All submissions should refer to file number SR–CboeBZX–2024–094. 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 (*https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2024–094 and should be submitted on or before November 7, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–23901 Filed 10–16–24; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101320; File No. SR–LTSE–2024–07]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Adopt Certain Connectivity Fees

October 11, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 1, 2024, Long-Term Stock Exchange, Inc. (''LTSE'' 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.

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

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the LTSE Fee Schedule (the ''Fee Schedule'') to adopt certain connectivity fees effective October 1, 2024. The text of the proposed rule change is available at the Exchange's website at *https://longtermstockexchange.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The Exchange is proposing to establish a new section (C. Connectivity) in the Long-Term Stock Exchange Fee Schedule and adopt fees for Cross-Connect (Primary), Cross-Connect (Disaster Recovery), Cross-Connect (Test Environment) and Logical Connectivity (all Environments) that will apply to all market participants connecting to the Exchange.[3]

Cross-Connect Fees

The Exchange proposes to offer to both Members and non-Members the choice of a 10 Gigabit (''Gb'') ultra-low latency (''ULL'') fiber cross-connection to the Exchange's Primary and Disaster Recovery facilities, as well as a 10Gb cross-connection to the Test Environment facility. The Exchange proposes to establish a Cross-Connect fee of $5,500 per 10Gb physical interface per month that will be assessed to Members and non-Members for connecting to the Primary facility. The Exchange proposes to establish a Cross-Connect fee of $2,750 per 10Gb physical interface per month that will be assessed to Members and non-Members for connecting to both the Disaster Recovery facility or the Test Environment.

Monthly network connectivity fees for Members and non-Members for connectivity will be assessed in any month the Member or non-Member is credentialed to use any of the LTSE Application Programming Interfaces (''APIs'') in either the Primary, Disaster Recovery or test environments.

Port Fees

The Exchange proposes to establish a $450 fee for all Logical Connectivity sessions. These application sessions, commonly known as ports, are utilized to perform a particular function on the Exchange, such as order entry or order cancellation, receipt of drop copies, proprietary market data dissemination, or requesting data to be backfilled (*i.e.,* ''gap ports''). All market participants (members and non-members) will be charged per session per month. The Exchange will waive the fees for three sessions per month per market participant.

In proposing to charge fees for connectivity to LTSE, the Exchange has sought to be especially diligent in assessing those fees in a transparent way against its own aggregate costs of providing the related services, and also carefully and transparently assessing the impact on Members—both generally and in relation to other Members, *i.e.,* to assure the fee will not create a financial burden on any participant and will not have an undue impact in particular on smaller Members and competition among Members in general. The Exchange believes that this level diligence and transparency is called for by the requirements of Section 19(b)(1)

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

[2] 17 CFR 240.19b–4.

[3] As proposed, fees for connectivity services would be assessed based on each active connectivity service product at the close of business on the first day of each month. If a product is canceled prior to such fee being assessed, then the Member will not be obligated to pay the applicable product fee.

under the Act,[4] and Rule 19b–4 thereunder,[5] with respect to the types of information self-regulatory organizations (''SROs'') should provide when filing fee changes, and Section 6(b) of the Act,[6] which requires, among other things, that exchange fees be reasonable and equitably allocated,[7] not designed to permit unfair discrimination,[8] and that they not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[9] This rule change proposal addresses those requirements, and the analysis and data in each of the sections that follow are designed to clearly and comprehensively show how they are met.[10]

Cost Analysis

The Exchange notes it operates a unique model where the LTSE trading system and services are provided on an outsourced basis by MEMX Technologies LLC.[11] As such, most of the Exchange's technology costs, including those related to Connectivity, are incorporated into the overall fees that the Exchange pays MEMX Technologies as part of its multi-year arrangement to provide a trading system and associated services. Because of this arrangement, the Exchange does not possess the same level of specificity for cost drivers related to Connectivity as other exchanges have detailed within their own similar filings. However, the Exchange recognizes that the costs associated with building out and maintaining a state-of-the-art network infrastructure for LTSE were extensive and in line with the costs that MEMX LLC, an exchange that also uses the trading system and associated services of MEMX Technologies, outlined in its own filing establishing connectivity fees for Members and Non-Members.[12] These include costs associated with maintaining and expanding a team of highly-skilled network engineers, fees charged by the third-party data center operator, costs associated with projects and initiatives designed to improve overall network performance and stability, and costs associated with fully-supporting advances in infrastructure and expansion of network level services, including customer monitoring, alerting and reporting. There are also significant technology expenses related to establishing and maintaining Information Security services, enhanced network monitoring and customer reporting, as well as Regulation SCI mandated processes, associated with the MEMX Technologies network technology. Because of this structure, the Exchange is unable to separate out its expense by connectivity alternative, as all connectivity alternatives are intricately combined in its DSLA with MEMX Technologies.

