

disinterested directors, irrevocably approves the liquidation of the fund; and (iii) the fund, prior to suspending redemptions, notifies the Commission of its decision to liquidate and suspend redemptions. Rule 22e-3 also provides an exemption from section 22(e) for registered investment companies that own shares of a money market fund pursuant to section 12(d)(1)(E) of the Act (“conduit funds”), if the underlying money market fund has suspended redemptions pursuant to the rule. A conduit fund that suspends redemptions in reliance on the exemption provided by rule 22e-3 is required to provide prompt notice of the suspension of redemptions to the Commission. Notices required by the rule must be provided by electronic mail, directed to the attention of the Director of the Division of Investment Management or the Director’s designee.<sup>1</sup> Compliance with the notification requirement is mandatory for money market funds and conduit funds that rely on rule 22e-3 to suspend redemptions and postpone payment of proceeds pending a liquidation, and are not kept confidential.

Commission staff estimates that, on average, one fund would be required to make the required notice every year.<sup>2</sup> Commission staff further estimates that a money market fund or conduit fund would spend approximately one hour of an in-house attorney’s time to prepare and submit the notice required by the rule. Given these estimates, the total annual burden of the notification requirement of rule 22e-3 for all money market funds and conduit funds would be approximately one hour at a cost of \$425.<sup>3</sup> The Commission staff estimates that there is no cost burden associated with the information collection requirement of rule 22e-3 other than this cost. The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule. An agency may not conduct or sponsor, and a person is not required

<sup>1</sup> See rule 22e-3(a)(3).

<sup>2</sup> The Commission has not received any notices invoking rule 22e-3 to halt redemptions. However, for administrative purposes, we are reporting one respondent and one annual response.

<sup>3</sup> This figure for an Attorney is from SIFMA’s *Management & Professional Earnings in the Securities Industry 2013*, modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission’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 after this publication.

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

Dated: November 15, 2021.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93564; File No. SR-NYSEArca-2021-97]

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

November 12, 2021.

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 November 3, 2021, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) 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 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 Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fees and Charges and the NYSE Arca Equities Fees and Charges (together, the “Fee Schedules”) regarding colocation services and fees to provide Users with wireless connectivity to CME Group market data. 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 Schedules regarding colocation services and fees to provide Users<sup>4</sup> with wireless connectivity to CME Group market data.<sup>5</sup>

The Exchange currently provides Users with wireless connections to eight

<sup>4</sup> 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. 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, NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc. (together, the “Affiliate SROs”). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2021-67, SR-NYSEAMER-2021-43, SR-NYSECHX-2021-17, and SR-NYSENAT-2021-23.

<sup>5</sup> 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).

<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.

market data feeds or combinations of feeds from third party markets (the “Existing Third Party Data”),<sup>6</sup> and wired connections to 43 market data feeds.<sup>7</sup> The Exchange now proposes to add to its Fee Schedules wireless connections to CME Group, Inc. (“CME Group”) market data (such data, “CME Group Data” and, together with the Existing Third Party Data, the “Third Party Data”). Users would be offered the proposed wireless connection to the CME Group Data through connections into the colocation center in the Mahwah, New Jersey data center (“Data Center”).<sup>8</sup>

The Exchange expects that the proposed rule change would become operative no later than March 31, 2022. The Exchange will announce the date that the wireless connection to the CME Group Data will be available through a customer notice.

To receive CME Group Data, the User would enter into an agreement with a non-Exchange affiliated party for permission to receive the data, if required. The User would pay this third party any fees for the data content.

For each wireless connection to CME Group Data, a User would be charged a \$5,000 non-recurring initial charge and a monthly recurring charge of \$6,000. The Exchange proposes to revise its Fee Schedules to reflect fees related to the wireless connection to CME Group Data.

The CME Group Data would not include all possible CME Group data feeds. There is limited bandwidth available on the wireless network to colocation, and there are currently dozens of CME Group data feeds. To provide connectivity to all of them would use a large amount of bandwidth.

