

notices, circulars, and bulletins, as more fully described in Rule 17a–22, in connection with its Non-U.S. Business, that (i) primarily affect LCH SA’s clearing operations with respect to the Non-U.S. Business and (ii) do not significantly affect any CDSClear operations or any rights or obligations of LCH SA with respect to the CDSClear services or persons using the CDSClear services.

*It is further ordered*, pursuant to Section 36 of the Act, that LCH SA, based on the representations and facts presented in its Request for Exemptive Relief, is exempt from the requirements of Rule 17a–22 under the Act, to file with the Commission three copies of materials such as manuals, notices, circulars, and bulletins, as more fully described in Rule 17a–22, within ten days of making such materials available to its participants or other persons as more fully described in Rule 17a–22, subject to the following conditions:

(a) LCH SA shall file such materials in electronic format with the Commission within ten (10) calendar days after issuing or making such materials available to its participants or to other entities with whom it has a significant relationship as applicable, except for materials that (i) primarily affect LCH SA’s clearing operations with respect to the Non-U.S. Business and (ii) do not significantly affect any CDSClear operations or any rights or obligations of LCH SA with respect to the CDSClear services or persons using the CDSClear services, which materials as ordered above shall be exempt from the filing requirements of Rule 17a–22.

This exemptive relief is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. This exemption is based on the facts presented and the representations made in the Request for Exemptive Relief. Any different facts or representations may require a different response.

By the Commission.

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2016–31940 Filed 1–4–17; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79711; File No. SR–C2–2016–025]

### Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fees for C2 Real-Time Data Feeds

December 29, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on December 19, 2016, C2 Options Exchange, Incorporated (the “Exchange” or “C2”) 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 Exchange. 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

C2 Options Exchange, Incorporated (the “Exchange” or “C2”) proposes to amend fees for certain C2 real-time data feeds. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.c2exchange.com/Legal/>), at the Exchange’s Office of the Secretary, 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 Exchange 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 these 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 aspects of such statements.

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

###### 1. Purpose

The purpose of the proposed rule change is to amend the Data Fee for the

BBO and Book Depth Data Feeds and user fees for the Complex Order Book (“COB”) Data Feed. These data feeds are made available by C2’s affiliate Market Data Express, LLC (“MDX”). The Exchange proposes to make the following fee changes effective January 1, 2017.

###### Data Feeds

*BBO Data Feed:* The BBO Data Feed is a real-time, low latency data feed that includes the following content: (i) Outstanding quotes and standing orders at the best available price level on each side of the market, with aggregate size (“BBO data”), and last sale data;<sup>3</sup> (ii) totals of customer versus non-customer contracts at the BBO, (iii) All-or-None contingency orders priced better than or equal to the BBO, (iv) BBO and last sale data for complex strategies (multi-leg strategies such as spreads, straddles and buy-writes); (v) expected opening price (“EOP”) and expected opening size (“EOS”) information that is disseminated prior to the opening of the market and during trading rotations, (vi) end-of-day (“EOD”) summary messages that are disseminated after the close of a trading session that include summary information about trading in C2 listed options (*i.e.*, product name, opening price, high and low price during the trading session and last sale price), (vii) “recap messages” that are disseminated during a trading session any time there is a change in the open, high, low or last sale price of a C2 listed option, as well as product name and total volume traded in the product during the trading session; and (viii) product IDs and codes for all C2 listed options contracts. The BBO Data Feed includes market data for simple options as well as complex strategies. The data in the BBO Data Feed is refreshed periodically during the trading session. The BBO and last sale data contained in the BBO Data Feed is identical to the data sent to the Options Price Reporting Authority (“OPRA”) for redistribution to the public.<sup>4</sup>

*Book Depth Data Feed:* The Book Depth Data Feed is a real-time, low latency data feed that includes all data contained in the BBO Data Feed (as described above) plus outstanding quotes and standing orders for an additional four price levels on each side of the market, with aggregate size (“Book Depth”). The data in the Book

<sup>3</sup> “Best bid and offer” or “BBO” data is sometimes referred to as “top-of-book” data. Data with respect to executed trades is referred to as “last sale” data.

<sup>4</sup> MDX makes available to Customers the BBO data and last sale data that is included in the BBO Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

Depth Data Feed is refreshed periodically during the trading session.

