regarding the controls in place to address the potential conflicts of interest that may arise in the listing and trading of Affiliate Securities on the Exchange. Based on the foregoing, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[15] The Commission hereby grants the Exchange's request 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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:

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&BatsBYX–2016–05 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–BatsBYX–2016–05. 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–BatsBYX–2016–05 and should be submitted on or before May 13, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–09319 Filed 4–21–16; 8:45 am]

BILLING CODE 8011–01–P

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77641; File No. SR–NYSEARCA–2016–19]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Establishing Fees Relating to End Users and Amending the Definition of ''Affiliate,'' as Well as Amending the Arca Options Fee Schedule and the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services to Reflect the Changes

April 18, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 4, 2016, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') 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 the Substance of the Proposed Rule Change

The Exchange proposes to establish fees relating to end users and amend the definition of ''affiliate,'' as well as to amend the co-location section of the Arca Options Fee Schedule (the ''Options Fee Schedule'') and, through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities''), the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (the ''Equities Fee Schedule'' and, together with the Options Fee Schedule, the ''Fee Schedules'') to reflect the changes. The Exchange proposes that the changes be effective the first of the month following approval by the Securities and Exchange Commission (''Commission'').

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish fees relating to certain end users and amend the definition of ''affiliate,'' as well as to amend the co-location[4] section of the Fee Schedules to reflect the changes. The Exchange proposes that the changes be effective the first of

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users.

the month following approval by the Securities and Exchange Commission.

Information flows over existing network connections in two formats:

- Multicast format, which is a format in which information is sent one-way from the Exchange to multiple recipients at once, like a radio broadcast; and
- Unicast format, which is a format that allows one-to-one communication, similar to a phone line, in which information is sent to and from the Exchange.

Fees for Rebroadcasting Users Related to Their Multicast End Users

As a general matter, market data is broadcast to Users [5] in multicast format. Users can rebroadcast data they receive in multicast format to their customers [6] if they choose. The Exchange proposes to add to its co-location Fee Schedules definitions of a ''Rebroadcasting User'' and a ''Multicast End User.''

A ''Rebroadcasting User'' would be a User that rebroadcasts to its customers data received from the Exchange in multicast format, unless such User normalizes the raw market data before sending it to its customers.

A ''Multicast End User'' would be a customer of a Rebroadcasting User, or a customer of a Rebroadcasting User's Multicast End User customer, to whom the Rebroadcasting User or its Multicast End User sends data received from the Exchange in multicast format, other than an Affiliate of the Rebroadcasting User. A Multicast End User may be, but is not required to be, another User or a Hosted Customer.

The Exchange proposes that a User that normalizes raw market data before sending it to its customers would not be a ''Rebroadcasting User.'' Such normalized data is altered before rebroadcasting, and is no longer in the form received from the Exchange. For example, a User may opt to normalize the raw data distributed by the Exchange and its affiliates by altering it to put it in viewable or algorithmic form, such as by putting it though a feed handler. In addition, the Exchange proposes that a User that rebroadcasts data received from third parties would not be a ''Rebroadcasting User,'' as the data would not be received from the Exchange.

A Rebroadcasting User may have more than one connection to a single Multicast End User. The multicast format permits a Multicast End User to rebroadcast the data received. Each of such customers is also considered a Multicast End User, irrespective of whether it receives the data from a Rebroadcasting User or another Multicast End User.[7]

The Exchange proposes to charge Rebroadcasting Users fees relating to each Multicast End User as follows:

- If the Rebroadcasting User has one or two connections, either directly or through another Multicast End User, to a Multicast End User, the Rebroadcasting User would be subject to a $1,700 monthly charge.
- If the Rebroadcasting User has more than two connections to a Multicast End User, either directly or through another Multicast End User, the Rebroadcasting User would be subject to a $1,700 monthly charge for the first two connections (in the aggregate) and $850 for each additional connection.[8]

Fees for Transmittal Users Related to Their Unicast End Users

Messages, such as those to send an order or related to clearing a trade, are transmitted in unicast format. A User may enable one or more of its customers to transmit messages in unicast format to and from the Exchange. For example, a User that is a service bureau or extranet may use such connections to facilitate order routing and clearing by its customers. The Exchange proposes to add to its co-location Fee Schedules definitions of a ''Transmittal User'' and a ''Unicast End User.''