Further, while the Exchange has been operating since September 2020, it only entered the DLSA with MEMX Technologies LLC in January of this year and launched the new trading system in September 2024. Therefore, the Exchange's most recent publicly available financial statement (2023 Audited Unconsolidated Financial Statement) is not an accurate reflection of the total annual costs associated with the development and operation of Connectivity on LTSE. Accordingly, the Exchange believes it is more appropriate to justify its fees using cost figures that are isolated specifically for LTSE on an annualized basis, and utilizing a recent monthly billing cycle and extrapolated annualized costs on a going-forward basis.

LTSE recently calculated its aggregate monthly costs for providing Connectivity to the Exchange at $193,637 beginning October 1, 2024. Because LTSE offered all connectivity free of charge from its launch in September 2020 until October of this year, LTSE has borne 100% of all connectivity costs. Now, in order to cover some of the aggregate costs of providing connectivity to market participants (both Members and non-Members)[13] the Exchange is proposing to modify its Fee Schedule and charge the Connectivity fees detailed above.

In order to determine the Exchange's costs for providing the services associated with the Connectivity Fees, the Exchange conducted an extensive review in which the Exchange analyzed every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the services associated with the Connectivity Fees, and, if such expense did so relate, what portion (or percentage) of such expense actually supports those services. The sum of all such portions of expenses represents the total cost of the Exchange to provide the services associated with the Connectivity Fees. For the avoidance of doubt, no expense amount was allocated twice. The Exchange is also providing detailed information regarding the Exchange's cost allocation methodology—namely, information that explains the Exchange's rationale for determining that it was reasonable to allocate certain expenses described in this filing towards the total cost to the Exchange to provide Connectivity.

The Exchange believes that the Connectivity Fees are fair and reasonable because they will not result in excessive pricing or supra-competitive profit, when comparing the total annual expense that the Exchange projects to incur in connection with providing the services associated with the proposed Connectivity Fees versus the total annual revenue of the Exchange projects to collect in connection with providing those services. For 2024, the total annual expense for providing the services associated with the Connectivity Fees is projected to be approximately $4.5 million. The $4.5 million in expense includes expenses associated with providing all ports and all connectivity alternatives.

Costs Related to Offering Connectivity

The following chart details the individual line-item costs considered by LTSE to be related to offering connectivity as well as the percentage of the Exchange's overall costs per year such costs represent for such area (*e.g.,* as set forth below, the Exchange allocated approximately 10% of its overall Human Resources cost to offering connectivity).

Cost drivers	Yearly costs	% of all
Third-Party Expenses ...	$3,228,630	32
Human Resources	1,120,500	10

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 15 U.S.C.78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78(b)(5).

[9] 15 U.S.C. 78f(b)(8).

[10] In 2019, Commission staff published guidance suggesting the types of information that SROs may use to demonstrate that their fee filings comply with the standards of the Exchange Act (''Fee Guidance''). While LTSE understands that the Fee Guidance does not create new legal obligations on SROs, the Fee Guidance is consistent with LTSE's view about the type and level of transparency that exchanges should meet to demonstrate compliance with their existing obligations when they seek to charge new fees. See Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019).

[11] The Exchange and MEMX Technologies executed a Development, License and Services Agreement on January 23, 2024, with accompanying Schedules (collectively, the ''DLSA''). MEMX Technologies, an affiliate of the MEMX Exchange, is in the business of developing technology systems for use in the financial industry. *See* SR–LTSE–2024–03.

[12] See SR–MEMX–2022–26.

[13] Types of market participants that obtain connectivity services from the Exchange but are not Members include service bureaus and extranets. Service bureaus offer technology-based services to other companies for a fee, including order entry services to Members, and thus, may access application sessions on behalf of one or more Members. Extranets offer physical connectivity services to Members and non-Members.

Cost drivers	Yearly costs	% of all
Data Center	158,040	30
Total	4,507,170	....

Below are additional details regarding each of the line-item costs considered by LTSE to be related to offering connectivity.

Third-Party Expenses

As discussed above, LTSE has undertaken a unique model where it has outsourced its technology to a third-party technology provider. As such the costs associated with connectivity for this provider include (1) costs for the technology used to complete connections to the Exchange and to connect to external markets, (2) costs the third-party provider incurs to provide physical connectivity in the data centers where it maintains its equipment—such as dedicated space, security services, cooling and power, (3) charges from the third-party provider for use of physical ports and logical ports, and (3) depreciation of physical assets and software, which also includes assets used for testing and monitoring of infrastructure.