Accordingly, rather than provide connectivity to all possible symbols included in the CME Group data feeds, the wireless connection would only provide connectivity to a selection of CME Group market data for which IDS determines there is User demand. IDS similarly provides connectivity to a selection of data, rather than entire feeds, over a wireless connection to the

<sup>6</sup> See Securities Exchange Act Release Nos. 76749 (December 23, 2015), 80 FR 81640 (December 30, 2015) (SR-NYSEArca-2015-99); 78377 (July 21, 2016), 81 FR 49327 (July 27, 2016) (SR-NYSEArca-2016-99); and 80116 (February 28, 2017), 82 FR 12663 (March 6, 2017) (SR-NYSEArca-2017-18).

<sup>7</sup> See Securities Exchange Act Release No. 80310 (March 24, 2017), 82 FR 15763 (March 30, 2017) (SR-NYSEArca-2016-89).

<sup>8</sup> Through its ICE Data Services (“IDS”) business, Intercontinental Exchange, Inc. (“ICE”) operates the Data Center in Mahwah, New Jersey. The Exchange and the Affiliate SROs are indirect subsidiaries of ICE. The proposed service would be provided by IDS pursuant to an agreement with a non-ICE entity. IDS does not own the wireless network that would be used to provide the service.

Markham, Canada third party data center.<sup>9</sup> The User would then determine the symbols for which it would receive data, which could include data regarding some or all of the symbols for which IDS provides connectivity.<sup>10</sup> The Exchange would not have visibility into which portion of the CME Group Data a given User receives.

As with the Existing Third Party Data, if a User purchased two wireless connections, it would pay two non-recurring initial charges. Each wireless connection would include the use of one port for connectivity to CME Group Data. A User would not pay a fee for the use of such port. If a User also connects to Existing Third Party Data, it would not be able to use the same port that it uses for connectivity to CME Group Data to connect to such Existing Third Party Data. Accordingly, a User that connects to both CME Group Data and Existing Third Party Data would have at least two ports, and would not be separately charged for two ports.<sup>11</sup>

#### Application and Impact of the Proposed Changes

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally.

As is currently the case, the purchase of any co-location service, including connectivity to Third Party Data, is completely voluntary and the Fee Schedules are applied uniformly to all Users.

#### Competitive Environment

Users that do not opt to utilize the Exchange’s proposed wireless connection would still be able to obtain CME Group market data using other methods: From another User, a third party wireless connection, or through an IDS or third party fiber connection.

<sup>9</sup> See Securities Exchange Act Release No. 88298 (February 19, 2020), 85 FR 10786 (February 25, 2020) (SR-NYSEArca-2020-15). See also Securities Exchange Act Release No. 90209 (October 15, 2020), 85 FR 67044 (October 21, 2020) (SR-NYSE-2020-05, SR-NYSEAMER-2020-05, SR-NYSEArca-2020-08, SR-NYSECHX-2020-02, SR-NYSEArca-2020-03, SR-NYSE-2020-11, SR-NYSEAMER-2020-10, SR-NYSEArca-2020-15, SR-NYSECHX-2020-05, SR-NYSEArca-2020-08).

<sup>10</sup> The Exchange understands that the third parties that provide wireless connectivity to CME Group market data to the Data Center and other data centers in New Jersey follow a substantially similar model, offering connectivity to a selection of market data rather than entire feeds.

<sup>11</sup> If a User purchased a wireless connection to CME Group Data, that connection would include the use of one port for connectivity to CME Group Data. If the same User connected to Existing Third Party Data, it would receive the use of one port for connectivity to the Existing Third Party Data. It would not be separately charged for such ports. A User may purchase additional ports. See 80 FR 81640, *supra* note 6, at 81641.