A ''Transmittal User'' would be a User that enables its customers, or the customers of its customers, to transmit messages to and from the Exchange using the unicast format.

A ''Unicast End User'' would be a customer of a Transmittal User, or a customer of a Transmittal User's Unicast End User customer, for whom the Transmittal User or its Unicast End User customer enables the transmission of messages to and from the Exchange in unicast format, other than a customer that (a) is an Affiliate of the Transmittal User or (b) sends all unicast transmissions through a floor participant, such as a floor broker. A Unicast End User may be, but is not required to be, a User or a Hosted Customer.

A Transmittal User may establish more than one connection for a single Unicast End User. The unicast format permits a Unicast End User to enable one or more of its customers to transmit messages to and from the Unicast End User. Each of such customers is also considered a Unicast End User.[9]

The Exchange proposes to charge Transmittal Users fees relating to each Unicast End User as follows:

- If the Transmittal User has one or two connections to the Unicast End User, either directly or through another Unicast End User, the Transmittal User would be subject to a $1,500 monthly charge.
- If the Transmittal User has more than two connections to the Unicast End User, either directly or through another Unicast End User, the Transmittal User would be subject to a $1,500 monthly charge for the first two connections (in the aggregate) and $750 for each additional connection.[10]

If a Transmittal User's customer sends all unicast transmissions through a floor participant, such as a floor broker, that customer would not be considered a Unicast End User even if such customer is enabled to use unicast communications. Accordingly, the Transmittal User would not be charged with respect to its connection to such customer.

A User may be both a Rebroadcasting User and a Transmittal User.

Definition of Affiliate

The proposed fees would not apply to a Multicast End User that is an ''Affiliate'' of a Rebroadcasting User or

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location 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 Schedules, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC and NYSE MKT LLC. *See* Securities Exchange Act Release No. 70173 (August 13, 2013), 78 FR 50459 (August 19, 2013) (SR–NYSEArca–2013–80).

[6] As used in the context of the proposed fees, the term ''customer'' refers to any person who has a contractual relationship with a User or the customer of a User for the provision to that customer of unicast or multicast services. A customer of a User may include another User or a ''Hosted Customer,'' as that term is defined in the Fee Schedules.

[7] The Exchange is not aware of any customer of a Multicast End User that rebroadcasts data, but if such a relationship did exist, the customer would also be considered a Multicast End User.

[8] For example, if a Rebroadcasting User has three connections to one Multicast End User, the Rebroadcasting User would be charged $2,550 per month with respect to such Multicast End User: $1,700 per month for the first two connections plus $850 per month for the third connection. If a Rebroadcasting User has one connection to a Multicast End User that itself has three customers that are also Multicast End Users, each with one or two connections, the Exchange would charge the Rebroadcasting User $6,800 per month, that is, $1,700 per month for each Multicast End User.

[9] The Exchange is not aware of any customer of a Unicast End User that enables its customers to transmit messages, but if such a relationship did exist, the customer would also be considered a Unicast End User.

[10] For example, if a Transmittal User has three connections to one Unicast End User, the Transmittal User would be charged $2,250 per month with respect to such Unicast End User: $1,500 per month plus $750 per month. If a Transmittal User has one connection to a Unicast End User that itself has three customers that are also Unicast End Users, each with one or two connections, the Exchange would charge the Transmittal User $6,000 per month, that is, $1,500 per month for each Unicast End User.

a Unicast End User that is an ''Affiliate'' of a Transmittal User.

Presently, for purposes of co-location fees the ''Affiliate'' of a User is defined as ''any other User or Hosted Customer that is under 50% or greater common ownership or control of the first User.'' [11] The Exchange proposes to revise the definition of ''Affiliate'' for clarity and to include Affiliates of Multicast and Unicast End Users. The proposed definition would be as follows:

An ''Affiliate'' of a User is any other User or Hosted Customer that is under common control with, controls, or is controlled by, the first User, provided that: (1) An ''Affiliate'' of a Rebroadcasting User is any Multicast End User that is under common control with, controls, or is controlled by the Rebroadcasting User; and (2) an ''Affiliate'' of a Transmittal User is any Unicast End User that is under common control with, controls, or is controlled by the Transmittal User. For purposes of this definition, ''control'' means ownership or control of 50% or greater.

