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)(iii) of the Act [20] and subparagraph (f)(6) of Rule 19b–4 thereunder.[21] A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing.[22] Rule 19b–4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[23]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because such waiver will allow Users that elect to receive wireless connections to both NASDAQ Totalview Ultra (FPGA) and BX Totalview-ITCH data to do so without delay at a reduced fee through the new bundle price. The Commission has therefore determined to waive the 30-day operative delay and designate the proposed rule change as operative upon filing with the Commission.[24]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act [25] 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.* Please include File No. SR–NYSEMKT–2016–70 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEMKT–2016–70. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEMKT–2016–70, and should be submitted on or before August 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–17662 Filed 7–26–16; 8:45 am]

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[20] 15 U.S.C. 78s(b)(3)(a)(iii).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] *Id.*

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

[25] 15 U.S.C. 78s(b)(2)(B).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78378; File No. SR–NYSE–2016–49]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Exchange's Price List

July 21, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 11, 2016, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the Exchange's Price List to add additional wireless connections and update or remove obsolete text. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

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

[3] 17 CFR 240.19b–4.

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's co-location [4] services include the means for Users [5] to receive market data feeds from third party markets (''Third Party Data'') through a wireless connection.[6] The Exchange currently offers wireless connectivity to six Third Party Data feeds.[7] The Exchange proposes to amend the Exchange's Price List to (a) expand the existing wireless connections to Bats Pitch BZX Gig shaped data (''BZX'') and DirectEdge EDGX Gig shaped data (''EDGX'') to include additional market data feeds, and (b) provide a wireless connection to NASDAQ TotalView Ultra (FPGA) and BX TotalView-ITCH data. The Exchange also proposes to update or remove obsolete text.

More specifically, the Exchange proposes to amend the connections to BZX and EDGX as follows:

- The wireless connection to BZX data would also include Bats Pitch BYX Gig shaped data (''BYX''), and
- the wireless connection to EDGX data would also include Bats EDGA Gig shaped data (''EDGA'').

The related fees would not change.

Any User that presently has a wireless connection to BZX or EDGX data would also receive BYX or EDGA data, respectively, upon effectiveness of the proposed change. Such User would not be required to pay a second non-recurring initial charge.

In addition, the Exchange proposes to add a seventh Third Party Data feed, which would include NASDAQ TotalView Ultra (FPGA) and BX TotalView-ITCH data (''FPGA and TotalView-ITCH''). Both such data feeds are currently offered separately. For each wireless connection to FPGA and TotalView-ITCH, a User would be charged a $5,000 non-recurring initial charge and a monthly recurring charge (''MRC'') of $14,500.

Any User that presently has a wireless connection to the separate FPGA and TotalView-ITCH feeds would become subject to the $14,500 MRC upon effectiveness of the proposed change. Such User would not be required to pay another non-recurring initial charge.

The Exchange accordingly proposes to revise its Price List to include the following:

Description	Amount of charge
Wireless connection of Bats Pitch BZX Gig shaped data and Bats Pitch BYX Gig shaped data.	$5,000 per connection initial charge plus monthly charge per connection of $6,000 Fees are subject to a 30-day testing period, during which the monthly charge per connection is waived.
Wireless connection of Bats EDGX Gig shaped data and Bats EDGA Gig shaped data.	$5,000 per connection initial charge plus monthly charge per connection of $6,000 Fees are subject to a 30-day testing period, during which the monthly charge per connection is waived.
Wireless connection of NASDAQ Totalview Ultra (FPGA) and BX Totalview-ITCH data.	$5,000 per connection initial charge plus monthly charge per connection of $14,500 Fees are subject to a 30-day testing period, during which the monthly charge per connection is waived.