Based on the information available to it, the Exchange believes that at least one market participant provides wireless connectivity to CME Group market data in the Data Center. The Exchange believes that the wireless connection offered by this third party entity provides connectivity at the same or similar speed as the proposed connection to CME Group Data, and at the same or similar cost.<sup>12</sup> The proposed connection to CME Group Data and the existing third party wireless connection to CME Group Data would follow the same route within the Data Center: They would both enter through a meet-me-room, connect to equipment in colocation, and then connect to any Users that are customers. Because of this, the Exchange does not believe that IDS has an advantage over the third party in providing the connectivity. The proposed wireless connection would lead to a pole, from where a fiber connection would lead into the Data Center. The pole is owned by a third party and is not on the grounds of the Data Center.

IDS already offers fiber connections to CME Group market data to Users.<sup>13</sup> The Exchange also believes that at least two third party market participants offer such fiber connections to CME Group market data. In addition to these options, a User may create a proprietary wireless connection or connect through another User in order to connect to CME Group market data. The Exchange believes that at least two market participants already provide wireless connectivity to CME Group market data to other data centers in New Jersey.

Wireless connections involve beaming signals through the air between antennas that are within line of sight of one another. Because the signals travel a straight, unimpeded line, and because light waves travel faster through air than through glass (fiber optics), wireless messages have lower latency than messages travelling through fiber optics. At the same time, as a general rule wireless networks have less uptime than fiber networks. Wireless networks are directly and immediately affected by adverse weather conditions, which can cause message loss and outage periods. Wireless networks cannot be configured with redundancy in the same way that fiber networks can. As a result, an equipment or weather issue at any one location on the network will cause the entire network to have an outage. In

<sup>12</sup> Because the third party is not a regulated entity, it is not obligated to make its latency figures or fees publicly available or the same for all entities.

<sup>13</sup> See Securities Exchange Act Release No. 81013 (June 23, 2017), 82 FR 29604 (June 29, 2017) (SR-NYSEArca-2017-62).

addition, maintenance can take longer than it would with a fiber based network, as the relevant tower may be in a hard to reach location, or weather conditions may present safety issues, delaying technicians servicing equipment. Even under normal conditions, a wireless network will have a higher error rate than a fiber network of the same length.

The latency of a wireless network depends on several factors. Variables include the wireless equipment utilized; the route of, and number of towers or buildings in, the network; their proximity to the data centers on either end; and the fiber equipment used at either end of the connection. Moreover, latency is not the only consideration that a customer may have in selecting a wireless network to connect to CME Group market data. Other considerations may include the amount of network uptime; the equipment that the network uses; the cost of the connection; and the applicable contractual provisions. Indeed, fiber network connections may be more attractive to some market participants as they are more reliable and less susceptible to weather conditions.

The Exchange operates in a highly competitive market in which exchanges and other vendors (*e.g.*, Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>14</sup>

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,<sup>15</sup> in general, and

further the objectives of Section 6(b)(5) of the Act,<sup>16</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>17</sup> because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

### The Proposed Change Is Reasonable

The Exchange believes that the proposed rule change is reasonable.

The wireless connection would provide Users with an alternative means of connectivity to CME Group Data. The proposed change would provide Users with an additional choice with respect to the form and optimal latency of the connectivity they use to receive CME Group market data, allowing a User to select the connectivity that better suits its needs, helping it tailor its colocation operations to the requirements of its business operations. Users that do not opt to utilize the Exchange’s proposed wireless connection would still be able to obtain CME Group market data using other methods: From another User, a third party wireless connection, or through an IDS or third party fiber connection.

Based on the information available to it, the Exchange believes that at least one market participant provides wireless connectivity to CME Group market data in the Data Center. The Exchange believes that the wireless connection offered by this third party entity provides connectivity at the same or similar speed as the proposed connection to CME Group Data, and at the same or similar cost. The proposed connection to CME Group Data and the existing third party wireless connection to CME Group Data would follow the same route within the Data Center: They would both enter through a meet-me-

room, connect to equipment in co-location, and then connect to any Users that are customers. Because of this, the Exchange does not believe that IDS has an advantage over the third party in providing the connectivity. The proposed wireless connection would lead to a pole, from where a fiber connection would lead into the Data Center. The pole is owned by a third party and is not on the grounds of the Data Center.