The Exchange proposes to amend the current definition of Affiliate to clarify that the control relationship does not exist only when a User or Hosted Customer is under the common ownership or control of the first User. Instead, an Affiliate relationship exists whenever the two entities are under common control and irrespective of which entity controls the other. In addition, the Exchange proposes to move the description of what ''control'' means to the end of the definition, to allow for addition of the definitions of Affiliate of Rebroadcasting Users and Transmittal Users.[12]

By using the same concept of ''control'' for the definitions of Affiliate of Rebroadcasting Users and Transmittal Users as for the general definition, the Exchange believes that the expanded definition would be consistent in its application across the co-location related fees.

Support for Rebroadcasting Users and Transmittal Users

The Exchange incurs expenses and expends resources in connection with the support of Rebroadcasting Users and Transmittal Users. Some such costs are indirect, including those associated with overhead and technology infrastructure, administrative, maintenance and operational costs. Since the inception of co-location, there have been numerous network infrastructure improvements performed and administrative controls established. Additionally, the Exchange has automated retransmission facilities for most of its Users that receive multicast transmissions. These facilities benefit Rebroadcasting Users by reducing their operational costs associated with retransmissions to Multicast End Users that are also Users. The network infrastructure has been expanded to keep pace with the increased number of services available to Users, including Rebroadcasting and Transmittal Users, which, in turn, has increased the administrative and operational costs associated with delivery by Rebroadcasting Users and Transmittal Users to their Multicast End Users and Unicast End Users, respectively. The higher fees proposed in connection with the multicast format reflect the Exchange's experience that there are higher maintenance costs associated with supporting and rebroadcasting the multicast format, largely due to bandwidth requirements.

Based on its experience, the Exchange generally provides more direct support to Rebroadcasting Users and Transmittal Users than other Users, typically in the form of network support for the services that Rebroadcasting Users and Transmittal Users provide their Multicast End Users and Unicast End Users, respectively.[13] Typically when an issue arises, the Exchange and the applicable Rebroadcasting User or Transmittal User would conduct a review to determine the cause of an issue, with the participation of the relevant Multicast or Unicast End User. Based on its experience, the Exchange finds that when the User is a Rebroadcasting User or Transmittal User, pinpointing the issue and providing the needed network support becomes more complicated because each entity involved has its own infrastructure and administration.[14] As a result, as a general matter the Exchange has a greater administrative burden and incurs greater operational costs to support Rebroadcasting Users and Transmittal Users than other Users.

By contrast, in its experience the Exchange has found that entities that are Affiliates typically act as one entity, with one infrastructure, one administration, and one network support group. Accordingly, when the Exchange provides network support to a User rebroadcasting or transmitting multicast or unicast data to Affiliate end users, the Exchange is effectively supporting one entity, irrespective of how many Affiliate end users are involved. As a result, its administrative burden and operational costs are reduced in comparison to when it supports a Rebroadcasting User or Transmittal User rebroadcasting or transmitting to a Multicast End User or Unicast End User, respectively.[15] In the Exchange's experience, this is true irrespective of whether the Affiliate end user is itself a User or is located outside of co-location. Accordingly, the Exchange proposes to exclude Affiliates, including those Affiliates that are not Users, from the definitions of Multicast End Users and Unicast End Users.

The Exchange does not provide network support for end users that receive normalized data. Because the normalized data is altered, the User that normalizes and then rebroadcasts normalized data acts as the source of the feed. As a result the User does not need the Exchange's assistance if an issue arises with its normalized feed. Accordingly, the Exchange proposes to exclude a User that normalizes data from the definition of Rebroadcasting User.

Rebroadcasting Users and Transmittal Users need network support, and the Exchange provides it, irrespective of whether their Multicast or Unicast End Users are Users. For this reason, the Exchange provides Rebroadcasting Users and Transmittal Users support related to their Multicast and Unicast End Users both inside and outside of co-location. Accordingly, the Exchange proposes not to limit the definitions of Multicast End Users and Unicast End Users to end users that are also Users.

Rebroadcasting User and Transmittal User Reporting

In order to assess the proposed fees accurately, the Exchange proposes that Rebroadcasting Users and Transmittal Users be required to report the following

[11] The Exchange added a definition of ''Affiliate'' for co-location fees in connection with its partial cabinet solution bundles. *See* Exchange Act Release No. 76616 (Dec. 10, 2015), 80 FR 78282 (December 16, 2015) (SR–NYSEArca–2015–102).