As with all the Third Party Data, the Exchange would utilize a network vendor to provide a wireless connection to BZX and BYX, EDGX and EDGA or FPGA and TotalView-ITCH data (together, the ''Additional Third Party Data'') through wireless connections from an Exchange access center to its data center in Mahwah, New Jersey, through a series of towers equipped with wireless equipment. A User that wished to receive Additional Third Party Data would enter into a contract with the relevant third party provider, which would charge the User the applicable market data fees. The Exchange would charge the User fees for the wireless connection.[8]

As with the previously approved wireless connections to Third Party Data, if a User purchases two wireless connections to Additional Third Party Data, it pays two non-recurring initial charges. Wireless connections include the use of one port for connectivity to Third Party Data.[9] As with the previously approved wireless connections to Third Party Data, the Exchange proposes to waive the first month's MRC, to allow Users to test the receipt of Additional Third Party Data for a month before incurring any MRCs.

The Exchange proposes to offer the wireless connections to provide Users with an alternative means of connectivity to Additional Third Party Data. Currently, Users can receive such Third Party Data from wireless networks offered by third party vendors.[10] Users may also receive connections to Additional Third Party Data through other methods, including, for example, from another User, through a telecommunications provider, or over the internet protocol (''IP'') network.[11]

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 62960 (September 21, 2010), 75 FR 59310 (September 27, 2010) (SR–NYSE–2010–56). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR–NYSE–2015–40). As specified in the Price List, 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 NYSE MKT LLC and NYSE Arca, Inc. *See* Securities Exchange Act Release No. 70206 (August 15, 2013), 78 FR 51765 (August 21, 2013) (SR–NYSE–2013–59).

[6] *See* Securities Exchange Act Release No. 76748 (December 23, 2015), 80 FR 81609 (December 30, 2015) (SR–NYSE–2015–52) (''Wireless Approval Release'').

[7] *See* Securities Exchange Act Release No. 77119 (February 11, 2016), 81 FR 8313 (February 18, 2016) (SR–NYSE–2016–01).

[8] A User only receives the Third Party Data for which it enters into a contract with the third party provider. If a User requested not to be connected to one of the Third Party Data feeds (for example, if it entered into a contract with BATS for BZX but not BYX, or for EDGA but not EDGX), the Exchange would only provide the wireless connection requested, but would charge the User the full $5000 initial fee, plus $6000/monthly fee for the wireless connection.

[9] A User only requires one port to connect to the Third Party Data, irrespective of how many of the wireless connections it orders. It may, however, purchase additional ports. *See* Wireless Approval Release, *supra* note 6, at 81610.

[10] Currently, at least six third party vendors offer Users wireless network connections using wireless equipment installed on towers and buildings near the data center.

[11] The IP network is a local area network available in the data center. *See* Securities Exchange Act

The proposed connectivity to the FPGA and TotalView-ITCH data feeds would be available upon effectiveness. The proposed connectivity to the BZX and BYX or EDGX and EDGA data feeds is expected to be available no later than September 1, 2016. The Exchange will announce the date that the wireless connections will be made available through a customer notice.

In addition, the Exchange proposes to replace the existing references to ''DirectEdge'' and ''BATS'' in the Price List with references to ''Bats'' in order to reflect the recent name changes of BATS Exchange, Inc. and EDGX Exchange, Inc. to Bats BZX Exchange, Inc. and Bats EDGX Exchange, Inc., respectively.[12]

Finally, the Exchange proposes to delete statements in the Price List that say that the wireless connections for Third Party Data are expected to be available no later than March 1, 2016, as such statements are obsolete. This proposed change would have no impact on pricing.

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [13] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[14]

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

The Exchange believes that the proposed service is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the proposed changes would provide Users with an alternative means of connectivity to the Additional Third Party Data. Users that do not opt to utilize the Exchange's proposed wireless connections would still be able to obtain the Additional Third Party Data through other methods, including, for example, from wireless networks offered by third party vendors, another User, through a telecommunications provider, or over the IP network. Users that opt to use wireless connections to Additional Third Party Data would receive the Additional Third Party Data that is available to all Users, as all market participants that contract with the relevant third party market for the Additional Third Party Data may receive it.

