fee is 93% lower than the General Access Fee. Together with the corresponding proposed rule changes by NYSE and NYSE Arca to similarly reduce the access fees to their BBO and Trades products for Redistributors, such Redistributors would be eligible for significantly lower access fees for NYSE BQT, from \$6,250 per month to \$850 per month (\$250 + \$200 + \$200 + \$200), a reduction of more than 86%.

forty-three subscribers of NYSE BQT, two of whom became customers as a direct result of the Second BQT Fee Reduction Filing, and four of whom became Redistributors as a direct result of the Third BQT Fee Reduction Filing and currently pay the reduced Per User Access Fee. The Exchange believes that the proposed rule change would provide a further incentive for Redistributors that already subscribe to NYSE Arca Agg Lite to also subscribe to NYSE BQT for purposes of providing external distribution of NYSE BQT to potential data recipients interested in the product.

Because the proposed rule change is targeted to potential Redistributors of NYSE BQT that also subscribe to NYSE Arca Agg Lite, the proposed changes to the availability of the NYSE Arca BBO and NYSE Arca Trades Per User Access Fees, together with the proposed changes on NYSE and NYSE American, are narrowly tailored with that purpose in mind. Accordingly, this proposed fee change is not designed for Redistributors that are existing customers of NYSE Arca market data products (other than NYSE Arca Agg Lite) or that engage in internal use of NYSE BQT. This proposed rule change would not result in any changes to the market data fees for NYSE Arca BBO and NYSE Arca Trades for such data subscribers.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,³⁰ in general, and Sections 6(b)(4) and 6(b)(5) of the Act,³¹ in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Proposed Rule Change Is Reasonable

In adopting Regulation NMS, the Commission granted SROs and broker-dealers increased authority and flexibility to offer new and unique market data to the public. 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.”³²

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in NetCoalition v. SEC upheld the

³⁰ 15 U.S.C. 78f(b).

³¹ 15 U.S.C. 78f(b)(4), (5).

³² See Regulation NMS Adopting Release, 70 FR 37495, at 37499.

Commission’s reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

In fact, the legislative history indicates that the Congress intended that the market system “evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed” and that the SEC wield its regulatory power “in those situations where competition may not be sufficient,” such as in the creation of a “consolidated transactional reporting system.”³³

The court agreed with the Commission’s conclusion that “Congress intended that ‘competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.’”³⁴

More recently, the Commission confirmed that it applies a “market-based” test in its assessment of market data fees, and that under that test:

the Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.³⁵

As discussed below, the Exchange believes that the proposed rule change is constrained by competitive forces.

As the D.C. Circuit recognized in NetCoalition I, “[n]o one disputes that competition for order flow is fierce.”³⁶ The court further noted that “no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers,” and that an exchange “must compete vigorously for order flow to maintain its share of trading volume.”³⁷

As noted above, while Regulation NMS has enhanced competition, it has also fostered a “fragmented” market structure where trading in a single stock can occur

³³ NetCoalition v. SEC, 615 F.3d 525, 535 (D.C. Cir. 2010) (“NetCoalition I”) (quoting H.R. Rep. No. 94–229 at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 323).

³⁴ Id. at 535.

³⁵ See Securities Exchange Act Release No. 34-90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR-NYSE/AT-2020-05) (“National IF Approval Order”) (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (“2008 ArcaBook Approval Order”).

³⁶ NetCoalition I, 615 F.3d at 544 (internal quotation omitted).

³⁷ Id.

across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that “such competition can lead to the fragmentation of order flow in that stock.”³⁸ Indeed, today, equity trading is currently dispersed across 16 exchanges,³⁹ numerous alternative trading systems,⁴⁰ broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 15% market share.⁴¹

Further, low barriers to entry mean that new exchanges may, and do, rapidly and inexpensively enter the market and compete with the Exchange. For example, since 2020, three new exchanges have entered the market: Long Term Stock Exchange (LTSE), which began operations as an exchange on August 28, 2020;⁴² Members Exchange (MEMX), which began operations as an exchange on September 29, 2020;⁴³ and Miami International Holdings (MIAX), which began operations of its first equities exchange on September 29, 2020.⁴⁴ More recently, the Commission granted approval to 24X National Exchange LLC as a national securities exchange.⁴⁵

More specifically, in expanding the application of the Per User Access Fee to Redistributors of NYSE Arca Agg Lite, the Exchange is constrained by the fact that, if its pricing is unattractive to customers, customers have their pick of alternatives to purchase similar data from instead of purchasing it from the Exchange. The existence of alternatives to the Exchange’s data products ensures

³⁸ See Securities Exchange Act Release No. 61358, 75 3594, 3597 (January 21, 2010) (File No. S7-02-10) (Concept Release on Equity Market Structure).

³⁹ See Cboe Global Markets, U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

⁴⁰ 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/atlist.htm>.

⁴¹ See Cboe Global Markets, U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

⁴² See LTSE Market Announcement: MA-2020-020, dated August 14, 2020, announcing LTSE production securities phase-in planned for August 28, available here: https://assets.ctfassets.net/cchj2z2dcfyd/rnGvgggJUplalk6N1xNA7/41926d3925a177d6455868090c46aeda/MA-2020-020_Production_Securities_Launching_August_28_-_Google_Docs.pdf and LTSE Market Announcement: MA-2020-025, available here: <https://assets.ctfassets.net/cchj2z2dcfyd/52nIKwAuOraU1agaNY5j80/0d27ab0eb9b540c67a5e9f831f23f0ac/MA-2020-025.pdf>.

⁴³ As of October 29, 2020, MEMX is trading all NMS symbols. See <https://info.memxtrading.com/trader-alert-20-10-memx-trading-symbols-update/>.

⁴⁴ See MIAX Pearl Press release, dated September 29, 2020, available here: https://www.miaxoptions.com/sites/default/files/alert-files/MIAX_Press_Release_09292020.pdf.

⁴⁵ See Securities Exchange Act Release No. 101777 (November 27, 2024), 89 FR 97092 (December 6, 2024) (In the Matter of the Application of 24X National Exchange LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission).

that the Exchange cannot set unreasonable market data fees without suffering the negative effects of that decision in the competitive market for proprietary market data.

The Exchange notes that the Exchange's proprietary market data products are entirely optional. The Exchange is not required to make the proprietary data products that are the subject of this proposed rule change available to any customers, nor is any customer required to purchase the Exchange's data products. Unlike some other data products (*e.g.*, the consolidated quotation and last-sale information feeds) that firms are required to purchase in order to fulfil regulatory obligations,⁴⁶ a customer's decision whether to purchase any of the Exchange's proprietary market data feeds is entirely discretionary.

Most firms that choose to subscribe to proprietary market data feeds from the Exchange and its affiliates are able to determine for themselves whether or not the Exchange's products are necessary for their business needs, and if so, whether or not they are attractively priced. If market data feeds from the Exchange and its affiliates do not provide sufficient benefit to firms based on the uses those firms may have for it, such firms may simply choose to conduct their business operations in ways that do not use these products.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish reasonable fees. The proposed fee change is therefore reasonable because in setting it, the Exchange is constrained by the availability of substitute top of book market data products. The Commission has been clear that substitute products need not be identical, but only substantially similar to the product at hand.⁴⁷

The NYSE BQT market data product is subject to significant competitive forces that constrain its pricing. Specifically, as described above, NYSE BQT competes head-to-head with the Nasdaq Basic product and the Cboe One Feed. These

⁴⁶ The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations. See In the Matter of the Application of Securities Industry and Financial Markets Association for Review of Actions Taken by Self-Regulatory Organizations, Release Nos. 34-72182; AP-3-15350; AP-3-15351 (May 16, 2014). Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and ATSS have chosen not to do so.