[12] The proposed definition of Affiliate does not encompass two Multicast End Users or Unicast End Users. Accordingly, if a Rebroadcasting User or Transmittal User had two Multicast End Users or Unicast End Users, respectively, that were under common control or one controlled the other, they would be treated as two end users for purposes of the proposed fees.

[13] For example, if a Multicast End User had an issue such as a loss of connection to the multicast service or dropping packets of data (*i.e.,* portions of the data are dropped), the Exchange would work with the Rebroadcasting User to determine the issue and, if it was related to Exchange services, remedy it.

[14] The Exchange notes that in its experience not all Users have detailed monitoring for their networks, and some Rebroadcasting Users and Transmittal Users do not troubleshoot within their own networks to see where the cause lies before asking the Exchange for support.

[15] By comparison, as noted above, when the Exchange provides support to a Rebroadcasting User or Transmittal User regarding issues related to its Multicast or Unicast End Users, the Exchange works with as many separate entities as there are parties involved.

to the Exchange on a monthly basis: (a) The number of their Multicast End Users and Unicast End Users, and (b) the number of connections to each such Multicast End User and Unicast End User. A User that excludes an Affiliate from its list of Multicast End Users or Unicast End Users consistent with the proposed definitions may be required to certify to the Exchange the Affiliate status of such end user.[16] The Exchange proposes to revise the Fee Schedules accordingly.

Users that are not Rebroadcasting Users or Transmittal Users may be asked to certify as much to the Exchange.

Users may independently set fees that they charge Multicast End Users and Unicast End Users. The Exchange would not be a party to the contractual relationship between Rebroadcasting Users and Transmittal Users and their customers and would not receive a share of any fees charged by Rebroadcasting Users and Transmittal Users for their services.

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a Member, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis;[17] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[18]

Technical Change

Finally, the Exchange proposes to delete the obsolete text in the Fee Schedules related to the Hosting Fee of $500 per Hosted Customer that was in effect until December 31, 2015. In addition, the Exchange proposes to delete the ''Effective January 1, 2016'' text that precedes the current description of the $1,000 monthly charge per cabinet per Hosted Customer for each cabinet in which such Hosted Customer is hosted because it is no longer necessary as these fees are current fees.

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

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[19] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[20] 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 mechanisms 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 also believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[21] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. Overall, the Exchange believes that the proposed change is consistent with the Act because the Exchange offers the co-location services described herein as a convenience to Users, but in so doing incurs certain costs, including costs related to the Data Center facility, hardware and equipment and costs related to personnel required for installation and ongoing monitoring, support and maintenance of such services.

The Exchange believes that the proposal is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Co-location services would continue to be offered by the Exchange in a manner that would not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange. The proposed end user-related definitions, fees and reporting requirements would be applied uniformly to all Users providing multicast and unicast connections and would not unfairly discriminate between similarly situated Users of co-location services.

In addition, the proposed end user fees would fairly and equitably allocate the costs associated with maintaining the Data Center facility, hardware and equipment and related to personnel required for installation and ongoing monitoring, support and maintenance of such service among all Users.

In the absence of the proposed end user fees, no charges would be assessed related to the benefit that Multicast End Users and Unicast End Users receive from these services through the Rebroadcasting or Transmittal User from whom they receive data, and the Rebroadcasting or Transmittal Users would thus receive disproportionate benefits.

The Exchange believes that the proposed fees are reasonable in that they are designed to defray applicable expenses incurred and resources expended by the Exchange in support of Rebroadcasting Users and Transmittal Users, including those associated with overhead and technology infrastructure, administrative, maintenance and operational costs, such as the costs of maintaining multiple connections with multiple providers. The Exchange incurs expenses and expends resources in connection with the support of Rebroadcasting Users and Transmittal Users. Some such costs are indirect, including those associated with overhead and technology infrastructure, administrative, maintenance and operational costs. Since the inception of co-location, there have been numerous network infrastructure improvements

[16] The Exchange may review available information regarding the Affiliate status of an end user and reserves the right to request additional information to verify the Affiliate status of such entity. The Exchange would approve a request to exclude an Affiliate unless it determines that the certification is not accurate. The Exchange believes that this procedure is consistent with the certification procedures relating to its Partial Cabinet Solution bundles. *See* Exchange Act Release No. 76616, *supra* note 11, at 7402.

