

data more efficiently through the NMS Network, a new dedicated low-latency connectivity service, at no additional charge. The Commission believes that providing market participants the ability to obtain consolidated market data in a more timely manner in these circumstances would enhance the utility of this critical component of the national market system for the benefit of market participants and investors that rely upon access to consolidated market data to effectuate trades and otherwise have confidence in the efficiency and integrity of that system. Thus, the Commission finds the proposal would protect investors and the public interest and otherwise is consistent with Section 6(b)(5) of the Act.<sup>55</sup>

With regard to competition, Nasdaq takes the position that the Amended Proposal inappropriately burdens competition because the Exchanges would bundle fees for connectivity to the NMS Feeds with fees for connectivity to the Exchanges' proprietary products for co-location Users. In Nasdaq's view, this pricing structure for co-location services hinders potential competitors from replacing SIAC as processor for the NMS Feeds, and inappropriately burdens market participants that may seek connectivity only to the NMS Feeds or to the Exchanges' proprietary products, or to some subset thereof, in the Exchanges' co-location facilities. Nasdaq also states that there are alternative ways the Exchanges could structure the proposal such that connectivity to the NMS Feeds could be priced separately from exchange connectivity, and offered examples of how this could be accomplished without an increase in NYSE's fees.<sup>56</sup>

As an initial matter, the Commission notes that the proposed rule change under consideration would not modify the existing fees of the Exchanges; instead the Exchanges are proposing to offer co-location Users an enhanced connectivity option for consolidated market data through the NMS Feeds at no additional charge. Nonetheless, with respect to Nasdaq's position that the Exchanges' existing pricing structure

<sup>55</sup> The Commission also believes that the proposed enhancements to the provision of consolidated market data are consistent with past Commission statements that the widespread availability of timely market information promotes fair and efficient markets. See, e.g., Securities Exchange Act Release No. 42208 (Dec. 9, 1999), 64 FR 70613, 70614 (Dec. 17, 1999) (Market Information Concept Release); Concept Release on Equity Market Structure, Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3593, 3600 (Jan. 21, 2010) (Equity Market Structure Concept Release).

<sup>56</sup> See note 36 *supra*.

hinders potential competitors from replacing SIAC as processor for the NMS Feeds, and is therefore a burden on intermarket competition, the Commission does not believe in these circumstances that potential competitors who are also exchanges, such as Nasdaq, are inappropriately constrained from offering connectivity to the NMS Feeds to co-location Users at prices competitive with the Exchanges. As noted above, Nasdaq, like the Exchanges, provides connectivity to a consolidated market data feed (the "UTP SIP Feed"),<sup>57</sup> as well as its own proprietary products, at its co-location facility. Whether connectivity services at co-location facilities are offered for multiple products or a single product, co-location customers generally are charged for connectivity by the Exchanges and Nasdaq based on the number of connections received and the bandwidth thereof.<sup>58</sup> Thus, the Commission believes that Nasdaq could propose a comparable pricing structure that would allow it to compete with the Exchanges.<sup>59</sup> For the same reasons, the Commission is also not persuaded that the Exchanges choosing not to propose the alternative pricing approaches suggested by Nasdaq renders the proposed rule change an inappropriate or unnecessary burden on intermarket competition and thus inconsistent with the Act. Further, the Commission does not believe that Nasdaq's argument is persuasive with respect to an entity that may not be an exchange but that wishes to compete for the exclusive SIP contracts currently held by SIAC. While it is possible that the changes proposed by the Exchanges could place greater pressure on these would-be competitors, it does not appear that any such pressure would force users to pay higher prices than they currently do or that there would be a loss of desirable alternative bidders for the exclusive SIP contract. In sum, the Commission does not believe that any such competitive pressure creates an inappropriate or

<sup>57</sup> The UTP SIP Feed is comprised of a UTP Quote Data Feed ("UQDF") and a UTP Trade Data Feed ("UTDF"). The UQDF provides continuous quotations from all market centers trading Nasdaq-listed securities. The UTDF provides continuous last sale information from all market centers trading Nasdaq-listed securities. See <http://www.utpplan.com/>.

<sup>58</sup> See e.g., NYSE Price List and Nasdaq Price Lists, available, respectively, at: [https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE\\_Price\\_List.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf); and <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/nasdaq-general-8>.