⁴⁷ For example, in the National IF Approval Order, the Commission recognized that for some customers, the best bid and offer information from consolidated data feeds may function as a substitute for the NYSE National Integrated Feed product, which contains order by order information. See National IF Approval Order, *supra* note 35, at 67397 [release p. 21] (“[I]nformation provided by NYSE National demonstrates that a number of executing broker-dealers do not subscribe to the NYSE National Integrated Feed and executing broker-dealers can otherwise obtain NYSE National best bid and offer information from the consolidated data feeds.” (internal quotations omitted)).

products each serve as reasonable substitutes for one another as they are each designed to provide investors with a unified view of real-time quotes and last-sale prices in all Tape A, B, and C securities. Each product provides subscribers with consolidated top-of-book quotes and trades from multiple U.S. equities markets. In the case of NYSE BQT, this product provides top-of-book quotes and trades data from five NYSE-affiliated U.S. equities exchanges, which together account for less than 20% of consolidated U.S. equities trading volume.⁴⁸ Cboe One Feed similarly provides top-of-book quotes and trades data from Cboe's four U.S. equities exchanges. NYSE BQT, Nasdaq Basic, and Cboe One Feed are all intended to provide indicative pricing and are not intended to be used for order routing or trading decisions.

In addition to competing with proprietary data products from Nasdaq and Cboe, NYSE BQT also competes with the consolidated data feed. However, the Exchange does not claim that NYSE BQT is a substitute for consolidated data with respect to requirements under the Vendor Display Rule, which is Regulation NMS Rule 603(c).

The fact that this filing is proposing to further expand the application of the Per User Access Fee, and thereby lower fees for Redistributors, is itself confirmation of the inherently competitive nature of the market for the sale of proprietary top of book market data. For example, in August 2019, Cboe filed proposed rule changes to reduce certain of its Cboe One Feed fees and noted that it attracted two additional customers because of the reduced fees.⁴⁹ Nasdaq then followed with a

⁴⁸ See Cboe U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

⁴⁹ See Securities Exchange Act Release Nos. 86667 (August 14, 2019) (SR-CboeBZX-2019-069); 86670 (August 14, 2019) (SR-CboeBYX-2019-012); 86676 (August 14, 2019) (SR-CboeEDGA-2019-013); and 86678 (August 14, 2019) (SR-CboeEDGX-2019-048) (Notices of filing and immediate effectiveness of proposed rule change to reduce fees for the Cboe One Feed) (collectively "Cboe One Fee Filings"). The Cboe One Fee Filings were in effect from August 1, 2019 until September 30, 2019, when the Commission suspended them and instituted proceedings to determine whether to approve or disapprove those proposals. See, e.g., Securities Exchange Act Release No. 87164 (September 30, 2019), 84 FR 53208 (October 4, 2019) (SR-CboeBZX-2019-069). On October 1, 2019, the Cboe equities exchanges refiled the Cboe One Fee Filings on the basis that they had new customers subscribe as a result of the Cboe One Fee Filings, and therefore its fee proposal had increased competition for top-of-book market data. See Securities Exchange Act Release Nos. 87312 (October 15, 2019), 84 FR 56235 (October 21, 2019) (SR-CboeBZX-2019-086); 87305 (October 14, 2019), 84 FR 56210 (October 21, 2019) (SR-CboeBYX-2019-015); 87295 (October 11, 2019), 84 FR 55624 (October 17, 2019) (SR-CboeEDGX-2019-059); and 87294 (October 11, 2019), 84 FR 55638 (October 17, 2019) (SR-CboeEDGA-2019-015) (Notices of filing and immediate effectiveness of proposed rule changes to re-file the Small Retail Broker Distribution Program) ("Cboe One Fee Re-Filings"). On November 26, 2019, the Commission suspended the Cboe One Fee Re-Filings and instituted proceedings to determine whether to approve or disapprove those proposals. See, e.g., Securities Exchange Act Release No. 87629 (November 26, 2019), 84 FR 66245 (December 3, 2019) (SR-CboeBZX-2019-086). On November 27, 2019, the Cboe equities exchanges refiled the Cboe One Fee Filings with one revision to the requirements for participating in the Small Retail Broker

filing of a proposed rule change to lower the enterprise license fee for broker-dealers distributing Nasdaq Basic to internal Professional subscribers and the enterprise license fee for broker-dealers distributing Nasdaq Last Sale to Professional subscribers.⁵⁰

The proposed expansion of the Per User Access Fee is reasonable, for the following additional reasons.

Overall. This proposed fee change is a result of the competitive environment, as the Exchange seeks to decrease certain of its fees to attract Redistributors that do not currently subscribe to the NYSE BQT market data product. The Exchange is proposing the fee reductions at issue to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, and expanding the options available to firms making data purchasing decisions based on their business needs. The Exchange believes that this is consistent with the principles contained in Regulation NMS to "promote the wide availability of market data and to allocate revenues to SROs that produce the most useful data for investors."⁵¹

Access Fee. By making the Per User Access Fee available to Redistributors of NYSE Arca Agg Lite, and thereby charging a lower access fee, the Exchange believes that more Redistributors may choose to subscribe to NYSE BQT, thereby expanding the distribution of this market data product for the benefit of investors

Distribution Program and additional information about the basis for the proposed fee changes. See Securities Exchange Act Release Nos. 87712 (December 10, 2019), 84 FR 68508 (December 16, 2019) (SR-CboeBZX-2019-101); 88713 (December 10, 2019), 84 FR 68530 (December 16, 2019) (SR-CboeBYX-2019-023); 87709 (December 10, 2019), 84 FR 68523 (December 16, 2019) (SR-CboeEDGA-2019-021); and 87711 (December 10, 2019), 84 FR 68501 (December 16, 2019) (SR-Cboe-EDGX-2019-071) (Notices of filing and immediate effectiveness of proposed rule changes to introduce a Small Retail Broker Distribution Program) ("Cboe One Third Fee Re-Filings"). On February 4, 2020, the Cboe equities exchanges withdrew the Cboe One Third Fee Re-Filings and, on the same date, refiled the Cboe One Fee Filings. See Securities Exchange Act Release Nos. 88221 (February 14, 2020), 85 FR 9904 (February 20, 2020) (SR-CboeBYX-2020-007); 88218 (February 14, 2020), 85 FR 9827 (February 20, 2020) (SR-CboeBZX-2020-014); 88220 (February 14, 2020), 85 FR 9912 (February 20, 2020) (SR-CboeEDGA-2020-004); and 88219 (February 14, 2020), 85 FR 9872 (February 20, 2020) (SR-CboeEDGX-2020-008) (Notices of filing and immediate effectiveness of proposed rule changes to introduce a Small Retail Broker Distribution Program) ("Cboe One Fourth Fee Re-Filings"). On April 15, 2020, the Cboe equities exchanges withdrew the Cboe One Fee Filings and the Cboe One Fee Re-Filings. Pursuant to the Cboe One Fourth Fee Re-Filings, the Small Retail Broker Distribution Program is currently in effect at the Cboe equities exchanges.

⁵⁰ See Securities Exchange Act Release No. 90177 (October 14, 2020), 85 FR 66620 (October 20, 2020) (SR-NASDAQ-2020-065) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Lower the Enterprise License Fee for Broker-Dealers Distributing Nasdaq Basic to Internal Professional Subscribers as Set Forth in the Equity 7 Pricing Schedule, Section 147, and the Enterprise License Fee for Broker-Dealers Distributing Nasdaq Last Sale to Professional Subscribers at Equity 7, Section 139).

⁵¹ See Regulation NMS Adopting Release, 70 FR 37495, at 37503.

that participate in the national market system and increasing competition generally. The Exchange also believes that offering the Per User Access Fee to these Redistributors would expand the availability of NYSE BQT to potential data recipients that are interested in subscribing to NYSE BQT but do not have access to a Redistributor who subscribes to the data feeds.

The Exchange determined to make the reduced Per User Access Fee available to these Redistributors because it constitutes a substantial reduction of the current fee, with the intended purpose of increasing use of NYSE BQT by Redistributors. NYSE BQT has been in place since 2014 but continues to have a small number of subscribers. The Exchange believes that in order to compete with other indicative pricing products such as Nasdaq Basic and Cboe One Feed, it needs to provide a meaningful financial incentive for more Redistributors to choose to subscribe to NYSE BQT so that they can make it available to their customers. Accordingly, the proposed expansion of the Per User Access Fee, together with the proposed expansion of the Per User Access Fee by the Exchange's affiliates, is reasonable because the reductions will make NYSE BQT a more attractive offering for Redistributors that do not currently subscribe to any NYSE Arca market data products other than NYSE Arca Agg Lite and make it more competitive with Nasdaq Basic and Cboe One Feed.

