A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may seamlessly continue its Pilot Program. The Commission notes that waiving the 30-day operative delay would allow the Pilot Program to continue without interruption, and believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative 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 (http://www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include File Number SR–Phlx–2013–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2013–37. 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 Web site (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2013–37 and should be submitted on or before April 29, 2013.

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

Kevin M. O’Neill, Deputy Secretary.

[FR Doc. 2013–08090 Filed 4–5–13; 8:45 am]

BILLING CODE 8011–01–P

SEcurities and exchange cOMMISSION


Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing the NYSE Trades Digital Media Data Feed and a Schedule of the NYSE Proprietary Market Data Fees

April 2, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”). and Rule 19b–4 thereunder, notice is hereby given that March 20, 2013, New York Stock Exchange LLC (“NYSE” 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 establish the NYSE Trades Digital Media Data feed and a schedule of the NYSE Proprietary Market Data Fees (“Market Data Fee Schedule”). The text of the proposed rule change is available on the Exchange’s Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to establish the NYSE Trades Digital Media data feed and a Market Data Fee Schedule.

Background

In 2009, the Securities and Exchange Commission (“SEC” or the “Commission”) approved the NYSE Trades data feed and certain fees for it. NYSE Trades is a NYSE-only market data feed that allows a vendor to redistribute on a real-time basis the same last sale information that the
Exchange reports under the Consolidated Tape Association ("CTA") Plan for inclusion in the CTA Plan’s consolidated data streams and certain other related data elements. Specifically, NYSE Trades includes the real-time last sale price, time, size, and bid/ask quotations for each security traded on the Exchange and a stock summary message. The stock summary message updates every minute and includes NYSE’s opening price, high price, low price, closing price, and cumulative volume for the security. The Exchange currently charges NYSE Trades data feed recipients an access fee of $1,500 per month, and a subscriber fee for professional subscribers of $15 per month per device, which may be counted, at the election of the vendor based on the number of “Subscriber Entitlements” 5 (collectively, these fees are referred to in this filing as “NYSE Trades basic fees”). In July 2012, the Exchange added a fee for distribution by television broadcasters ("Broadcast Fees”), which is $40,000 per month. 6 The television broadcast distribution method differs from the other distribution methods in that the data is available in a temporary, view-only mode on television screens. NYSE Trades is not offered in a manner to facilitate its distribution via Web sites or mobile devices.

Proposed Change

The Exchange proposes to offer a new version of NYSE Trades called “NYSE Trades Digital Media,” which will include, as with NYSE Trades as currently offered, access to the real-time last sale price, time, and size for each security traded on the Exchange as well as the stock summary message. NYSE Trades Digital Media will not, however, include access to the bid/ask quotation that is included with the current NYSE Trades product under the NYSE Trades basic fees and Broadcast Fee. NYSE Trades will be offered in a new manner that will permit market data vendors, television broadcasters, Web site and mobile device service providers, and others to distribute this data product to their customers for viewing via television, Web site, and mobile devices. Vendors will not be permitted to provide NYSE Trades Digital Media in a context in which a trading or order routing decision can be implemented unless CTA data is available in an equivalent manner, must label the


products as NYSE-only data, and must provide a hyperlinked notice similar to the one provided for CTA delayed data.7

The Exchange also proposes to establish a Market Data Fee Schedule. The market data fees on the proposed Market Data Fee Schedule for NYSE OpenBook, NYSE BBO, NYSE Trades, NYSE RRP, NYSE Alerts, and NYSE Order Imbalances have been previously filed with the Commission. The Exchange is proposing the Market Data Fee Schedule in order to provide greater transparency to its customers.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) 14 of the Act, and furthers the objectives of Section 6(b)(5) 15 of the Act, in particular, in that 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 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 it is not designed to permit unfair discrimination among customers, brokers, or dealers.

The Exchange is offering the NYSE Trades Digital Media data product in recognition of the demand for a more seamless and easier-to-administer data distribution model that takes into account the expanded variety of media

8 See supra notes 4–6.
12 See supra notes 4–6.
16 See supra notes 4–6.
The proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data. Numerous exchanges operate with each other for listings, trades, and market data, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities (such as internalizing broker-dealers and various forms of alternative trading systems, including dark pools and electronic communication networks), in a vigorously competitive market. It is common for market participants to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market.

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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) 17 of the Act and Rule 19b–4(f)(6) thereunder. 18

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. 19 However, Rule 19b–4(f)(6)(iii) 20 permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange believes that the proposed rule change will make the Exchange’s last sale data more widely available through more distribution channels, which will enable investors to better monitor trading activity on the Exchange, and thereby serve the public interest. The Exchange also notes that other exchanges already offer similar products, and thus believes that the Exchange’s proposed products will enhance competition. The Exchange believes that expanding distribution channels and offering a new version of the product for use in a non-trading environment will benefit investors. The Commission believes that permitting the Exchange to offer this product without delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative upon filing. 21

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.

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 (http://www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include File Number SR–NYSE–2013–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2013–23. 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 Web site (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2013–23 and should be submitted on or before April 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. 22

Kevin M. O’Neill, Deputy Secretary.

[FR Doc. 2013–08094 Filed 4–5–13; 8:45 am]

BILLING CODE 8011–01–P