Human Resources

For personnel costs (Human Resources), LTSE calculated an allocation of LTSE employee time for employees whose functions include providing and maintaining connectivity and performance thereof (technical operations personnel, market operations personnel, and software engineering personnel). The Exchange also allocated Human Resources costs to provide connectivity to a limited subset of personnel with ancillary functions related to establishing and maintaining such connectivity (such as information security and finance personnel), for which the Exchange allocated cost on an employee-by-employee basis (*i.e.,* only including those personnel who do support functions related to providing connectivity) and then applied a smaller allocation to such employees. The Exchange notes that it has fewer than fifty (50) employees and each department leader has direct knowledge of the time spent by each employee with respect to the various tasks necessary to operate the Exchange. The estimates of Human Resources cost were therefore determined by consulting with such department leaders, determining which employees are involved in tasks related to providing connectivity, and confirming that the proposed allocations were reasonable based on an understanding of the percentage of their time such employees devote to tasks related to providing connectivity. The Exchange notes that senior level executives were only allocated Human Resources costs to the extent the Exchange believed they are involved in overseeing tasks related to providing connectivity. The Human Resources cost was calculated using a blended rate of compensation reflecting salary, equity and bonus compensation, benefits, payroll taxes, and 401(k) matching contributions.

Data Center

Data Center costs include an allocation of the costs the Exchange incurs to monitor its trading platform in third-party data centers where it maintains its equipment as well as related costs (the Exchange does not own the Primary Data Center or the Secondary Data Center, but instead, leases space in data centers operated by third parties).

Physical Connectivity Fees

LTSE offers its Members the ability to connect to the Exchange in order to transmit orders to and receive information from the Exchange. Members can also choose to connect to LTSE indirectly through physical connectivity maintained by a third-party extranet. Extranet physical connections may provide access to one or multiple Members on a single connection. Users of LTSE physical connectivity services (both Members and non-Members) seeking to establish one or more connections with the Exchange submit a request directly to Exchange personnel. Upon receipt of the completed instructions, LTSE establishes the physical connections requested by the User. The number of physical connections assigned to each User as of September 30, 2024, ranges from one to three, depending on the scope and scale of the Member's trading activity on the Exchange as determined by the Member, including the Member's determination of the need for redundant connectivity. The Exchange notes that 58% of its Members do not maintain a physical connection directly with the Exchange in the Primary Data Center (though many such Members have connectivity through a third-party provider) and another 41% have either one or two physical connections to the Exchange in the Primary Data Center.

As described above, to cover the aggregate costs of providing physical connectivity to Users and make a modest profit, as described below, the Exchange is proposing to charge a fee of $5,500 per month for each physical connection in the Primary Data Center and a fee of $2,750 per month for each physical connection in the Disaster Recovery Data Center and Test Environment. There is no requirement that any Member maintain a specific number of physical connections and a Member may choose to maintain as many or as few of such connections as each Member deems appropriate. The Exchange notes, however, that pursuant to Rule 2.250 (Mandatory Participation in Testing of Backup Systems), the Exchange does require a small number of Members to connect and participate in functional and performance testing as announced by the Exchange, which occurs at least once every 12 months. Specifically, Members that have been determined by the Exchange to contribute a meaningful percentage of the Exchange's overall volume must participate in mandatory testing of the Exchange's backup systems (*i.e.,* such Members must connect to the Disaster Recovery Data Center). The Exchange notes that Members that have been designated are still able to use third-party providers of connectivity to access the Exchange at its Disaster Recovery Data Center, and that four of the designated Members use a third-party provider instead of connecting directly to the Disaster Recovery Data Center through connectivity provided by the Exchange. Nonetheless, because some Members are required to connect to the Disaster Recovery Data Center pursuant to Rule 2.250 and to encourage Exchange Members to connect to the Disaster Recovery Data Center generally, the Exchange has proposed to charge one-half of the fee for a physical connection in the Primary Data Center. The Exchange believes that charging a higher fee for physical connections at the Disaster Recovery Data Center would be inconsistent with its objective of encouraging Members to connect at such data center and is inconsistent with the fees charged by other exchanges, which also provide connectivity for disaster recovery purposes at a discounted rate.