**COB Data Feed:** The COB Data Feed is a real-time data feed that includes data regarding the Exchange's Complex Order Book and related complex order information. The COB Data Feed contains the following information for all C2-traded complex order strategies (multi-leg strategies such as spreads, straddles and buy-writes): (i) Outstanding quotes and standing orders on each side of the market with aggregate size, (ii) last sale data, and (iii) totals of customer versus non-customer contracts.

#### Fees

**BBO Data Feed Fees:** MDX currently charges a "Data Fee", payable by a Customer, of \$1,000 per month for internal use and external redistribution of the BBO Data Feed.<sup>5</sup> The Data Fee entitles a Customer to provide the BBO Data Feed to an unlimited number of internal users and Devices<sup>6</sup> within the Customer. A Customer receiving the BBO Data Feed from another Customer is assessed the Data Fee by MDX pursuant to its own market data agreement with MDX, and is entitled to use the Data internally and/or distribute it externally.<sup>7</sup> All Customers have the same rights to utilize the data internally and/or distribute it externally as long as the Customer has entered into a written agreement with MDX for the data and pays the Data Fee. The Exchange proposes to increase the Data Fee from \$1,000 per month to \$1,500 per month.

The Exchange currently charges a "User Fee", payable by a Customer, of \$50 per month per Device or user ID for use of the data in the BBO Data Feed by "Display Only Service" users.<sup>8</sup> User fees are payable only for "external" Display Only Service users (Devices or user IDs

<sup>5</sup> A "Customer" is any person, company or other entity that, pursuant to a market data agreement with MDX, is entitled to receive data, either directly from MDX or through an authorized redistributor (*i.e.*, a Customer or an extranet service provider), whether that data is distributed externally or used internally. The MDX fee schedule for C2 data is located at <https://www.cboe.org/MDX/CSM/OBOOKMain.aspx>.

<sup>6</sup> A "Device" means any computer, workstation or other item of equipment, fixed or portable, that receives, accesses and/or displays data in visual, audible or other form.

<sup>7</sup> A Customer may choose to receive the data from another Customer rather than directly from MDX's system because it does not want to or is not equipped to manage the technology necessary to establish a direct connection to MDX.

<sup>8</sup> A "Display Only Service" allows a natural person end-user to view and manipulate data using the Customer's computerized service, but not to save, copy, export or transfer the data or any results of the manipulation to any other computer hardware, software or media, except for printing it to paper or other non-magnetic media.

of Display Only Service users who are not employees or natural person independent contractors of the Customer, the Customer's affiliates or an authorized service facilitator).<sup>9</sup> The Exchange is not proposing to amend the User Fee at this time.

**Book Depth Data Feed Fees:** MDX currently charges a "Data Fee", payable by a Customer (as defined above), of \$1,000 per month for internal use and external redistribution of the Book Depth Data Feed. The Data Fee for the Book Depth Data Feed entitles a Customer to provide the Book Depth Data Feed to an unlimited number of internal users and Devices within the Customer. A Customer receiving the Book Depth Data Feed from another Customer is assessed the Data Fee by MDX pursuant to its own market data agreement with MDX, and is entitled to use the Data internally and/or distribute it externally. All Customers have the same rights to utilize the Book Depth data internally and/or distribute it externally as long as the Customer has entered into a written agreement with MDX for the data and pays the Data Fee. BBO Data Feed Customers may upgrade to become Book Depth Data Feed Customers without paying any additional Data Fee.<sup>10</sup> The Exchange proposes to increase the Data Fee from \$1,000 per month to \$1,500 per month.

The Exchange currently charges a "User Fee", payable by a Customer, of \$50 per month per Device or user ID for use of the data in the Book Depth Data Feed by "Display Only Service" users (as defined above). User fees are payable only for "external" Display Only Service users (Devices or user IDs of Display Only Service users who are not employees or natural person independent contractors of the Customer, the Customer's affiliates or an authorized service facilitator).<sup>11</sup> The Exchange is not proposing to amend the User Fee at this time.

**COB Data Feed Fees:** MDX currently charges Customers of the COB Data Feed a Data Fee of \$100 per month plus applicable User Fees (as described below). The Data Fee for the COB Data Feed is waived for Customers of the C2 BBO and Book Depth Data Feeds.<sup>12</sup>

<sup>9</sup> An entity or person that receives BBO data from a Customer through a Display Only Service is not a "Customer" unless it has a market data agreement in place with MDX.