The Exchange believes that this removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because it would provide Users with choices with respect to the form and optimal latency of the connectivity they use to receive Additional Third Party Data, allowing a User that opts to receive such Additional Third Party Data to select the connectivity and number of ports that better suit its needs, helping it tailor its data center operations to the requirements of its business operations.

The Exchange believes that the proposed change is equitable and 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 and 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 Additional Third Party Data would be charged the same amount for the same services and would have their first month MRC for wireless connections waived.

Overall, the Exchange believes that the proposed change is reasonable because the Exchange proposes to offer the wireless connections to described herein as a convenience to Users, but in doing so would incur certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and monitoring, support and maintenance of such services. The costs associated with the wireless connections are incrementally higher than fiber optics-based solutions due to the expense of the wireless equipment, cost of installation and testing and ongoing maintenance of the network.

The Exchange believes that it is reasonable not to charge a User a second non-recurring initial charge if it has a wireless connection to BZX or EDGX data as of the date of effectiveness of the proposed change, because such User would have already paid a non-recurring initial charge for the wireless connection to BZX or EDGX data that it already has. The Exchange believes that it is reasonable that a User that presently has a wireless connection to the separate FPGA and TotalView-ITCH

Release No. 74222 (February 6, 2015), 80 FR 7888 (February 12, 2015) (SR–NYSE–2015–05) (notice of filing and immediate effectiveness of proposed rule change to include IP network connections).

[12] *See* Securities Exchange Act Release No. 77298 (March 4, 2016), 81 FR 12757 (March 10, 2016) (SR–EDGX–2016–04) (notice of filing and immediate effectiveness of proposed rule change to reflect a legal name change by BATS Global Markets, Inc. and the legal names of certain subsidiaries).

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

[14] *See* SR–NYSE–2013–59, *supra* note 5 at 51766. The Exchange's affiliates have also submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEMKT–2016–70 and SR–NYSEArca–2016–99.

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

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78f(b)(4).

feeds would become subject to the $14,500 MRC upon effectiveness of the proposed change, because such User would have the same service as a User that obtained wireless connectivity to the FPGA and TotalView-ITCH feeds after effectiveness. Similarly, the Exchange believes that it is reasonable that such a User would not be required to pay another non-recurring initial charge, because such User would have already paid non-recurring initial charges for the two wireless connections that it already has.

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 initial charge when it purchases a wireless connection to Additional Third Party Data, because the Exchange would incur certain costs in installing the wireless connection to such Third Party Data irrespective of whether the User had existing wireless connections to other Third Party Data. Such costs related to initial installation include, in particular, costs related to 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 the proposed pricing is reasonable because it allows Users to select the Additional Third Party Data connectivity option that better suits their needs. The fees also reflect the benefit received by Users in terms of lower latency over the fiber optics option. For competitive reasons, the Exchange has opted not to change the existing fees for the BZX and EDGX Third Party Data feeds. Accordingly, Users that already receive the BZX or EDGX Third Party Data feed will receive an additional feed at no incremental cost.

The Exchange believes that the proposed waiver of the first month's MRC is reasonable as it would allow Users to test the receipt of the feed for a month before incurring any monthly recurring fees and may act as an incentive to Users to connect to Additional Third Party Data.

Moreover, the Exchange believes that the proposed fees are equitably allocated and not unfairly discriminatory because the wireless connections to Additional Third Party Data would provide Users with an alternative means of connectivity to such feeds. Users that do not opt to utilize the Exchange's proposed wireless connections would still be able to obtain Additional Third Party Data through other methods, including, for example, from wireless networks offered by third party vendors, another User, through a telecommunications provider, or over the IP network. Users that opt to use wireless connections for Additional Third Party Data would receive the Additional Third Party Data that is available to all Users, as all market participants that contract with the relevant third party market for the Additional Third Party Data may receive it.