With the proposed changes by the Exchange, NYSE, and NYSE American, the Exchange is similarly seeking to compete by decreasing the total access fees for NYSE BQT from \$6,250 to \$850 for Redistributors that do not currently subscribe to any NYSE Arca market data products other than NYSE Arca Agg Lite and have customers that are interested in subscribing to NYSE BQT but cannot do so until their Redistributor also subscribes to NYSE BQT. This proposed rule change therefore demonstrates the existence of an effective, competitive market because this proposal resulted from a need to generate innovative approaches in response to competition from other exchanges that offer market data for a specific segment of market participants.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE Arca market data products are reasonable.

The Proposed Fees Are Equitably Allocated

The Exchange believes the proposed expansion of the Per User Access Fee is allocated fairly and equitably among the various categories of users of the feed, and any differences among categories of users are justified.

Overall. As noted above, this proposed fee change is a result of the competitive environment for market data products that provide indicative pricing information across a family of exchanges. To respond to this competitive environment, the Exchange seeks to expand the application of the Per User Access Fee for Redistributors that would be subscribing to the NYSE Arca BBO, NYSE Arca

Trades and/or NYSE ArcaBook and/or NYSE Arca Agg Lite data feeds and would use these market data products for external distribution only, which the Exchange hopes will attract new Redistributor subscribers for the NYSE BQT market data product so that the product can be made available to prospective market data recipients. The Exchange is proposing to expand the application of the reduced Per User Access Fee to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, expanding the options available to firms making data purchasing decisions, and generally increasing competition.

Access Fee. The Exchange believes that making the Per User Access Fee available to Redistributors that would be subscribing to the NYSE Arca BBO, NYSE Arca Trades and/or NYSE ArcaBook and/or NYSE Arca Agg Lite data feeds and would use these market data products for external distribution only is equitable as the reduced fee would apply equally to all data recipients that choose to subscribe to such products for external distribution only. Because NYSE Arca BBO, NYSE Arca Trades, NYSE ArcaBook and NYSE Arca Agg Lite are optional products, any data recipient could choose to subscribe to such data feeds to distribute externally and be eligible for the Per User Access Fee. The Exchange does not believe that it is inequitable that the Per User Access Fee would be available only to data recipients that subscribe to NYSE Arca BBO, NYSE Arca Trades and/or NYSE ArcaBook and/or NYSE Arca Agg Lite and only for external distribution. Internal use of data represents a different set of use cases than a Redistributor that is engaged only in external distribution of data. The Exchange believes that charging a different access fee for a Redistributor that is engaged solely in external distribution of the NYSE Arca BBO, NYSE Arca Trades and/or NYSE ArcaBook and/or NYSE Arca Agg Lite products is equitable because it would make NYSE BQT available to more data recipients that are customers of such Redistributors and who would not otherwise be able to access NYSE BQT if their Redistributor did not subscribe to and redistribute NYSE BQT.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE Arca market data products are equitably allocated.

The Proposed Fees Are Not Unfairly Discriminatory

The Exchange believes the proposed fees are not unfairly discriminatory because any differences in the application of the fees are based on meaningful distinctions between customers, and those meaningful distinctions are not unfairly discriminatory between customers.

Overall. As noted above, this proposed fee change is a result of the competitive environment for market data products that provide indicative pricing information across a family of exchanges. To respond to this competitive environment, the Exchange seeks to amend its fees to provide a financial incentive for Redistributors of NYSE Arca Agg Lite that do not currently subscribe to any

NYSE Arca market data products that decide to subscribe to NYSE BQT, which the Exchange hopes will attract more subscribers for the NYSE BQT market data product. The Exchange is proposing to expand the application of the Per User Access Fee to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, expanding the options available to firms making data purchasing decisions, and generally increasing competition.

Access Fee. The Exchange believes that making the Per User Access Fee available to Redistributors that would be subscribing only to the NYSE Arca BBO, NYSE Arca Trades, and/or NYSE ArcaBook and/or NYSE Arca Agg Lite data feeds and would use these market data products for external distribution only is not unfairly discriminatory as the reduced fee would apply equally to all Redistributors that choose to subscribe to such products for external distribution only. Because NYSE Arca BBO, NYSE Arca Trades and NYSE Arca Agg Lite are optional products, any data recipient could choose to subscribe to such data feeds to distribute externally and be eligible for the Per User Access Fee. The Exchange does not believe that it is unfairly discriminatory that the Per User Access Fee would be available only to data recipients that subscribe to NYSE Arca BBO, NYSE Arca Trades, NYSE ArcaBook and/or NYSE Arca Agg Lite and only for external distribution. Internal use of data represents a different set of use cases than a Redistributor that is engaged only in external distribution of data. The Exchange believes that there is a meaningful distinction between internal use and redistribution of market data and that charging a different access fee to a Redistributor that is engaged solely in external distribution of the NYSE Arca BBO, NYSE Arca Trades, NYSE ArcaBook and NYSE Arca Agg Lite products is not unfairly discriminatory because it would make NYSE BQT available to more data recipients that are customers of such Redistributors and who would not otherwise be able to access NYSE BQT if their Redistributor did not subscribe to and redistribute NYSE BQT.

Moreover, the Exchange does not believe that it is unfairly discriminatory to offer the Per User Access Fee only to those Redistributors that would subscribe to the NYSE Arca BBO, NYSE Arca Trades and/or NYSE Arca Agg Lite data feeds, and only for external distribution. This proposed rule change is designed to provide an incentive for Redistributors that currently subscribe to NYSE Arca Agg Lite, but do not subscribe to NYSE BQT, and may have customers that are interested in subscribing to NYSE BQT, to subscribe to the NYSE Arca BBO and NYSE Arca Trades data feeds so that they can make NYSE BQT available to their customers. This fee incentive is not necessary for Redistributors that currently subscribe to the NYSE Arca BBO and NYSE Arca Trades data feeds because such Redistributors could already subscribe to NYSE BQT, but have chosen not to, and a reduction in their existing access fees would likely not result in such Redistributors choosing to subscribe to NYSE BQT.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE Arca market data products are not unfairly discriminatory.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Indeed, as demonstrated above, the Exchange believes the proposed rule change is pro-competitive.

Intramarket Competition. The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As noted above, the proposed fee change would apply to all Redistributors of NYSE Arca market data products, and Redistributors may choose whether to subscribe to the products at all. The Exchange also believes that the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue burden on competition. As shown above, to the extent that the proposed fees apply to only a subset of subscribers, those distinctions are not unfairly discriminatory and do not unfairly burden one set of customers over another.

Intermarket Competition. The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate. In setting the proposed fees, the Exchange is constrained by the availability of substitute top of book market data products and by the fact that if its pricing is unattractive, customers will have their pick of alternative top of book market data products to purchase instead of purchasing the Exchange's products.

Specifically, the Exchange believes that the proposed fees do not impose a burden on competition or on other exchanges that is not necessary or appropriate because of the availability of substitute top of book market data products. As noted above, NYSE BQT competes head-to-head with Nasdaq Basic and the Cboe One Feed. These products each serve as reasonable substitutes for one another as they are each designed to provide investors with a unified view of real-time quotes and last-sale prices in all Tape A, B, and C securities. Each product provides subscribers with consolidated top-of-book quotes and trades from multiple U.S. equities markets. NYSE BQT provides top-of-book quotes and trades data from five NYSE-affiliated U.S. equities exchanges, while Cboe One Feed similarly provides top-of-book quotes and trades data from Cboe's four U.S. equities exchanges. NYSE BQT, Nasdaq Basic, and Cboe One Feed are all intended to provide indicative pricing and therefore, are reasonable substitutes for one another. Because market data users can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may purchase another market's market data product. These competitive pressures ensure that no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Not applicable.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)⁵² of the Act and subparagraph (f)(2) of Rule 19b-4⁵³ 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)⁵⁴ of the Act to determine whether the proposed rule change should be approved or disapproved.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Publication in Federal Register

Exhibit 5 – Proposed Rule Change

⁵² 15 U.S.C. 78s(b)(3)(A).

⁵³ 17 CFR 240.19b-4(f)(2).

⁵⁴ 15 U.S.C. 78s(b)(2)(B).