<sup>59</sup> Nasdaq today offers its co-location customers two free connections to the UTP SIP Feed and additional connections for a nominal fee. See <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/nasdaq-general-8>.

unnecessary burden on the competitive landscape in the context of this proposal.

The Commission also does not believe that the Exchanges' existing pricing structure inappropriately burdens either those market participants that may seek connectivity only to a subset of market data products, or those that would otherwise be forced into using the NMS Network connectivity to access OPRA. This is because co-location Users that desire a small number of market data products are likely to require fewer connections or less bandwidth, and therefore pay lower connectivity fees, whereas those that require more connections or more bandwidth are likely to pay comparatively higher connectivity fees, and the Exchanges are not proposing to charge an additional fee for access to the new NMS Network. For all of the foregoing reasons, the Commission finds that the Amended Proposal, to provide co-location Users access to the new NMS Network without associated fee changes, is consistent with Section 6(b)(8) of the Act, which prohibits any exchange rule from imposing any burden on competition that is not necessary or appropriate in furtherance of the Act.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>60</sup> that the proposed rule change (SR-NYSE-2019-46, SR-NYSE-2019-19, SR-NYSEArca-2019-61, SR-NYSEAMER-2019-34), as modified by Amendment No. 1, be, and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>61</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020-10223 Filed 5-12-20; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-40, OMB Control No. 3235-0313]

### Proposed Collection; 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 203-2 and Form ADV-W

<sup>60</sup> See *id.*

<sup>61</sup> 17 CFR 200.30-3(a)(12).

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The title for the collection of information is “Rule 203–2 (17 CFR 275.203–2) and Form ADV–W (17 CFR 279.2) under the Investment Advisers Act of 1940 (15 U.S.C. 80b).” Rule 203–2 under the Investment Advisers Act of 1940 establishes procedures for an investment adviser to withdraw its registration or pending registration with the Commission. Rule 203–2 requires every person withdrawing from investment adviser registration with the Commission to file Form ADV–W electronically on the Investment Adviser Registration Depository (“IARD”). The purpose of the information collection is to notify the Commission and the public when an investment adviser withdraws its pending or approved SEC registration. Typically, an investment adviser files a Form ADV–W when it ceases doing business or when it is ineligible to remain registered with the Commission.

The respondents to the collection of information are all investment advisers that are registered with the Commission or have applications pending for registration. The Commission has estimated that compliance with the requirement to complete Form ADV–W imposes a total burden of approximately 0.75 hours (45 minutes) for an adviser filing for full withdrawal and approximately 0.25 hours (15 minutes) for an adviser filing for partial withdrawal. Based on historical filings, the Commission estimates that there are approximately 802 respondents annually filing for full withdrawal and approximately 454 respondents annually filing for partial withdrawal. Based on these estimates, the total estimated annual burden would be 715 hours ((802 respondents × .75 hours) + (454 respondents × .25 hours)).

Rule 203–2 and Form ADV–W do not require recordkeeping or records retention. The collection of information requirements under the rule and form are mandatory. The information collected pursuant to the rule and Form ADV–W are filings with the Commission. These filings are not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of

information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the documentation of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: May 8, 2020.

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

[FR Doc. 2020–10239 Filed 5–12–20; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88833; File No. SR–NYSEARCA–2020–39]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

May 7, 2020.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on May 1, 2020, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<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.

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

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (“Fee Schedule”) to (1) adopt a new pricing tier, Step Up Tier 5; (2) modify the requirements associated with the Step Up Tier 4 pricing tier; (3) increase the per share credit applicable to Retail Orders; (4) adopt an alternative requirement to qualify for the Tape B Tier 2 pricing tier; and (5) adopt an incremental per share credit payable under the Cross-Asset Tier 2 pricing tier. The Exchange proposes to implement the fee changes effective May 1, 2020. The proposed rule change is available on the Exchange’s website 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 Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend the Fee Schedule to (1) adopt a new pricing tier, Step Up Tier 5; (2) modify the requirements associated with the Step Up Tier 4 pricing tier; (3) increase the per share credit applicable to Retail Orders; (4) adopt an alternative requirement to qualify for the Tape B Tier 2 pricing tier; and (5) adopt an incremental per share credit payable under the Cross-Asset Tier 2 pricing tier.

The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for ETP Holders<sup>4</sup> to send additional displayed liquidity to the Exchange.

<sup>4</sup> All references to ETP Holders in connection with this proposed fee change include Market Makers.