

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101250; File No. SR-NYSEARCA-2024-81)

October 4, 2024

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

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 September 20, 2024, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Connectivity Fee Schedule (“Fee Schedule”) to delete the currently-filed “Optic Low Latency Circuit - 1 Gb” service as obsolete. 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 amend the Connectivity Fee Schedule (“Fee Schedule”) to delete the currently-filed “Optic Low Latency Circuit - 1 Gb” service as obsolete.

In 2023, the Exchange filed to amend the Fee Schedule to add several “FIDS Circuits” available at the Mahwah, New Jersey data center (“MDC”),⁴ including Optic Low Latency Circuits in 1 Gb, 10 Gb, and 40 Gb sizes.⁵

Since that time, no Users⁶ have opted to utilize the 1 Gb Optic Low Latency Circuit. Some market participants have informed the Exchange that the 1 Gb size of the Optic Low Latency Circuit is too small for their needs. Because there is no customer demand for the 1 Gb Optic Low Latency Circuit, the Exchange proposes to discontinue the service as obsolete.

⁴ Through its Fixed Income and Data Services (“FIDS”) (previously ICE Data Services) business, Intercontinental Exchange, Inc. (“ICE”) operates the MDC. The Exchange and New York Stock Exchange LLC, NYSE American LLC, NYSE Chicago, Inc. and NYSE National, Inc. (together, the “Affiliate SROs”) are indirect subsidiaries of ICE.

⁵ See Securities Exchange Act Release No. 99166 (December 14, 2023), 88 FR 88178 (December 20, 2023) (SR-NYSEARCA-2023-83).

⁶ For purposes of the Exchange’s colocation services, a “User” means any market participant that requests to receive colocation services directly from the Exchange. See Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR-NYSEArca-2015-82). As specified in the Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Affiliate SROs. Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2024-61, SR-NYSEAMER-2024-59, SR-NYSECHX-2024-30, and SR-NYSEAT-2024-27.

General

The proposed changes would not apply differently to distinct types or sizes of market participants; rather, they would apply to all Users equally. As is currently the case, the Fee Schedule would be applied uniformly to all Users. The proposed changes are not intended to address any other issues and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that discontinuing offering the 1 Gb Optic Low Latency Circuit would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. Demand for the 1 Gb Optic Low Latency Circuit is non-existent and there are currently no customers that subscribe to the service. The Exchange does not expect demand to rebound given customers' assessment that the 1 Gb-size of the circuit is too small for their needs. Removing references to the fees for this obsolete service

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

from the Fee Schedule would make the Fee Schedule easier to read, understand, and administer.

The Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest. The proposed rule change would delete an obsolete service from the Fee Schedule, which would enhance transparency and alleviate potential customer confusion.

The Exchange believes that removing this obsolete service from the Fee Schedule would not permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed changes would apply equally to all Users: the obsolete 1 Gb Optic Low Latency Circuit would be removed for all customers.

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

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

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Act.⁹ The proposed rule change is not designed to address any competitive issues but rather is designed to enhance the clarity and transparency of the Fee Schedule and alleviate possible customer confusion that may arise from the inclusion of obsolete services.

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

No written comments were solicited or received with respect to the proposed rule change.

⁹ 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.¹²

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)¹³ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(6).

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

¹³ 15 U.S.C. 78s(b)(2)(B).

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEARCA-2024-81 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-NYSE- SR-NYSEARCA-2024-81. 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-SR-NYSEARCA-2024-81 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.¹⁴

J. Matthew DeLesDernier,

Deputy Secretary.

¹⁴ 17 CFR 200.30-3(a)(12).