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NYSEARCA-2025-04)

[Date]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Expand the Application of the Per User Access Fee

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 January 16, 2025, 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, 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 expand the application of the Per User Access 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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 expand the application of the Per User Access Fee⁴ for certain NYSE Arca market data products, as set forth on the NYSE Arca Proprietary Market Data Fee Schedule (“Fee Schedule”), effective January 16, 2025.⁵ Specifically, the Exchange proposes to expand the application of the Per User Access Fee, which is currently available to Redistributors⁶ of NYSE Arca BBO, NYSE Arca Trades and NYSE ArcaBook that subscribe to only such data feeds and do not subscribe to any other market data product listed on the Fee Schedule and use such market data product for external distribution only. The Exchange now proposes to make the Per User Access Fee also available to Redistributors of the NYSE Arca Aggregated Lite (“NYSE Arca Agg Lite”) data feed.

The proposed fee change, taken together with similar fee changes filed by the Exchange’s affiliated exchanges, New York Stock Exchange LLC (“NYSE”) and NYSE American LLC

⁴ The Per User Access Fee is a lower access fee that applies for subscribers of NYSE Arca BBO and NYSE Arca Trades that receive a data feed and use those market data products in a display-only format. See Fee Schedule. See also Securities Exchange Act Release Nos. 87795 (December 18, 2019), 84 FR 71043 (December 26, 2019) (SR-NYSEArca-2019-88) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Partial Amendment No. 1, To Amend the Fees for NYSE Arca BBO and NYSE Arca Trades) (“BQT Fee Reduction Filing”); and 90409 (November 12, 2020), 85 FR 73522 (November 18, 2020) (SR-NYSEArca-2020-95) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE Arca BBO and NYSE Arca Trades by Modifying the Application of the Access Fee and Amending the Fees for NYSE Arca Trades by Adopting a Waiver Applicable to the Redistribution Fee) (“Second BQT Fee Reduction Filing”).

⁵ The Exchange originally filed to amend the Fee Schedule on January 2, 2025 (SR-NYSEARCA-2025-01). On January 16, 2025, the Exchange withdrew SR-NYSEARCA-2025-01 and replaced it with this filing.

⁶ A Redistributor is a vendor or any other person that provides a NYSE Arca data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

(“NYSE American”),⁷ will reduce the fees associated with the NYSE BQT proprietary data product for Redistributors of the NYSE Arca Agg Lite data feed. As described below, NYSE BQT competes directly with similar products offered by both the Nasdaq and Cboe families of U.S. equity exchanges. Collectively, the proposed fee changes are intended to respond to the competition posed by similar products offered by the other exchange groups.

Background

The Securities and Exchange Commission (“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.”⁸

While Regulation NMS has enhanced competition, it has also fostered a “fragmented” market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that “such competition can lead to the fragmentation of order flow in that stock.”⁹ Indeed, equity trading is currently dispersed across 16 exchanges,¹⁰ numerous alternative trading systems,¹¹ and broker-dealer internalizers and wholesalers, all competing for order flow. Based

⁷ See SR-NYSE-2025-02 and SR-NYSEAMER-2025-05.

⁸ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7-10-04) (Final Rule) (“Regulation NMS Adopting Release”).

⁹ See Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7-02-10) (Concept Release on Equity Market Structure).

¹⁰ See Cboe U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

¹¹ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems

on publicly-available information, no single exchange currently has more than 15% market share (whether including or excluding auction volume).¹²

With the NYSE BQT market data product, NYSE Arca and its affiliates compete head-to-head with the Nasdaq Basic¹³ and Cboe One Feed¹⁴ market data products. Similar to those market data products, NYSE BQT, which was established in 2014,¹⁵ consists of certain elements from the NYSE Arca BBO and NYSE Arca Trades market data products as well as from market data products from the Exchange's affiliates, NYSE, NYSE American, NYSE Chicago, Inc. ("NYSE Chicago"),¹⁶ and NYSE National, Inc. ("NYSE National").¹⁷ Similar to both Nasdaq Basic and the Cboe One Feed, NYSE BQT provides investors with a unified view of comprehensive last sale and BBO data in all Tape A, B, and C securities that trade on the Exchange, NYSE, NYSE American, NYSE Chicago, and NYSE National. Also, similar to Nasdaq Basic and the Cboe One Feed, NYSE BQT is not intended to be used for purposes of

registered with the Commission is *available at* <https://www.sec.gov/foia/docs/atlist.htm>.

¹² See Cboe U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

¹³ As described on the Nasdaq website, available here: <http://www.nasdaqtrader.com/Trader.aspx?id=nasdaqbasic>, Nasdaq Basic is a "low cost alternative" that provides "Best Bid and Offer and Last Sale information for all U.S. exchange-listed securities based on liquidity within the Nasdaq market center, as well as trades reported to the FINRA Trade Reporting Facility ("TRF")."

¹⁴ As described on the Cboe website, available here: https://markets.cboe.com/us/equities/market_data_services/cboe_one/, the Cboe One Feed is a "market data product that provides cost-effective, high-quality reference quotes and trade data for market participants looking for comprehensive, real-time market data" and provides a "unified view of the market from all four Cboe equity exchanges: BZX Exchange, BYX Exchange, EDGX Exchange, and EDGA Exchange."

¹⁵ See Securities Exchange Act Release Nos. 72750 (August 4, 2014), 79 FR 46494 (August 8, 2014) (notice - NYSE BQT); and 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (approval order - NYSE BQT) (SR-NYSE-2014-40) ("NYSE BQT Filing").

¹⁶ In 2019, NYSE BQT was amended to include NYSE Chicago BBO and NYSE Chicago Trades. See Securities Exchange Act Release No. 87511 (November 12, 2019), 84 FR 63689 (November 18, 2019) (SR-NYSE-2019-60).

¹⁷ In 2018, NYSE BQT was amended to include NYSE National BBO and NYSE National Trades. See Securities Exchange Act Release No. 83359 (June 1, 2018), 83 FR 26507 (June 7, 2018) (SR-NYSE-2018-22).

making order-routing or trading decisions, but rather provides indicative prices for Tape A, B, and C securities.¹⁸

Currently, to subscribe to NYSE BQT, subscribers are charged an access fee of \$250 per month.¹⁹ Additionally, subscribers must also subscribe to, and pay applicable fees for NYSE Arca BBO, NYSE Arca Trades, NYSE BBO, NYSE Trades, NYSE American BBO, NYSE American Trades, NYSE Chicago BBO, NYSE Chicago Trades, NYSE National BBO, and NYSE National Trades. Thus, an NYSE BQT subscriber who also subscribes to NYSE Arca Agg Lite currently pays the \$250 access fee for NYSE BQT, plus a \$1,500 access fee for each of NYSE BBO and NYSE Trades,²⁰ plus a \$750 access fee for each of NYSE American BBO and NYSE American Trades,²¹ plus a \$750 access fee for each of NYSE Arca BBO and NYSE Arca trades,²² for a total of \$6,250 (\$250 + \$3,000 + \$1,500 + \$1,500).²³ In addition, an NYSE BQT subscriber would need to pay for the applicable Professional or Non-Professional User Fees for the underlying market data products, as applicable.²⁴

¹⁸ See NYSE BQT Filing, *supra* note 15.

¹⁹ See NYSE Proprietary Market Data Fees, available here: https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.

²⁰ See *id.*

²¹ See NYSE American Market Data Fees, available here: https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf.

²² See Fee Schedule, available here: https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Fee_Schedule.pdf.

²³ There are currently no fees charged for the NYSE Chicago BBO, NYSE Chicago Trades, NYSE National BBO, or NYSE National Trades market data products.

²⁴ The Exchange is not proposing any changes to the User Fees. Currently, the Professional User Fees for each of NYSE BBO and NYSE Trades is \$4 per month, and the Non-Professional User Fees for each of NYSE BBO and NYSE Trades is \$0.20 per month. See NYSE Proprietary Market Data Fees, available here: https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf. The Professional User Fees for each of NYSE American BBO and NYSE American Trades is \$4 per month, and the Non-Professional User Fees for each of NYSE American BBO and NYSE American Trades is \$0.25 per month. See NYSE American Market Data Fees, available here: https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf. The Professional User Fees for each of NYSE Arca BBO and NYSE Arca Trades is \$4 per month, and the Non-Professional User Fees for each of NYSE Arca BBO and NYSE Arca Trades is \$0.25 per month. See

Because NYSE BQT is priced based on the fees associated with the underlying ten market data feeds, the Exchange and its affiliates propose to compete with the Nasdaq Basic and Cboe One Feed by reducing fees for the underlying market data products that comprise NYSE BQT. Together with NYSE and NYSE American, the Exchange proposes to compete for subscribers to NYSE BQT by designing the proposed fee change to be attractive to Redistributors of NYSE Arca Agg Lite that intend to subscribe to and externally redistribute NYSE BQT. Currently, Redistributors of NYSE Arca Agg Lite that want to subscribe to and redistribute NYSE BQT must pay the General Access Fee instead of the lower Per User Access Fee. Redistributors of NYSE Arca Agg Lite who have data recipient customers interested in NYSE BQT may not be inclined to subscribe to NYSE BQT. When Redistributors do not subscribe to NYSE BQT, the prospective data recipients that are the customers of such Redistributors are unable to subscribe to NYSE BQT. The proposed fee change is therefore designed to provide a financial incentive for such Redistributors to subscribe to NYSE BQT so that their customers, who have expressed an interest in subscribing to NYSE BQT, would be able to access the product via such Redistributors.