<sup>10</sup> Such Customers would still be subject to Display Only Service User Fees as described below.

<sup>11</sup> An entity or person that receives Book Depth data from a Customer through a Display Only Service is not a "Customer" unless it has a market data agreement in place with MDX.

<sup>12</sup> Such COB Data Feed Customers are still subject to User Fees.

MDX charges a Customer User Fees of \$25 per month per Device or user ID for receipt of the data by "Professional Users"<sup>13</sup>. There is no charge for receipt of the data by "Non-Professional Users"<sup>14</sup>. User Fees are subject to a cap of \$500 per month (*i.e.*, a Customer pays no more than \$500 in User Fees for a given month). The Exchange proposes to delete this fee cap from the MDX fee schedule for C2 data.

The Exchange also proposes to make a few clean-up changes to the MDX fee schedule for C2 data, including removing a few references to a January 1, 2015 effective date for prior fee changes and removing the \$1 per month User Fee for COB Data Feed Non-Professional Users, which was eliminated effective January 1, 2015.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>15</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>16</sup> which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. The Exchange also believes the proposed rule change is consistent

<sup>13</sup> A "Professional User" is any natural person recipient of Data who is not a Non-Professional User (as defined below). User Fees for Professional Users are payable for both "internal" Professional Users (Devices or user IDs of employees of a Customer) and "external" Professional Users (Devices or user IDs of Professional Users who receive the Data from a Customer and are not employed by the Customer). (Non-Professional Users must be external since a person who uses the COB Data Feed for a commercial purpose cannot be a Non-Professional User.)

<sup>14</sup> A "Non-Professional User" is a natural person or qualifying trust that uses Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) Registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an "investment adviser" as that term is defined in Section 201(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States.

<sup>15</sup> 15 U.S.C. 78f(b).

<sup>16</sup> 15 U.S.C. 78f(b)(4).

with the Section 6(b)(5)<sup>17</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed increases in the Data Fees for the BBO and Book Depth Data Fees are intended to generate revenues that are needed to cover C2's actual and anticipated increases in the costs of collecting, processing and disseminating options market information and assuring the reliability and integrity of that information, as well as increases in C2's administrative costs. These costs include enhancements to C2's systems that are needed in order to enable C2 to handle the continually increasing volume of market information. C2 has not changed the Data Fee for BBO data since that fee was established in 2011. C2 has not changed the Data Fee for Book Depth data since that fee was established effective January 1, 2015.

The Exchange believes the proposed increase in the Data Fee for BBO data is equitable and not unfairly discriminatory because it would apply equally to all Customers. The Exchange believes the proposed Data Fee is reasonable because it compares favorably to fees that other markets charge for similar products. For example, NASDAQ OMX PHLX charges Internal Distributors a monthly fee of \$4,000 per organization and External Distributors a monthly fee of \$5,000 per organization for its "TOPO Plus Orders" data feed, which like the BBO Data Feed includes top-of-book data (including orders, quotes and trades) and other market data.<sup>18</sup> The International Securities Exchange offers a "Top Quote Feed", which includes top-of-book data, and a separate "Spread Feed", which like the BBO Data Feed includes order and quote data for complex strategies (*i.e.*, a customer must subscribe to both feeds to receive data comparable to the BBO Data Feed). ISE charges distributors of its Top Quote Feed a base monthly fee of \$3,000 plus \$20 per month per controlled device. ISE charges distributors of its Spread Feed a base monthly fee of \$3,000 plus \$25 per month per controlled device.<sup>19</sup>