The proposed fee will not apply differently based upon the size or type of the market participant, but rather based upon the number of physical connections a User requests, based upon factors deemed relevant by each User (either a Member, service bureau or extranet). The Exchange believes these factors include the costs to maintain connectivity, business model and choices. The proposed fee of $5,500 per month for physical connections at the Primary Data Center is designed to permit the Exchange to cover a portion of costs allocated to providing connectivity services, which would also help fund future expenditures (increased costs, improvements, etc.). The Exchange believes it is appropriate to charge fees that represent a reasonable markup over cost given the other factors discussed above and the need for the Exchange to maintain a highly performant and stable platform to allow Members to transact with determinism. The Exchange also reiterates that the Exchange did not charge any fees for connectivity services prior to October 2024, and its allocation of costs to physical connections was part of a holistic allocation that also allocated costs to other core services without double-counting any expenses. As noted above, the Exchange proposes a discounted rate of $2,750 per month for physical connections at its Disaster Recovery Center and Test Environment. The Exchange has proposed this discounted rate for Disaster Recovery Center and Test Environment connectivity in order to encourage Members to establish and maintain such connections. Also, as noted above, a small number of Members are required pursuant to Rule 2.4 to connect and participate in testing of the Exchange's backup systems, and the Exchange believes it is appropriate to provide a discounted rate for physical connections at the Disaster Recovery Center given this requirement. The Exchange notes that this rate is well below the cost of providing such services and the Exchange will operate its network and systems at the Disaster Recovery Center without recouping the full amount of such cost through connectivity services.

Logical Connectivity Fees

Similar to other exchanges, LTSE offers its Members application sessions, also known as logical ports, for order entry and receipt of trade execution reports and order messages. Members can also choose to connect to LTSE indirectly through a session maintained by a third-party service bureau. Service bureau sessions may provide access to one or multiple Members on a single session. Users of LTSE connectivity services (both Members and non-Members) seeking to establish one or more application sessions with the Exchange shall submit a request to the Exchange via the LTSE User Portal or directly to Exchange personnel. Upon receipt of the completed instructions, LTSE assigns the User the number of sessions requested by the User. The number of sessions assigned to each User as of September 30, 2024, ranges from one (1) to more than 58 depending on the scope and scale of the Member's trading activity on the Exchange (either through a direct connection or through a service bureau) as determined by the Member. For example, by using multiple sessions, Members can segregate order flow from different internal desks, business lines, or customers. The Exchange does not impose any minimum or maximum requirements for how many application sessions a Member or service bureau can maintain, and it is not proposing to impose any minimum or maximum session requirements for its Members or their service bureaus.

As described above, to cover the aggregate costs of providing application sessions to Users and to make a modest profit, as described below, the Exchange is proposing to charge a fee of $450 per session per month. The Exchange notes that it is proposing to waive the fees for Members and Non-Members their first three sessions, so that market participants can have no cost to connect to the Disaster Recovery Center or a Test Environment port. The Exchange believes that providing three free sessions will encourage Members to connect to the Exchange's backup trading systems and to conduct appropriate testing of their use of the Exchange.

The proposed fee of $450 per month for each Logical Connectivity session is designed to permit the Exchange to cover some of the costs allocated to providing application sessions, which would also help fund future expenditures (increased costs, improvements, etc.).

The proposed fee is also designed to encourage Users to be efficient with their application session usage, thereby resulting in a corresponding increase in the efficiency that the Exchange would be able to realize in managing its aggregate costs for providing connectivity services. There is no requirement that any Member maintain a specific number of application sessions and a Member may choose to maintain as many or as few of such ports as each Member deems appropriate. The platform has been designed such that Order Entry Ports can handle a significant amount of message traffic (*i.e.,* over 50,000 orders per second), and has no application flow control or order throttling. In contrast, other exchanges maintain certain thresholds that limit the amount of message traffic that a single logical port can handle.[14] As such, while several Members maintain a relatively high number of ports because that is consistent with their usage on other exchanges and is preferable for their own reasons, the Exchange believes that it has designed a system capable of allowing such Members to significantly reduce the number of application sessions maintained.

The proposed fee will not apply differently based upon the size or type of the market participant, but rather based upon the number of application sessions a User requests, based upon factors deemed relevant by each User (either a Member or service bureau on behalf of a Member). The Exchange believes these factors include the costs to maintain connectivity and choices Members make in how to segment or allocate their order flow.