Access Fee - NYSE Arca BBO and NYSE Arca Trades

NYSE Arca BBO is a NYSE Arca-only market data product that allows a vendor to redistribute on a real-time basis the same best-bid-and-offer information that NYSE Arca reports under the Consolidated Quotation Plan (“CQ Plan”) for inclusion in the CQ Plan’s consolidated quotation information data stream (“NYSE Arca BBO Information”).²⁵ NYSE Arca BBO

Fee Schedule, available here:

https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Proprietary_Data_Fee_Schedule.pdf.

²⁵ See Securities Exchange Act Release Nos. 61937 (April 16, 2010), 75 FR 21378 (April 23, 2010) (SR-NYSEArca-2010-23) (notice – NYSE Arca BBO); and 62188 (May 27, 2010), 75 FR 31484 (June 3, 2010) (SR-NYSEArca-2010-23) (approval order – NYSE Arca BBO).

Information includes the best bids and offers for all securities that are traded on the Exchange and for which NYSE Arca reports quotes under the CQ Plan. NYSE Arca BBO is available over a single data feed, regardless of the markets on which the securities are listed. NYSE Arca BBO is made available to its subscribers no earlier than the information it contains is made available to the processor under the CQ Plan.

NYSE Arca Trades is a NYSE Arca-only market data product that allows a vendor to redistribute on a real-time basis the same last sale information that NYSE Arca reports to the Consolidated Tape Association (“CTA”) for inclusion in the CTA’s consolidated data stream and certain other related data elements (“NYSE Arca Last Sale Information”).²⁶ NYSE Arca Last Sale Information includes last sale information for all securities that are traded on the Exchange. NYSE Arca Trades is made available to its subscribers at the same time as the information it contains is made available to the processor under the CTA Plan.

Subscribers of each of the NYSE Arca BBO and NYSE Arca Trades products that receive a data feed pay an Access Fee of \$750 per month. In February 2020, the Exchange added the Per User Access Fee, which is a reduced Access Fee of \$100 per month available at that time only for subscribers of NYSE Arca BBO and NYSE Arca Trades that receive those products in a display-only format, including for internal use for Professional Users and external distribution to both Professional and Non-Professional Users.²⁷

In November 2020, the Exchange expanded the application of the reduced Per User Access Fee to Redistributors of NYSE Arca BBO and NYSE Arca Trades data feeds that do not

²⁶ See Securities Exchange Act Release Nos. 59308 (January 28, 2009), 74 FR 5955 (February 3, 2009) (SR-NYSEArca-2009-05) (notice - NYSE Arca Trades); 59598 (March 18, 2009), 74 FR 12919 (March 25, 2009) (SR-NYSEArca-2009-05) (approval order - NYSE Arca Trades).

²⁷ See BQT Fee Reduction Filing, *supra*, note 4.

subscribe to any other market data product listed on the Fee Schedule, and use such market data products for external distribution only.²⁸

In November 2023, the Exchange expanded the application of the reduced Per User Access Fee to Redistributors of NYSE Arca BBO and NYSE Arca Trades data feeds that do not subscribe to any other market data product listed on the Fee Schedule other than NYSE ArcaBook and use such market data product for external distribution only.²⁹

As noted above, the Exchange now proposes to further expand the application of the reduced Per User Access Fee. Specifically, the Exchange proposes that Redistributors of NYSE Arca BBO and NYSE Arca Trades that do not subscribe to any other market data product listed on the Fee Schedule, other than NYSE ArcaBook and/or NYSE Arca Agg Lite, and use such market data products for external distribution only, would be eligible for the reduced Per User Access Fee. A Redistributor that receives such data feeds and uses the market data products for any other purpose (such as internal use) would continue to pay the \$1,500 per month General Access Fee. And, as currently set forth in footnote 3 to the Fee Schedule, a subscriber would be charged only one access fee for each of the NYSE Arca BBO and NYSE Arca Trades products, depending on the use of that product.

To effect this change, the Exchange proposes to modify footnote 3 to the Fee Schedule as follows (proposed text underlined, proposed deletions bracketed):

The Per User Access Fee is charged to: (i) a subscriber that receives a data feed and uses the market data product only for Professional Users and Non-

²⁸ See Second BQT Fee Reduction Filing, *supra*, note 4.

²⁹ See Securities Exchange Act Release No. 98974 (November 16, 2023), 88 FR 81468 (November 22, 2023) (SR-NYSEARCA-2023-78) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Application of the Per User Access Fee for Use of Certain Market Data Products by Redistributors) (“Third BQT Fee Reduction Filing”).

Professional Users in a display-only format, including for internal use and external redistribution in a display-only format, and (ii) a Redistributor that subscribes to the NYSE Arca BBO and NYSE Arca Trades data feeds, and does not subscribe to any other Products listed on this Fee Schedule other than the NYSE ArcaBook data feed and/or the NYSE Arca Aggregated Lite data feed, and uses these market data products for external distribution only. A subscriber that receives a data feed and uses the market data product for any other purpose, including if combined with Per User use, will be charged the General Access Fee. A subscriber will be charged only one access fee for each of the NYSE Arca BBO and NYSE Arca Trades products, depending on the use of that product.

The proposed rule change would result in lower fees for Redistributors that subscribe to NYSE Arca BBO and NYSE Arca Trades, and do not subscribe to any other data feed listed on the Fee Schedule other than NYSE ArcaBook and/or NYSE Arca Agg Lite, and use such market data products for external distribution only.³⁰ The Exchange believes that the proposed expansion of the reduced Per User Access Fee would provide an incentive for Redistributors that currently subscribe to NYSE Arca Agg Lite to also subscribe to the NYSE BQT data feeds so that such product would be available to their customers, who have expressed an interest in subscribing to NYSE BQT.

The proposed rule change is intended to encourage greater use of NYSE BQT by making it more affordable for Redistributors that subscribe to NYSE Arca Agg Lite and also have

³⁰ The Per User Access Fee is 93% lower than the General Access Fee. Together with the corresponding proposed rule changes by NYSE and NYSE Arca to similarly reduce the access fees to their BBO and Trades products for Redistributors, such Redistributors would be eligible for significantly lower access fees for NYSE BQT, from \$6,250 per month to \$850 per month (\$250 + \$200 + \$200 + \$200), a reduction of more than 86%.

customers interested in subscribing to NYSE BQT. The proposed fee change would allow the Exchange to compete more effectively with Nasdaq Basic and the Cboe One Feed by expanding the number of Redistributors that would subscribe to NYSE BQT, and therefore make the product available to data subscribers interested in NYSE BQT.

Applicability of Proposed Rule Change

As noted above, the proposed rule change is designed to reduce the overall cost for Redistributors of NYSE BQT that also redistribute NYSE Arca Agg Lite by expanding the application of the Per User Access Fee. Today, the Exchange has forty-three subscribers of NYSE BQT, two of whom became customers as a direct result of the Second BQT Fee Reduction Filing, and four of whom became Redistributors as a direct result of the Third BQT Fee Reduction Filing and currently pay the reduced Per User Access Fee. The Exchange believes that the proposed rule change would provide a further incentive for Redistributors that already subscribe to NYSE Arca Agg Lite to also subscribe to NYSE BQT for purposes of providing external distribution of NYSE BQT to potential data recipients interested in the product.