The Exchange believes the proposed increase in the Data Fee for Book Depth data is equitable and not unfairly discriminatory because it would apply equally to all Customers. The Exchange believes the proposed Data Fee is

reasonable because it compares favorably to fees that other markets charge for similar products. For example, the International Securities Exchange offers a "Depth of Market" Feed, which includes the aggregated volume of all quotes and orders available at each of the top five price levels for simple (single legged) instruments, and a separate Spread Feed, which like the Book Depth Data Feed includes order and quote data for complex strategies (*i.e.*, a customer must subscribe to both feeds to receive data comparable to the Book Depth Data Feed). ISE charges distributors of its Depth of Market Feed a base monthly fee of \$5,000 plus \$50 per month per controlled device. ISE charges distributors of its Spread Feed a base monthly fee of \$3,000 plus \$25 per month per controlled device.<sup>20</sup> NASDAQ OMX PHLX charges Internal Distributors a monthly fee of \$4,000 and External Distributors a monthly fee of a \$4,500 for its Depth of Market data feed that includes full depth of quotes and orders and last sale data for options listed on PHLX.<sup>21</sup>

The Exchange believes the proposal to delete the monthly cap on User Fees for receipt of the COB Data Feed is equitable and not unfairly discriminatory because it would apply equally to all Customers. The Exchange believes the User Fees, without a fee cap, are reasonable because they are similar to fees that other markets charge for similar products. For example, NYSE Arca charges \$20 per month to each Professional User and \$1 per month to each Non-Professional User for receipt of the Arcabook for Arca Options—Complex data feed. The Exchange believes NYSE Arca does not cap its user fees.<sup>22</sup> Similarly, NYSE MKT charges \$20 per month to each Professional User and \$1 per month to each Non-Professional User for receipt of the Arcabook for Amex Options Options—Complex data feed. The Exchange believes NYSE MKT does not cap its user fees. The Exchange also believes removal of the fee cap is reasonable in that it is not anticipated to materially affect the amount of User Fees any Customer pays.

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010), upheld reliance by the Securities and Exchange Commission ("Commission")

upon the existence of competitive market mechanisms to set reasonable and equitably allocated 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.'

Id. At 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323). 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.'" <sup>23</sup>

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that the need to attract order flow from market participants provides an effective constraint on the market data fees that the Exchange, through MDX, has the ability and the incentive to charge. In addition, the existence of alternatives to these data products, such as consolidated data and proprietary data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can select such alternatives.

For the reasons cited above, the Exchange believes the proposed fees for the BBO, Book Depth and COB Data Fees are equitable, reasonable and not unfairly discriminatory. In addition, the Exchange believes that no substantial countervailing basis exists to support a finding that the proposed fees for the BBO, Book Depth and COB Data Fees fail to meet the requirements of the Act.

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

C2 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.

An exchange's ability to price its proprietary market data feed products is constrained by (1) the existence of actual competition for the sale of such data, (2) the joint product nature of

<sup>17</sup> 15 U.S.C. 78f(b)(5).

<sup>18</sup> See IX. Proprietary Data Feed Fees, TOPO Plus Orders, available at <http://www.nasdaqtrader.com/Micro.aspx?id=phlxpricing>.

<sup>19</sup> See ISE Schedule of Fees available at [http://www.ise.com/assets/documents/OptionsExchange/legal/fee/ISE\\_fee\\_schedule.pdf](http://www.ise.com/assets/documents/OptionsExchange/legal/fee/ISE_fee_schedule.pdf).

<sup>20</sup> *Supra* Note 17.

<sup>21</sup> See IX. Proprietary Data Feed Fees, PHLX Depth Data, available at <http://www.nasdaqtrader.com/Micro.aspx?id=phlxpricing>.

<sup>22</sup> See NYSE Market Data Pricing Guide available at [www.nyxdata.com/doc/241907](http://www.nyxdata.com/doc/241907).

<sup>23</sup> *NetCoalition*, 615 F.3d at 535 (Quoting Securities Exchange Act Release No. 59039 (December 9, 2008), 73 FR 74770 (December 9, 2008) at 74771).

exchange platforms, and (3) the existence of alternatives to the Exchange's proprietary data.