[17] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of others with access to the Exchange's trading and execution systems. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to users that have access to the Exchange's trading and execution systems, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[18] *See* Securities Exchange Act Release No. 70173, *supra* note 5 at 50459. The Exchange's affiliates have also submitted substantially the same proposed rule change. *See* SR–NYSE–2015–11 and SR–NYSEMKT–2015–15.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78f(b)(4).

performed and administrative controls established.

Additionally, the Exchange has automated retransmission facilities for most of its Users that receive multicast transmissions. These facilities benefit Rebroadcasting Users by reducing their operational costs associated with retransmissions to Multicast End Users that are also Users. The network infrastructure has been expanded to keep pace with the increased number of services available to Users, including Rebroadcasting and Transmittal Users, which, in turn, has increased the administrative and operational costs associated with delivery by Rebroadcasting Users and Transmittal Users to their Multicast End Users and Unicast End Users, respectively. The Exchange believes that the proposed higher fees proposed in connection with the multicast format are reasonable because they reflect the Exchange's experience that there are higher maintenance costs associated with supporting and rebroadcasting the multicast format, largely due to bandwidth requirements.

In addition, based on its experience, the Exchange believes that the proposed fees are reasonable in that, as a general matter, the Exchange has a greater administrative burden and incurs greater operational costs to support Rebroadcasting Users and Transmittal Users than other Users. The Exchange generally provides more direct support to Rebroadcasting Users and Transmittal Users than other Users, typically in the form of network support for the services that Rebroadcasting Users and Transmittal Users provide their Multicast End Users and Unicast End Users, respectively. Typically when an issue arises, the Exchange and the applicable Rebroadcasting User or Transmittal User would conduct a review to determine the cause of an issue, with the participation of the relevant Multicast or Unicast End User. Based on its experience, the Exchange finds that when the User is a Rebroadcasting User or Transmittal User, pinpointing the issue and providing the needed network support becomes more complicated because each entity involved has its own infrastructure and administration.

The Exchange believes that it is reasonable to charge Rebroadcasting Users and Transmittal Users the proposed fees irrespective of whether their Multicast or Unicast End User is a User, because the Exchange provides Rebroadcasting Users and Transmittal Users support related to their Multicast and Unicast End Users that are outside of co-location as well as those that are Users. If the proposed fees were limited to Rebroadcasting Users and Transmittal Users whose Multicast or Unicast End Users were themselves Users, no charges would be assess related to the benefit that end users outside of co-location received from these services through the rebroadcasting or transmitting User from whom they received data. As a result, the Rebroadcasting Users and Transmittal Users whose Multicast or Unicast End Users were themselves Users would support a disproportionate share of the Exchange's administrative burden and operational costs relating to end users, and the rebroadcasting or transmitting Users would receive disproportionate benefits.

In addition, the Exchange believes that it is reasonable to charge the same amount for one or two connections because it would encourage Users and their customers to establish two connections and thereby create redundancy in the connections.

The Exchange believes that the proposed amendments to the definition of Affiliates regarding the control relationship are reasonable because they would make the definition more accessible and transparent and provide market participants with clarity as to what entities are considered Affiliates, ensuring that Users exclude all possible Affiliates from the proposed fees and the existing fees for Partial Cabinet Solution bundles. The Exchange believes that setting the common ownership or control threshold in the definition of Affiliates of Multicast End Users and Unicast End Users at 50% is reasonable because it is the same threshold as in the current definition of Affiliates.

Expanding the definition of Affiliates, adding the definitions of Multicast End User, Rebroadcasting User, Unicast End User, and Transmittal User, and adding the proposed note on the reporting requirements to the Fee Schedules would make such definitions and requirements accessible and transparent and provide market participants with clarity as to the application of the proposed fees. The Exchange believes that the proposal would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because by including the definitions and reporting requirements in the Fee Schedules, the proposed change would provide all Users with clarity as to the availability and application of co-location services and fees. Such end user-related definitions, fees and reporting requirements would be applied uniformly to all Users providing multicast and unicast connections and would not unfairly discriminate between similarly situated Users of co-location services.