Because the proposed rule change is targeted to potential Redistributors of NYSE BQT that also subscribe to NYSE Arca Agg Lite, the proposed changes to the availability of the NYSE Arca BBO and NYSE Arca Trades Per User Access Fees, together with the proposed changes on NYSE and NYSE American, are narrowly tailored with that purpose in mind. Accordingly, this proposed fee change is not designed for Redistributors that are existing customers of NYSE Arca market data products (other than NYSE Arca Agg Lite) or that engage in internal use of NYSE BQT. This proposed rule change would not result in any changes to the market data fees for NYSE Arca BBO and NYSE Arca Trades for such data subscribers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,³¹ in general, and Sections 6(b)(4) and 6(b)(5) of the Act,³² in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Proposed Rule Change Is Reasonable

In adopting Regulation NMS, the Commission granted SROs and broker-dealers increased authority and flexibility to offer new and unique market data to the public. 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.”³³

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in NetCoalition v. SEC upheld the Commission’s reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

In fact, the legislative history indicates that the Congress intended that the market system “evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed” and that the SEC wield

³¹ 15 U.S.C. 78f(b).

³² 15 U.S.C. 78f(b)(4), (5).

³³ See Regulation NMS Adopting Release, 70 FR 37495, at 37499.

its regulatory power “in those situations where competition may not be sufficient,” such as in the creation of a “consolidated transactional reporting system.”³⁴

The court agreed with the Commission’s conclusion that “Congress intended that ‘competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.’”³⁵

More recently, the Commission confirmed that it applies a “market-based” test in its assessment of market data fees, and that under that test:

the Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.³⁶

As discussed below, the Exchange believes that the proposed rule change is constrained by competitive forces.

As the D.C. Circuit recognized in NetCoalition I, “[n]o one disputes that competition for order flow is fierce.”³⁷ The court further noted that “no exchange possesses a monopoly,

³⁴ NetCoalition v. SEC, 615 F.3d 525, 535 (D.C. Cir. 2010) (“NetCoalition I”) (quoting H.R. Rep. No. 94–229 at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 323).

³⁵ Id. at 535.

³⁶ See Securities Exchange Act Release No. 34-90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR-NYSE-NAT-2020-05) (“National IF Approval Order”) (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (“2008 ArcaBook Approval Order”).

³⁷ NetCoalition I, 615 F.3d at 544 (internal quotation omitted).

regulatory or otherwise, in the execution of order flow from broker dealers,” and that an exchange “must compete vigorously for order flow to maintain its share of trading volume.”³⁸

As noted above, while Regulation NMS has enhanced competition, it has also fostered a “fragmented” market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that “such competition can lead to the fragmentation of order flow in that stock.”³⁹ Indeed, today, equity trading is currently dispersed across 16 exchanges,⁴⁰ numerous alternative trading systems,⁴¹ broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 15% market share.⁴²

Further, low barriers to entry mean that new exchanges may, and do, rapidly and inexpensively enter the market and compete with the Exchange. For example, since 2020, three new exchanges have entered the market: Long Term Stock Exchange (LTSE), which began operations as an exchange on August 28, 2020;⁴³ Members Exchange (MEMX), which began

³⁸ Id.

³⁹ See Securities Exchange Act Release No. 61358, 75 3594, 3597 (January 21, 2010) (File No. S7-02-10) (Concept Release on Equity Market Structure).

⁴⁰ See Cboe Global Markets, U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

⁴¹ 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/atlist.htm>.

⁴² See Cboe Global Markets, U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

⁴³ See LTSE Market Announcement: MA-2020-020, dated August 14, 2020, announcing LTSE production securities phase-in planned for August 28, available here: https://assets.ctfassets.net/cchj2z2dcfyd/rnGvgggJUplak6N1xNA7/41926d3925a177d6455868090c46aeda/MA-2020-020_Production_Securities_Launching_August_28_-_Google_Docs.pdf and LTSE Market Announcement: MA-2020-025, available here: <https://assets.ctfassets.net/cchj2z2dcfyd/52nIKwAuOraU1agaNY5j80/0d27ab0eb9b540c67a5e9f831f23f0ac/MA-2020-025.pdf>.

operations as an exchange on September 29, 2020; 44 and Miami International Holdings (MIAX), which began operations of its first equities exchange on September 29, 2020.⁴⁵ More recently, the Commission granted approval to 24X National Exchange LLC as a national securities exchange.⁴⁶

More specifically, in expanding the application of the Per User Access Fee to Redistributors of NYSE Arca Agg Lite, the Exchange is constrained by the fact that, if its pricing is unattractive to customers, customers have their pick of alternatives to purchase similar data from instead of purchasing it from the Exchange. The existence of alternatives to the Exchange's data products ensures that the Exchange cannot set unreasonable market data fees without suffering the negative effects of that decision in the competitive market for proprietary market data.

The Exchange notes that the Exchange's proprietary market data products are entirely optional. The Exchange is not required to make the proprietary data products that are the subject of this proposed rule change available to any customers, nor is any customer required to purchase the Exchange's data products. Unlike some other data products (*e.g.*, the consolidated quotation and last-sale information feeds) that firms are required to purchase in order to fulfil regulatory obligations,⁴⁷ a customer's decision whether to purchase any of the Exchange's proprietary

⁴⁴ As of October 29, 2020, MEMX is trading all NMS symbols. See <https://info.memxtrading.com/trader-alert-20-10-memx-trading-symbols-update/>.

⁴⁵ See MIAX Pearl Press release, dated September 29, 2020, available here: https://www.miaxoptions.com/sites/default/files/alert-files/MIAX_Press_Release_09292020.pdf.

⁴⁶ See Securities Exchange Act Release No. 101777 (November 27, 2024), 89 FR 97092 (December 6, 2024) (In the Matter of the Application of 24X National Exchange LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission).

⁴⁷ The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations. See In the Matter of the Application of Securities Industry and Financial Markets Association for Review of Actions Taken by Self-Regulatory Organizations, Release Nos. 34-72182; AP-3-15350; AP-3-15351 (May 16, 2014). Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some

market data feeds is entirely discretionary.

Most firms that choose to subscribe to proprietary market data feeds from the Exchange and its affiliates are able to determine for themselves whether or not the Exchange's products are necessary for their business needs, and if so, whether or not they are attractively priced. If market data feeds from the Exchange and its affiliates do not provide sufficient benefit to firms based on the uses those firms may have for it, such firms may simply choose to conduct their business operations in ways that do not use these products.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish reasonable fees. The proposed fee change is therefore reasonable because in setting it, the Exchange is constrained by the availability of substitute top of book market data products. The Commission has been clear that substitute products need not to be identical, but only substantially similar to the product at hand.⁴⁸

The NYSE BQT market data product is subject to significant competitive forces that constrain its pricing. Specifically, as described above, NYSE BQT competes head-to-head with the Nasdaq Basic product and the Cboe One Feed. These products each serve as reasonable substitutes for one another as they are each designed to provide investors with a unified view of real-time quotes and last-sale prices in all Tape A, B, and C securities. Each product provides

broker-dealers and ATSS have chosen not to do so.

⁴⁸ For example, in the National IF Approval Order, the Commission recognized that for some customers, the best bid and offer information from consolidated data feeds may function as a substitute for the NYSE National Integrated Feed product, which contains order by order information. See National IF Approval Order, supra note 36, at 67397 [release p. 21] (“[I]nformation provided by NYSE National demonstrates that a number of executing broker-dealers do not subscribe to the NYSE National Integrated Feed and executing broker-dealers can otherwise obtain NYSE National best bid and offer information from the consolidated data feeds.” (internal quotations omitted)).

subscribers with consolidated top-of-book quotes and trades from multiple U.S. equities markets. In the case of NYSE BQT, this product provides top-of-book quotes and trades data from five NYSE-affiliated U.S. equities exchanges, which together account for less than 20% of consolidated U.S. equities trading volume.⁴⁹ Cboe One Feed similarly provides top-of-book quotes and trades data from Cboe's four U.S. equities exchanges. NYSE BQT, Nasdaq Basic, and Cboe One Feed are all intended to provide indicative pricing and are not intended to be used for order routing or trading decisions.

In addition to competing with proprietary data products from Nasdaq and Cboe, NYSE BQT also competes with the consolidated data feed. However, the Exchange does not claim that NYSE BQT is a substitute for consolidated data with respect to requirements under the Vendor Display Rule, which is Regulation NMS Rule 603(c).