*The Existence of Actual Competition.* The Exchange believes competition provides an effective constraint on the market data fees that the Exchange, through MDX, has the ability and the incentive to charge. C2 has a compelling need to attract order flow from market participants in order to maintain its share of trading volume. This compelling need to attract order flow imposes significant pressure on C2 to act reasonably in setting its fees for market data, particularly given that the market participants that will pay such fees often will be the same market participants from whom C2 must attract order flow. These market participants include broker-dealers that control the handling of a large volume of customer and proprietary order flow. Given the portability of order flow from one exchange to another, any exchange that sought to charge unreasonably high data fees would risk alienating many of the same customers on whose orders it depends for competitive survival. C2 currently competes with thirteen options exchanges (including C2's affiliate, Chicago Board Options Exchange) for order flow.<sup>24</sup>

In addition, in the case of products that are distributed through market data vendors, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Similarly, Customers will not offer the BBO, Book Depth or COB Data Feeds unless these products will help them maintain current users or attract new ones. For example, a broker-dealer will not choose to offer the BBO, Book Depth or COB Data Feeds to its retail customers unless the broker-dealer believes that the retail customers will use and value the data and the provision of such data will help the broker-dealer maintain the customer relationship, which allows the broker-dealer to increase its revenues. Professional users will not request any of these feeds from Customers unless they can use the data

for profit-generating purposes in their businesses. All of these factors operate as constraints on pricing proprietary data products.

*Joint Product Nature of Exchange Platform.* Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, proprietary market data and trade executions are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data quality, and price and distribution of data products. Without a platform to post quotations, receive orders and execute trades, exchange data products would not exist.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's platform for posting quotes, receiving orders and executing trades, and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs.

Moreover, an exchange's broker-dealer customers view the costs of transaction executions and market data as a unified cost of doing business with the exchange. A broker-dealer will only choose to direct orders to an exchange if the revenue from the transaction exceeds its cost, including the cost of any market data that the broker-dealer chooses to buy in support of its order routing and trading decisions. If the costs of the transaction are not offset by its value, then the broker-dealer may choose instead not to purchase the product and trade away from that exchange.

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, and system and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products.

Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

The level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 14 options self-regulatory organization ("SRO") markets, as well as various forms of alternative trading systems ("ATs"), including dark pools and electronic communication networks ("ECNs") and internalizing broker-dealers. Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

*The Existence of Alternatives.* C2 is constrained in pricing the BBO, Book Depth and COB Data Feeds by the availability to market participants of alternatives to purchasing these products. C2 must consider the extent to which market participants would choose one or more alternatives instead of purchasing the exchange's data. Other options exchanges can and have produced their own complex order book market data products, and thus are sources of potential competition for MDX. For example, as noted above, ISE and NASDAQ OMX PHLX offer market data products that compete with the BBO and Book Depth Data Feeds, and NYSE Arca and NYSE MKT offer market data products that compete with the COB Data Feed.

The large number of SROs, ATs and internalizing broker-dealers that currently produce proprietary data or are currently capable of producing it

<sup>24</sup> The Commission has previously made a finding that the options industry is subject to significant competitive forces. See e.g., Securities Exchange Act Release No. 59949 (May 20, 2009), 74 FR 25593 (May 28, 2009) (SR-ISE-2009-97) (order approving ISE's proposal to establish fees for a real-time depth of market data offering).

provides further pricing discipline for proprietary data products. Each SRO, ATS, and broker-dealer is currently permitted to produce and sell proprietary data products, and many currently do. In addition, the OPRA data feed is a significant competitive alternative to the BBO and last sale data included in the BBO and Book Depth Data Feeds.

Further, data products are valuable to professional users only if they can be used for profit-generating purposes in their businesses and valuable to non-professional users only insofar as they provide information that such users expect will assist them in tracking prices and market trends and making trading decisions.

The existence of numerous alternatives to the Exchange's products, including consolidated data and proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if its cost to purchase is not justified by the returns any particular vendor or subscriber would achieve through the purchase.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>25</sup> and paragraph (f) of Rule 19b-4<sup>26</sup> thereunder. 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 will institute proceedings 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:

#### *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](mailto:rule-comments@sec.gov). Please include File Number SR-C2-2016-025 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-C2-2016-025. 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 Number SR-C2-2016-025, and should be submitted on or before January 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2016-31942 Filed 1-4-17; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>27</sup> 17 CFR 200.30-3(a)(12).

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-79705; File No. SR-NYSEArca-2016-169]

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.35(a)(10)(A)**

December 29, 2016.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on December 22, 2016, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("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 NYSE Arca Equities Rule 7.35(a)(10)(A) to extend the period for the current Trading Halt Auction Collar price collar. The proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://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 amend NYSE Arca Equities Rule 7.35(a)(10)(A) ("Rule 7.35") to extend the period for

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>25</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>26</sup> 17 CFR 240.19b-4(f).