IDS already offers fiber connections to CME Group market data to Users.<sup>18</sup> The Exchange also believes that at least two third party market participants offer such fiber connections to CME Group. In addition to these options, a User may create a proprietary wireless connection or connect through another User in order to connect to CME Group market data. The Exchange believes that at least two market participants already provide wireless connectivity to CME Group market data to other data centers in New Jersey.

Market participants’ considerations in determining what connectivity to purchase may include latency; the amount of network uptime; the equipment that the network uses; the cost of the connection; and the applicable contractual provisions. Indeed, fiber network connections may be more attractive to some market participants as they are more reliable and less susceptible to weather conditions.

The Exchange believes that it is reasonable to not transport information for all of the symbols included in CME Group data feeds to the Data Center, but rather to transport a subset of that data. There is limited bandwidth available on the wireless network to co-location, and there are a number of CME Group data feeds. Limiting the feeds to the selection of CME Group market data regarding securities for which IDS determines there is demand would allow Users to receive the relevant CME Group Data over a wireless network, which could include data regarding some or all of the symbols for which IDS provides connectivity. The User would then determine those symbols for which it will receive data.

The Exchange believes that it is reasonable that a User that has already purchased wireless connections to other Third Party Data would be charged a non-recurring charge when it purchases a wireless connection to the CME Group Data, because it would allow the Exchange to defray or cover certain costs it incurs in installing the wireless connection to the CME Group Data,

<sup>14</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

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

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> 15 U.S.C. 78f(b)(4).

<sup>18</sup> See 82 FR 29604, *supra* note 12.

which costs it incurs irrespective of whether the User has existing wireless connections to Third Party Data, while providing the User the benefit of the installation, which would allow it to receive CME Group Data within co-location and with a lower latency over the fiber optics option. To do the initial installation, the Exchange must provide the personnel required for initial installation and testing. The costs associated with installing wireless connections are incrementally higher than those associated with installing fiber optics-based solutions.

The Exchange believes that it is reasonable that a User that connects to both CME Group Data and Existing Third Party Data may not use the same port for connectivity to both, and so would have at least two ports, because the proposed wireless connection would include the use of one port for connectivity to CME Group Data and connectivity to the Existing Third Party Data includes the use of one port for connectivity to Existing Third Party Data. A User would not pay a separate fee for using such ports.

The Exchange believes the proposed pricing for the wireless connection to CME Group Data is reasonable because it would allow the Exchange to defray or cover the costs associated with offering Users a wireless connection to CME Group Data while providing Users the benefit of receiving CME Group Data within co-location and with a lower latency over the fiber optics option. The wireless connection for CME Group Data would allow Users to select the CME Group Data connectivity option that better suits their needs.

The Exchange believes that the proposed pricing is reasonable because the Exchange proposes to offer the wireless connection to CME Group Data described herein as a convenience to Users, but in order to do so must provide, maintain and operate the Data Center facility hardware and technology infrastructure. The Exchange must handle the installation, administration, monitoring, support and maintenance of such services, including by responding to any production issues. Since the inception of co-location, the Exchange has made numerous improvements to the network hardware and technology infrastructure and has established additional administrative controls. The Exchange has expanded the network infrastructure to keep pace with the increased number of services available to Users. Specifically, in order to offer wireless connections, the Exchange must install, test, maintain and operate the wireless equipment.

#### The Proposed Change Is Not Unfairly Discriminatory

The Exchange believes that the proposed rule change is not unfairly discriminatory for the following reasons.

