

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-78952; File No. SR-NYSEArca-2016-19)

September 27, 2016

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Withdrawal of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Establish Certain End User Fees, Amend the Definition of Affiliate, and Amend the Co-location section of the Fee Schedule to Reflect the Changes

On April 4, 2016, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the co-location section of the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services and the NYSE Arca Options Fee Schedule to establish fees relating to end users of certain co-location Users in the Exchange’s data center and to amend the definition of “Affiliate.” The Commission published the proposed rule change for comment in the Federal Register on April 22, 2016.³ On April 29, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ The Commission received no comments on the proposed rule change.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 34-77641 (April 18, 2016), 81 FR 23773 (“Notice”).

⁴ Amendment No. 1 made technical changes relating to the General Notes numbering and references in the Co-location section of the Fee Schedules. Amendment No.1 is available on the Commission’s website at <https://www.sec.gov/comments/sr-nysearca-2016-19/nysearca201619-1.pdf>.

⁵ The Commission received two comment letters on a companion filing, NYSE-2016-11 (the “NYSE companion filing”), filed by the Exchange’s affiliate, the New York Stock Exchange LLC (“NYSE”). See Letter from Michael Friedman, General Counsel and Chief Compliance Officer, Trillium, to Brent J. Fields, Secretary, Securities and Exchange Commission, dated May 13, 2016 (“Friedman Letter”), and Letter from Eero Pikat to Brent J. Fields, Secretary, Securities and Exchange Commission, dated, May 13, 2016 (“Pikat Letter”) (together, the “Comment Letters”).

On June 8, 2016, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to July 21, 2016.⁶ On June 24, 2016, the Exchange filed Amendment No. 2 to the proposed rule change.⁷ On July 27, 2016, the Commission instituted proceedings pursuant to Exchange Act Section 19(b)(2)(B) to determine whether to approve or disapprove the proposed rule change, as modified by Amendment Nos. 1 and 2.⁸ The Commission received no comments in response.

In response to the Comment Letters, the NYSE submitted a response and filed Amendment No. 2 to the NYSE companion filing.

⁶ See Securities Exchange Act Release No. 34- 77977 (June 2, 2016), 81 FR 36967.

⁷ In Amendment No. 2 the Exchange proposed that Rebroadcasting Users and Transmittal Users would not be charged for their first two Multicast End Users and Unicast End Users, respectively, and offers additional support for the proposal. Amendment No. 2 was noticed at part of the Commission’s Order Instituting Proceedings and is also available on the Commission’s website at <https://www.sec.gov/comments/sr-nysearca-2016-19/nysearca201619-2.pdf>.

⁸ See Securities Exchange Act Release No. 34–78388; (July 21, 2016); 81 FR 49332.

On September 22, 2016, the Exchange withdrew the proposed rule change, as modified by Amendment Nos. 1 and 2. (SR-NYSEArca-2016-19).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Robert W. Errett
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).