The Exchange believes that excluding Affiliates from the definitions of Multicast End Users and Unicast End Users is reasonable because, in its experience, when the Exchange provides network support to a User rebroadcasting or transmitting multicast or unicast data to Affiliate end users, the Exchange's administrative burden and operational costs are reduced in comparison to when it supports a Rebroadcasting User or Transmittal User rebroadcasting or transmitting multicast or unicast data to a Multicast End User or Unicast End User, respectively. In its experience, entities that are Affiliates typically act as one entity, with one infrastructure, one administration, and one network support group. Accordingly, when the Exchange provides network support to a User rebroadcasting or transmitting multicast or unicast data to Affiliate end users, the Exchange is effectively supporting one entity, irrespective of how many Affiliate end users are involved.

The Exchange believes that having the definition of Affiliates encompass non-Users is reasonable because in its experience entities that are Affiliates typically act as one entity irrespective of whether one or more of them are not Users. If the definition did not encompass non-Users, a User would have to pay the proposed fee if it rebroadcast or transmitted multicast or unicast data to an end user that was not a User but otherwise met the definition of Affiliate. However, the Exchange would incur the same costs irrespective of whether the end user is itself a User or is located outside of co-location. Accordingly, the Exchange believes that having the definition of Affiliates encompass non-Users avoids disparate treatment of a Rebroadcasting User or Transmittal User that has a non-User as its Affiliate, as compared to one that has a User as its Affiliate.

The Exchange believes that it is reasonable that, under the proposed definition, two Multicast End Users or Unicast End Users would not be considered Affiliates even if they otherwise met the requirements of the definition. The Exchange has no direct contract with a Rebroadcasting User's Multicast End Users for connectivity to Exchange data, or with a Transmittal User's Unicast End Users for the transmission of messages to and from the Exchange. As a result, the Exchange would not be able to independently ascertain which Multicast and

Transmittal Users met the definition of Affiliates, and would have no standing to require such Multicast and Unicast End Users to report their Affiliates. The Exchange believes it would create an unnecessary administrative burden on Users to require Rebroadcasting Users and Transmittal Users to determine which, if any, of their Multicast and Unicast End Users were affiliated, and to report such to the Exchange.

The Exchange believes that the proposal to exclude Affiliates from the definitions of Multicast End User and Unicast End User is not designed to permit unfair discrimination between customers, issuers, brokers or dealers because the proposed rule avoids disparate treatment of Users that have divided their various business activities among separate corporate entities, as compared to Users that operate those business activities within a single corporate entity. In addition, the inclusion of non-Users in the definition of Affiliates is not designed to permit unfair discrimination between customers, issuers, brokers or dealers because the proposed rule avoids disparate treatment of Users that have Affiliates that are not Users, as compared to Users whose Affiliates are all Users.

The Exchange believes that the proposal to exclude from the definition of Multicast End Users a User that normalizes raw data before rebroadcasting it to its customers is reasonable and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers because a User that normalizes and then rebroadcasts normalized data acts as the source of the feed, and so does not need the Exchange's assistance if an issue arises with its normalized feed. As a result, the Exchange does not incur the same costs in relation to end users of normalized data as it does in relation to Multicast End Users.

The Exchange believes that the proposal to exclude from the definition of Unicast End User those customers of a Transmittal User (and customers of Users' customers) that send all orders to a Floor broker for representation on the Exchange is reasonable because it would encourage sending orders to Floor brokers for execution, thereby encouraging additional displayed liquidity on the Exchange. This would encourage the execution of transactions on a public registered exchange, thereby promoting public price discovery—an objective fully consistent with the Act.[22] The Exchange believes the proposed changes are equitable and not unfairly discriminatory because they would continue to encourage member organizations to send orders to the Floor for execution, thereby contributing to robust levels of liquidity on the Floor, which benefits all market participants.

The Exchange believes that the proposal to have Users report the number of their Multicast End Users and Unicast End Users and the number of connections to each such Multicast End User and Unicast End User is reasonable because it will ensure that the proposed fees are assessed accurately and will provide market participants with clarity as to how the fees will be assessed.

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

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

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

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

In accordance with Section 6(b)(8) of the Act,[23] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because any market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange could have access to the co-location services provided in the Data Center. This is also true because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (*i.e.,* the same range of products and services are available to all Users). The proposed end user-related definitions, fees and reporting requirements would be applied uniformly to all Users providing multicast and unicast connections.