Without this proposed rule change, Users would have fewer options for connectivity to CME Group Data. The proposed change would provide Users with an additional choice with respect to the form and optimal latency of the connectivity they use to receive CME Group market data, allowing a User to select the connectivity that better suits its needs, helping it tailor its colocation operations to the requirements of its business operations. Users that do not opt to utilize the Exchange's proposed wireless connection would still be able to obtain CME Group market data using other methods: From another User, a third party wireless connection, or through an IDS or third party fiber connection.

The Exchange believes that it is not unfairly discriminatory to not transport information for all of the symbols included in CME Group data feeds to the Data Center, but rather to transport a subset of that data. There is limited bandwidth available on the wireless network to co-location, and there are a number of CME Group data feeds. Limiting the feeds to the selection of CME Group market data regarding securities for which IDS determines there is demand would allow Users to receive the relevant CME Group Data over a wireless network. The User would then determine those symbols for which it will receive data, which could include data regarding some or all of the symbols for which IDS provides connectivity.

The Exchange believes that the proposed pricing is not unfairly discriminatory because the Exchange proposes to offer the wireless connection to CME Group Data described herein as a convenience to Users, but in order to do so must provide, maintain and operate the Data Center facility hardware and technology infrastructure. The Exchange must handle the installation, administration, monitoring, support and maintenance of such services, including by responding to any production issues. Since the inception of co-location, the Exchange has made numerous improvements to the network hardware and technology infrastructure and has established additional administrative controls. The Exchange has expanded the network infrastructure to keep pace with the increased number of services available to Users. Specifically, in order to offer

wireless connections, the Exchange must install, test, maintain and operate the wireless equipment.

The Exchange believes that the proposed change is not unfairly discriminatory because it will result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services will be available to all Users. Furthermore, the Exchange believes that the services and fees proposed herein are not unfairly discriminatory because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (*i.e.*, the same products and services are available to all Users). All Users that voluntarily select wireless connections to CME Group Data would be charged the same amount for the same services.

Users that opt to use wireless connections to CME Group Data would receive the CME Group Data that is available to all Users, as all market participants that contract with CME Group or its affiliate for CME Group Data, as required, may receive it.

#### The Proposed Change Is an Equitable Allocation of Fees and Credits

The Exchange believes that its proposal equitably allocates its fees among Users.

Without this proposed rule change, Users would have fewer options for connectivity to CME Group Data. The proposed change would provide Users with an additional choice with respect to the form and optimal latency of the connectivity they use to receive CME Group market data, allowing a User to select the connectivity that better suits its needs, helping it tailor its colocation operations to the requirements of its business operations. Users that do not opt to utilize the Exchange's proposed wireless connection would still be able to obtain CME Group market data using other methods: From another User, a third party wireless connection, or through an IDS or third party fiber connection.

The Exchange believes that the proposed change is equitable because it will result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services will be available to all Users. Furthermore, the Exchange believes that the services and fees proposed herein are equitably allocated because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (*i.e.*, the same products and services are available to all Users). All Users that voluntarily select wireless connections

to CME Group Data would be charged the same amount for the same services.

The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

For the reasons above, the proposed changes do 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.

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

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Act.<sup>19</sup>

The proposed change does not affect competition among national securities exchanges or among members of the Exchange, but rather between IDS and its commercial competitors.

The wireless connection would provide Users with an alternative means of connectivity to CME Group Data. The proposed change would provide Users with an additional choice with respect to the form and optimal latency of the connectivity they use to receive CME Group market data, allowing a User to select the connectivity that better suits its needs, helping it tailor its colocation operations to the requirements of its business operations.