The fact that this filing is proposing to further expand the application of the Per User Access Fee, and thereby lower fees for Redistributors, is itself confirmation of the inherently competitive nature of the market for the sale of proprietary top of book market data. For example, in August 2019, Cboe filed proposed rule changes to reduce certain of its Cboe One Feed fees and noted that it attracted two additional customers because of the reduced fees.⁵⁰

⁴⁹ See Cboe U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

⁵⁰ See Securities Exchange Act Release Nos. 86667 (August 14, 2019) (SR-CboeBZX-2019-069); 86670 (August 14, 2019) (SR-CboeBYX-2019-012); 86676 (August 14, 2019) (SR-CboeEDGA-2019-013); and 86678 (August 14, 2019) (SR-CboeEDGX-2019-048) (Notices of filing and Immediate effectiveness of proposed rule change to reduce fees for the Cboe One Feed) (collectively "Cboe One Fee Filings"). The Cboe One Fee Filings were in effect from August 1, 2019 until September 30, 2019, when the Commission suspended them and instituted proceedings to determine whether to approve or disapprove those proposals. See, e.g., Securities Exchange Act Release No. 87164 (September 30, 2019), 84 FR 53208 (October 4, 2019) (SR-CboeBZX-2019-069). On October 1, 2019, the Cboe equities exchanges refiled the Cboe One Fee Filings on the basis that they had new customers subscribe as a result of the Cboe One Fee Filings, and therefore its fee proposal had increased competition for top-of-book market data. See Securities Exchange Act Release Nos. 87312 (October 15, 2019), 84 FR 56235 (October 21, 2019) (SR-CboeBZX-2019-086); 87305 (October 14, 2019), 84 FR 56210 (October 21, 2019) (SR-CboeBYX-2019-015); 87295 (October 11, 2019), 84 FR 55624 (October 17, 2019) (SR-CboeEDGX-2019-059); and 87294 (October 11, 2019), 84 FR 55638 (October 17, 2019) (SR-CboeEDGA-2019-015) (Notices of filing and immediate effectiveness of

Nasdaq then followed with a filing of a proposed rule change to lower the enterprise license fee for broker-dealers distributing Nasdaq Basic to internal Professional subscribers and the enterprise license fee for broker-dealers distributing Nasdaq Last Sale to Professional subscribers.⁵¹

The proposed expansion of the Per User Access Fee is reasonable, for the following additional reasons.

Overall. This proposed fee change is a result of the competitive environment, as the Exchange seeks to decrease certain of its fees to attract Redistributors that do not currently subscribe to the NYSE BQT market data product. The Exchange is proposing the fee reductions at issue to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, and expanding

proposed rule changes to re-file the Small Retail Broker Distribution Program) ("Cboe One Fee Re-Filings"). On November 26, 2019, the Commission suspended the Cboe One Fee Re-Filings and instituted proceedings to determine whether to approve or disapprove those proposals. *See, e.g.*, Securities Exchange Act Release No. 87629 (November 26, 2019), 84 FR 66245 (December 3, 2019) (SR-CboeBZX-2019-086). On November 27, 2019, the Cboe equities exchanges refiled the Cboe One Fee Filings with one revision to the requirements for participating in the Small Retail Broker Distribution Program and additional information about the basis for the proposed fee changes. *See* Securities Exchange Act Release Nos. 87712 (December 10, 2019), 84 FR 68508 (December 16, 2019) (SR-CboeBZX-2019-101); 88713 (December 10, 2019), 84 FR 68530 (December 16, 2019) (SR-CboeBYX-2019-023); 87709 (December 10, 2019), 84 FR 68523 (December 16, 2019) (SR-CboeEDGA-2019-021); and 87711 (December 10, 2019), 84 FR 68501 (December 16, 2019) (SR-Cboe-EDGX-2019-071) (Notices of filing and immediate effectiveness of proposed rule changes to introduce a Small Retail Broker Distribution Program) ("Cboe One Third Fee Re-Filings"). On February 4, 2020, the Cboe equities exchanges withdrew the Cboe One Third Fee Re-Filings and, on the same date, refiled the Cboe One Fee Filings. *See* Securities Exchange Act Release Nos. 88221 (February 14, 2020), 85 FR 9904 (February 20, 2020) (SR-CboeBYX-2020-007); 88218 (February 14, 2020), 85 FR 9827 (February 20, 2020) (SR-CboeBZX-2020-014); 88220 (February 14, 2020), 85 FR 9912 (February 20, 2020) (SR-CboeEDGA-2020-004); and 88219 (February 14, 2020), 85 FR 9872 (February 20, 2020) (SR-CboeEDGX-2020-008) (Notices of filing and immediate effectiveness of proposed rule changes to introduce a Small Retail Broker Distribution Program) ("Cboe One Fourth Fee Re-Filings"). On April 15, 2020, the Cboe equities exchanges withdrew the Cboe One Fee Filings and the Cboe One Fee Re-Filings. Pursuant to the Cboe One Fourth Fee Re-Filings, the Small Retail Broker Distribution Program is currently in effect at the Cboe equities exchanges.

⁵¹ *See* Securities Exchange Act Release No. 90177 (October 14, 2020), 85 FR 66620 (October 20, 2020) (SR-NASDAQ-2020-065) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Lower the Enterprise License Fee for Broker-Dealers Distributing Nasdaq Basic to Internal Professional Subscribers as Set Forth in the Equity 7 Pricing Schedule, Section 147, and the Enterprise License Fee for Broker-Dealers Distributing Nasdaq Last Sale to Professional Subscribers at Equity 7, Section 139).

the options available to firms making data purchasing decisions based on their business needs. The Exchange believes that this is consistent with the principles contained in Regulation NMS to “promote the wide availability of market data and to allocate revenues to SROs that produce the most useful data for investors.”⁵²

Access Fee. By making the Per User Access Fee available to Redistributors of NYSE Arca Agg Lite, and thereby charging a lower access fee, the Exchange believes that more Redistributors may choose to subscribe to NYSE BQT, thereby expanding the distribution of this market data product for the benefit of investors that participate in the national market system and increasing competition generally. The Exchange also believes that offering the Per User Access Fee to these Redistributors would expand the availability of NYSE BQT to potential data recipients that are interested in subscribing to NYSE BQT but do not have access to a Redistributor who subscribes to the data feeds.

The Exchange determined to make the reduced Per User Access Fee available to these Redistributors because it constitutes a substantial reduction of the current fee, with the intended purpose of increasing use of NYSE BQT by Redistributors. NYSE BQT has been in place since 2014 but continues to have a small number of subscribers. The Exchange believes that in order to compete with other indicative pricing products such as Nasdaq Basic and Cboe One Feed, it needs to provide a meaningful financial incentive for more Redistributors to choose to subscribe to NYSE BQT so that they can make it available to their customers. Accordingly, the proposed expansion of the Per User Access Fee, together with the proposed expansion of the Per User Access Fee by the Exchange’s affiliates, is reasonable because the reductions will make NYSE BQT a more attractive offering for Redistributors that do not currently subscribe to any NYSE

⁵² See Regulation NMS Adopting Release, 70 FR 37495, at 37503.

Arca market data products other than NYSE Arca Agg Lite and make it more competitive with Nasdaq Basic and Cboe One Feed.

With the proposed changes by the Exchange, NYSE, and NYSE American, the Exchange is similarly seeking to compete by decreasing the total access fees for NYSE BQT from \$6,250 to \$850 for Redistributors that do not currently subscribe to any NYSE Arca market data products other than NYSE Arca Agg Lite and have customers that are interested in subscribing to NYSE BQT but cannot do so until their Redistributor also subscribes to NYSE BQT. This proposed rule change therefore demonstrates the existence of an effective, competitive market because this proposal resulted from a need to generate innovative approaches in response to competition from other exchanges that offer market data for a specific segment of market participants.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE Arca market data products are reasonable.

The Proposed Fees Are Equitably Allocated

The Exchange believes the proposed expansion of the Per User Access Fee is allocated fairly and equitably among the various categories of users of the feed, and any differences among categories of users are justified.