In addition, the Exchange believes that the proposed end user fees would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because they would fairly and equitably allocate the costs associated with maintaining the Data Center facility, hardware and equipment and related to personnel required for installation and ongoing monitoring, support and maintenance of such service among all Users, as well as applicable expenses incurred and resources expended by the Exchange in support of Rebroadcasting Users and Transmittal Users. In the absence of the proposed end user fees, no charges would be assessed related to the benefit that Multicast End Users and Unicast End Users receive from these services through the Rebroadcasting or Transmittal User from whom they receive data, and the Rebroadcasting or Transmittal Users would thus receive disproportionate benefits.

The Exchange believes that the proposed end user fees would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange has tailored the proposed definition of Affiliate to include User and non-User Affiliates. If the proposed fees were limited to Rebroadcasting Users and Transmittal Users whose Multicast or Unicast End Users were themselves Users, no charges would be assessed relating to the benefit that end users outside of co-location received from these services through the rebroadcasting or transmitting User from whom they received data. As a result, the Rebroadcasting Users and Transmittal Users whose Multicast or Unicast End Users were themselves Users would support a disproportionate share of the Exchange's administrative burden and operational costs relating to end users, and the rebroadcasting or transmitting Users would receive disproportionate benefits.

The Exchange believes that the proposed end user fees would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange has excluded Affiliates from the proposed definitions of Multicast End Users and Unicast End Users. As a result, the proposed end user fees exclude fees related to end users that, in the Exchange's experience, typically act as one entity, with one infrastructure and one administration.

The Exchange believes that the proposal to exclude from the definition

[22] *See* Exchange Act Release No. 73333 (October 9, 2014), 79 FR 62223 (October 16, 2014) (SR–NYSE–2014–32 and SR–NYSEMKT–2014–56) (''The Commission also notes that . . . the ALO limit order is designed to provide displayed liquidity to the market and thereby contribute to public price discovery—an objective that is fully consistent with the Act''); *see also* 15 U.S.C. 78k–1(a)(1)(c)(iii) and (iv) (objectives for the national market system include assuring the availability of information with respect to quotations in securities and the practicability of brokers executing investors' orders in the best market).

[23] 15 U.S.C. 78f(b)(8).

of Unicast End User those customers of a Transmittal User (and customers of Users' customers) that send all orders to a Floor broker for representation on the Exchange is reasonable because it would encourage providing liquidity on the Exchange, thereby contributing to the Exchange's competitiveness with other markets. In addition, the Exchange believes that expanding the definition of Affiliates and adding the definitions of Multicast End User, Rebroadcasting User, Unicast End User, and Transmittal User to the Fee Schedules would make such definitions accessible and transparent and provide market participants with clarity as to the availability and application of the proposed fees.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if, for example, they deem fee levels at a particular venue to be excessive or if they determine that another venue's products and services are more competitive than on the Exchange. In such an environment, the Exchange must continually review, and consider adjusting, the services it offers as well as any corresponding fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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:

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 No. SR–NYSEARCA–2016–19 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 No. SR–NYSEARCA–2016–19. 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 such 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 No. SR–NYSEARCA–2016–19, and should be submitted on or before May 13, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–09322 Filed 4–21–16; 8:45 am]

BILLING CODE 8011–01–P

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 606 of Regulation NMS, SEC File No. 270–489, OMB Control No. 3235–0541.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 606 of Regulation NMS (''Rule 606'') (17 CFR 242.606) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et. seq.*).

Rule 606 (formerly known as Rule 11Ac1–6) requires broker-dealers to prepare and disseminate quarterly order routing reports. Much of the information needed to generate these reports already should be collected by broker-dealers in connection with their periodic evaluations of their order routing practices. Broker-dealers must conduct such evaluations to fulfill the duty of best execution that they owe their customers.

The collection of information obligations of Rule 606 apply to broker-dealers that route non-directed customer orders in covered securities. The Commission estimates that out of the currently 4,240 broker-dealers that are subject to the collection of information obligations of Rule 606, clearing brokers bear a substantial portion of the burden of complying with the reporting and recordkeeping requirements of Rule 606 on behalf of small to mid-sized introducing firms. There currently are approximately 185 clearing brokers. In addition, there are approximately 81 introducing brokers that receive funds or securities from their customers. Because at least some of these firms also may have greater involvement in determining where customer orders are routed for execution, they have been included, along with clearing brokers, in estimating the total burden of Rule 606.

The Commission staff estimates that each firm significantly involved in order routing practices incurs an average burden of 40 hours to prepare and disseminate a quarterly report required by Rule 606, or a burden of 160 hours