The Exchange believes that deleting statements in the Price List that say that the wireless connections for Third Party Data are expected to be available no later than March 1, 2016, is reasonable, equitable and not unfairly discriminatory because the reference is obsolete and no longer has an impact on pricing. The Exchange also believes that replacing the existing references to ''DirectEdge'' and ''BATS'' in the Price List with references to ''Bats'' is reasonable, equitable and not unfairly discriminatory, because it will reflect the recent name changes of BATS Exchange, Inc. and EDGX Exchange, Inc. to Bats BZX Exchange, Inc. and Bats EDGX Exchange, Inc., respectively. The proposed changes would result in the removal or update of obsolete text from the Price List and therefore add greater clarity to the Price List regarding the services offered and the applicable fees.

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.

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

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory

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

In accordance with Section 6(b)(8) of the Act,[18] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed 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).

The Exchange believes that the proposed rule changes will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because such access will provide Users with wireless connectivity to additional Third Party Data feeds. Currently, Users can receive Additional Third Party Data from wireless networks offered by third party vendors. Based on the information available to it, the Exchange believes that its proposed wireless connection would provide data at the same or similar speed and at the same or similar cost as the other wireless networks. Accordingly, the proposed wireless connections to Additional Third Party Data would provide Users with an additional wireless connectivity option, thereby enhancing competition.

The Exchange notes that the proposed wireless connections to Additional Third Party Data would compete not just with other wireless connections to such Additional Third Party Data, but also with fiber optic network connections to Additional Third Party Data, which may be more attractive to some Users as they are more reliable and less susceptible to weather conditions. Users that do not opt to utilize wireless connections would be able to obtain Additional Third Party Data through other methods, including, for example, from another User, through a telecommunications provider, or over the IP network. In this way, the proposed changes would enhance competition by helping Users tailor their connectivity to Additional Third Party Data to the needs of their business operations by allowing them to select the form and optimal latency of the connectivity they use to receive such Additional Third Party Data that best suits their needs, helping them tailor their data center operations to the requirements of their business operations.

The proposed wireless connections to Additional Third Party Data would traverse wireless connections through a series of towers equipped with wireless equipment, including a pole on the grounds of the data center. The wireless network has exclusive rights to operate wireless equipment on the data center pole. The Exchange will not sell rights to third parties to operate wireless equipment on the pole, due to space limitations, security concerns, and the interference that would arise between equipment placed too closely together. In addition to space issues, there are contractual restrictions on the use of the roof that the Exchange has determined would not be met if it offered space on the roof for third party wireless

[18] 15 U.S.C. 78f(b)(8).

equipment. Moreover, access to the pole or roof is not required for third parties to establish wireless networks that can compete with the Exchange's proposed service, as witnessed by the existing wireless networks currently serving Users. Based on the information available to it, the Exchange believes that its proposed wireless connections to Additional Third Party Data would provide data at the same or similar speed, and at the same or similar cost, as its proposed wireless connection, thereby enhancing competition.[19]

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its services and related fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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

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

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

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)(iii) of the Act[20] and subparagraph (f)(6) of Rule 19b–4 thereunder.[21] A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing.[22] Rule 19b–4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[23]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because such waiver will allow Users that elect to receive wireless connections to both NASDAQ Totalview Ultra (FPGA) and BX Totalview-ITCH data to do so without delay at a reduced fee through the new bundle price. The Commission has therefore determined to waive the 30-day operative delay and designate the proposed rule change as operative upon filing with the Commission.[24]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act[25] 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.* Please include File No. SR–NYSE–2016–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSE–2016–49. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSE–2016–49, and should be submitted on or before August 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Robert W. Errett,

Deputy Secretary.

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BILLING CODE 8011–01–P

[19] The Exchange notes that the distance of a wireless network provider's wireless equipment from the User is only one factor in determining overall latency. Other factors include the number of repeaters in the route, the number of switches the data has to travel through, and the millimeter wave and switch technology used.

[20] 15 U.S.C. 78s(b)(3)(a)(iii).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] *Id.*

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

[25] 15 U.S.C. 78s(b)(2)(B).

[26] 17 CFR 200.30–3(a)(12).