Overall. As noted above, this proposed fee change is a result of the competitive environment for market data products that provide indicative pricing information across a family of exchanges. To respond to this competitive environment, the Exchange seeks to expand the application of the Per User Access Fee for Redistributors that would be subscribing to the NYSE Arca BBO, NYSE Arca Trades and/or NYSE ArcaBook and/or NYSE Arca Agg Lite data feeds and would use these market data products for external distribution only, which the Exchange

hopes will attract new Redistributor subscribers for the NYSE BQT market data product so that the product can be made available to prospective market data recipients. The Exchange is proposing to expand the application of the reduced Per User Access Fee to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, expanding the options available to firms making data purchasing decisions, and generally increasing competition.

Access Fee. The Exchange believes that making the Per User Access Fee available to Redistributors that would be subscribing to the NYSE Arca BBO, NYSE Arca Trades and/or NYSE ArcaBook and/or NYSE Arca Agg Lite data feeds and would use these market data products for external distribution only is equitable as the reduced fee would apply equally to all data recipients that choose to subscribe to such products for external distribution only. Because NYSE Arca BBO, NYSE Arca Trades, NYSE ArcaBook and NYSE Arca Agg Lite are optional products, any data recipient could choose to subscribe to such data feeds to distribute externally and be eligible for the Per User Access Fee. The Exchange does not believe that it is inequitable that the Per User Access Fee would be available only to data recipients that subscribe to NYSE Arca BBO, NYSE Arca Trades and/or NYSE ArcaBook and/or NYSE Arca Agg Lite and only for external distribution. Internal use of data represents a different set of use cases than a Redistributor that is engaged only in external distribution of data. The Exchange believes that charging a different access fee for a Redistributor that is engaged solely in external distribution of the NYSE Arca BBO, NYSE Arca Trades and/or NYSE ArcaBook and/or NYSE Arca Agg Lite products is equitable because it would make NYSE BQT available to more data recipients that are customers of such Redistributors and who would not otherwise be able to access NYSE BQT if their Redistributor did not subscribe to and redistribute NYSE BQT.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE Arca market data products are equitably allocated.

The Proposed Fees Are Not Unfairly Discriminatory

The Exchange believes the proposed fees are not unfairly discriminatory because any differences in the application of the fees are based on meaningful distinctions between customers, and those meaningful distinctions are not unfairly discriminatory between customers.

Overall. As noted above, this proposed fee change is a result of the competitive environment for market data products that provide indicative pricing information across a family of exchanges. To respond to this competitive environment, the Exchange seeks to amend its fees to provide a financial incentive for Redistributors of NYSE Arca Agg Lite that do not currently subscribe to any NYSE Arca market data products that decide to subscribe to NYSE BQT, which the Exchange hopes will attract more subscribers for the NYSE BQT market data product. The Exchange is proposing to expand the application of the Per User Access Fee to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, expanding the options available to firms making data purchasing decisions, and generally increasing competition.

Access Fee. The Exchange believes that making the Per User Access Fee available to Redistributors that would be subscribing only to the NYSE Arca BBO, NYSE Arca Trades, and/or NYSE ArcaBook and/or NYSE Arca Agg Lite data feeds and would use these market data products for external distribution only is not unfairly discriminatory as the reduced fee would apply equally to all Redistributors that choose to subscribe to such products for external distribution only. Because NYSE Arca BBO, NYSE Arca Trades and NYSE Arca Agg Lite are optional products, any data recipient could choose to subscribe to such data feeds to distribute

externally and be eligible for the Per User Access Fee. The Exchange does not believe that it is unfairly discriminatory that the Per User Access Fee would be available only to data recipients that subscribe to NYSE Arca BBO, NYSE Arca Trades, NYSE ArcaBook and/or NYSE Arca Agg Lite and only for external distribution. Internal use of data represents a different set of use cases than a Redistributor that is engaged only in external distribution of data. The Exchange believes that there is a meaningful distinction between internal use and redistribution of market data and that charging a different access fee to a Redistributor that is engaged solely in external distribution of the NYSE Arca BBO, NYSE Arca Trades, NYSE ArcaBook and NYSE Arca Agg Lite products is not unfairly discriminatory because it would make NYSE BQT available to more data recipients that are customers of such Redistributors and who would not otherwise be able to access NYSE BQT if their Redistributor did not subscribe to and redistribute NYSE BQT.

Moreover, the Exchange does not believe that it is unfairly discriminatory to offer the Per User Access Fee only to those Redistributors that would subscribe to the NYSE Arca BBO, NYSE Arca Trades and/or NYSE Arca Agg Lite data feeds, and only for external distribution. This proposed rule change is designed to provide an incentive for Redistributors that currently subscribe to NYSE Arca Agg Lite, but do not subscribe to NYSE BQT, and may have customers that are interested in subscribing to NYSE BQT, to subscribe to the NYSE Arca BBO and NYSE Arca Trades data feeds so that they can make NYSE BQT available to their customers. This fee incentive is not necessary for Redistributors that currently subscribe to the NYSE Arca BBO and NYSE Arca Trades data feeds because such Redistributors could already subscribe to NYSE BQT, but have chosen not to, and a reduction in their existing access fees would likely not result in such Redistributors choosing to subscribe to NYSE BQT.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE Arca market data products are not unfairly discriminatory.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Indeed, as demonstrated above, the Exchange believes the proposed rule change is pro-competitive.

Intramarket Competition. The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As noted above, the proposed fee change would apply to all Redistributors of NYSE Arca market data products, and Redistributors may choose whether to subscribe to the products at all. The Exchange also believes that the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue burden on competition. As shown above, to the extent that the proposed fees apply to only a subset of subscribers, those distinctions are not unfairly discriminatory and do not unfairly burden one set of customers over another.

Intermarket Competition. The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate. In setting the proposed fees, the Exchange is constrained by the availability of substitute top of book market data products and by the fact that if its pricing is unattractive, customers will have their pick of alternative top of book market data products to purchase instead of purchasing the Exchange's products.

Specifically, the Exchange believes that the proposed fees do not impose a burden on competition or on other exchanges that is not necessary or appropriate because of the availability of substitute top of book market data products. As noted above, NYSE BQT competes head-to-head with Nasdaq Basic and the Cboe One Feed. These products each serve as reasonable substitutes for one another as they are each designed to provide investors with a unified view of real-time quotes and last-sale prices in all Tape A, B, and C securities. Each product provides subscribers with consolidated top-of-book quotes and trades from multiple U.S. equities markets. NYSE BQT provides top-of-book quotes and trades data from five NYSE-affiliated U.S. equities exchanges, while Cboe One Feed similarly provides top-of-book quotes and trades data from Cboe's four U.S. equities exchanges. NYSE BQT, Nasdaq Basic, and Cboe One Feed are all intended to provide indicative pricing and therefore, are reasonable substitutes for one another. Because market data users can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may purchase another market's market data product. These competitive pressures ensure that no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,⁵³ and Rule 19b-4(f)(2) thereunder⁵⁴ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge

⁵³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁵⁴ 17 CFR 240.19b-4.

imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. At any time within 60 days of the filing of the 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.

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-2025-04 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-2025-04. 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-2025-04 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁵

Sherry R. Haywood,

Assistant Secretary.

⁵⁵ 17 CFR 200.30-3(a)(12).

Additions underlined.
 Deletions [bracketed].

NYSE Arca Equities Proprietary Market Data Fees

As of January [2]16, 2025, unless otherwise noted

* * * * *

NYSE Arca Aggregated Lite

Access Fee: \$1,500/month⁸

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NYSE ArcaBook

Access Fee: \$2,000/month

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NYSE Arca BBO

General Access Fee \$750/month

Per User Access Fee: \$100/month³

* * * * *

NYSE Arca Trades

General Access Fee: \$750/month

Per User Access Fee: \$100/month³

* * * * *

- 1-2 No Change.
- 3 The Per User Access Fee is charged to: (i) a subscriber that receives a data feed and uses the market data product only for Professional Users and Non-Professional Users in a display-only format, including for internal use and external redistribution in a display-only format, and (ii) a Redistributor that subscribes to the NYSE Arca BBO and NYSE Arca Trades data feeds, and does not subscribe to any other Products listed on this Fee Schedule other than the NYSE ArcaBook data feed and/or the NYSE Arca Aggregated Lite data feed, and uses these market data products for external distribution only. A subscriber that receives a data feed and uses the market data product for any other purpose, including if combined with Per User use, will be charged the General Access Fee. A subscriber will be charged only one access fee for each of the NYSE Arca BBO and NYSE Arca Trades products, depending on the use of that product.
- 4-10 No Change.