Users that do not opt to utilize the Exchange's proposed wireless connection would still be able to obtain CME Group market data using other methods: From another User, a third party wireless connection, or through an IDS or third party fiber connection. Based on the information available to it, the Exchange believes that at least one market participant provides wireless connectivity to CME Group market data in the Data Center. The Exchange believes that the wireless connection offered by this third party entity provides connectivity at the same or similar latency as the proposed connection to CME Group Data, and at the same or similar cost. The proposed connection to CME Group Data and the existing third party wireless connection to CME Group Data would follow the same route within the Data Center: They would both enter through a meet-me-room, connect to equipment in co-location, and then connect to any Users that are customers. Because of this, the Exchange does not believe that IDS has an advantage over the third party in providing the connectivity. The proposed wireless connection would lead to a pole, from where a fiber connection would lead into the Data Center. The pole is owned by a third party and is not on the grounds of the Data Center.

IDS already offers fiber connections to CME Group market data to Users.<sup>20</sup> The Exchange also believes that at least two third party market participants offer such fiber connections to CME Group. In addition to these options, a User may create a proprietary wireless connection or connect through another User in order to connect to CME Group market data. The Exchange believes that at least two market participants already provide wireless connectivity to CME Group market data to other data centers in New Jersey.

The Exchange notes that the proposed wireless connection would compete not just with other wireless connections to CME Group market data, but also with fiber network connections, which may be more attractive to some market participants as they are more reliable and less susceptible to weather conditions. Market participants' considerations in determining what connectivity to purchase may include latency; the amount of network uptime; the equipment that the network uses; the cost of the connection; and the applicable contractual provisions. As noted above, a User may purchase a fiber connection to CME Group market

data from at least three providers, including IDS.

The Exchange operates in a highly competitive market in which exchanges and other vendors (e.g., Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>21</sup>

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

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

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>22</sup> and Rule 19b-4(f)(6) thereunder.<sup>23</sup>

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

<sup>21</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

<sup>22</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>23</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>19</sup> 15 U.S.C. 78f(b)(8).

<sup>20</sup> See 82 FR 29604, *supra* note 12.

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-NYSEArca-2021-97 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-NYSEArca-2021-97. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2021-97, and should be submitted on or before December 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021-25124 Filed 11-17-21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-491, OMB Control No. 3235-0548]

### 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 35d-1

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 (the "Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Rule 35d-1 (17 CFR 270.35d-1) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) defines as "materially deceptive and misleading" for purposes of Section 35(d), among other things, a name suggesting that a registered investment company or series thereof (a "fund") focuses its investments in a particular type of investment or investments, in investments in a particular industry or group of industries, or in investments in a particular country or geographic region, unless, among other things, the fund adopts a certain investment policy. Rule 35d-1 further requires either that the investment policy is fundamental or that the fund has adopted a policy to provide its shareholders with at least 60 days prior notice of any change in the investment policy ("notice to shareholders"). The rule's notice to shareholders provision is intended to ensure that when shareholders purchase shares in a fund based, at least in part, on its name, and with the expectation that it will follow the investment policy suggested by that name, they will have sufficient time to decide whether to redeem their shares in the event that the fund decides to pursue a different investment policy.

The Commission estimates that there are approximately 11,502 open-end and closed-end funds that have names that are covered by the rule. The Commission estimates that of these 11,502 funds, approximately 38 will provide prior notice to shareholders pursuant to a policy adopted in accordance with this rule per year. The Commission estimates that the annual burden associated with the notice to shareholders requirement of the rule is 20 hours per response, for annual total of 760 hours per year.

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. Providing prior notice to shareholders under rule 35d-1 is not mandatory. An investment company may choose to have a name that does not indicate that the fund focuses its investments in a particular type of investment or investments, or in investments in a particular industry or group of industry. If an investment company does choose such a name, it will only need to provide prior notice to shareholders of a change in its 80% investment policy if it first has adopted a policy to provide notice and then has decided to change this investment policy. The information provided under rule 35d-1 will not be 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 OMB control number. The public may view background documentation for this information collection at the following website: [www.reginfo.gov](http://www.reginfo.gov). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain) and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John R. Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: November 15, 2021.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021-25171 Filed 11-17-21; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>24</sup> 17 CFR 200.30-3(a)(12).