Proposed Fees—Additional Discussion

As discussed above, the proposed fees for connectivity services do not by design apply differently to different types or sizes of Members. As discussed in more detail in the Statutory Basis section, the Exchange believes that the likelihood of higher fees for certain Members subscribing to connectivity services usage than others is not unfairly discriminatory because it is based on objective differences in usage of connectivity services among different Members. The Exchange's incremental aggregate costs for all connectivity services are disproportionately related to Members with higher message traffic and/or Members with more complicated connections established with the Exchange, as such Members: (1) consume the most bandwidth and resources of the network; (2) transact the vast majority of the volume on the Exchange; and (3) require the high-touch network support services provided by the Exchange and its technology service provider, including network monitoring, reporting and support services, resulting in a much higher cost to the Exchange to provide such connectivity services. For these reasons, LTSE believes it is not unfairly discriminatory for the Members with higher message traffic and/or Members with more complicated connections to pay a higher share of the total connectivity services fees. While Members with a business model that results in higher relative inbound message activity or more complicated connections are projected to pay higher fees, the level of such fees is based solely on the number of physical connections and/or application sessions deemed necessary by the Member and not on the Member's business model or type of Member. The Exchange notes

[14] See, *e.g.,* Cboe US Options BOE Specification, *available at: https://cdn.cboe.com/resources/membership/US_Options_BOE_Specification.pdf* (describing a 5,000 message per second Port Order Rate Threshold on Cboe BOE ports).

that the correlation between message traffic and usage of connectivity services is not completely aligned because Members individually determine how many physical connections and application sessions to request, and Members may make different decisions on the appropriate ways based on facts unique to their individual businesses. Based on the Exchange's architecture, as described above, the Exchange believes that a Member even with high message traffic would be able to conduct business on the Exchange with a relatively small connectivity services footprint.

Finally, the fees for connectivity services will help to encourage connectivity services usage in a way that aligns with the Exchange's regulatory obligations. As a national securities exchange, the Exchange is subject to Regulation Systems Compliance and Integrity (''Reg SCI'').[15] Reg SCI Rule 1001(a) requires that the Exchange establish, maintain, and enforce written policies and procedures reasonably designed to ensure (among other things) that its Reg SCI systems have levels of capacity adequate to maintain the Exchange's operational capability and promote the maintenance of fair and orderly markets.[16] By encouraging Users to be efficient with their usage of connectivity services, the proposed fee will support the Exchange's Reg SCI obligations in this regard by ensuring that unused application sessions are available to be allocated based on individual User needs and as the Exchange's overall order and trade volumes increase. Additionally, because the Exchange will charge a lower rate for a physical connection to the Disaster Recovery Center and Test Environment and will waive the first three logical connectivity sessions each month, the proposed fee structure will further support the Exchange's Reg SCI compliance by reducing the potential impact of a disruption should the Exchange be required to switch to its Disaster Recovery Facility and encouraging Members to engage in any necessary system testing with low or no cost imposed by the Exchange.[17]

2. Statutory Basis

The Exchange believes that the proposed fees for connectivity services to LTSE are reasonable, equitable and not unfairly discriminatory because, as described above, the proposed pricing for connectivity services is directly related to the relative costs to the Exchange to provide those respective services and does not impose a barrier to entry to smaller participants.

The Exchange recognizes that there are various business models and varying sizes of market participants conducting business on the Exchange. The Exchange's incremental aggregate costs for all connectivity services are disproportionately related to Members with higher message traffic and/or Members with more complicated connections established with the Exchange, as such Members: (1) consume the most bandwidth and resources of the network; (2) transact the vast majority of the volume on the Exchange; and (3) require the high-touch network support services provided by the Exchange and its staff, including network monitoring, reporting and support services, resulting in a much higher cost to the Exchange to provide such connectivity services. Accordingly, the Exchange believes the allocation of the proposed fees that increase based on the number of physical connections or application sessions is reasonable based on the resources consumed by the respective type of market participant (*i.e.,* lowest resource consuming Members will pay the least, and highest resource consuming Members will pay the most), particularly since higher resource consumption translates directly to higher costs to the Exchange.

With regard to reasonableness, the Exchange understands that when appropriate given the context of a proposal the Commission has taken a market-based approach to examine whether the SRO making the proposal was subject to significant competitive forces in setting the terms of the proposal. In looking at this question, the Commission considers whether the SRO has demonstrated in its filing that: (i) there are reasonable substitutes for the product or service; (ii) ''platform'' competition constrains the ability to set the fee; and/or (iii) revenue and cost analysis shows the fee would not result in the SRO taking supra-competitive profits. If the SRO demonstrates that the fee is subject to significant competitive forces, the Commission will next consider whether there is any substantial countervailing basis to suggest the fee's terms fail to meet one or more standards under the Exchange Act. If the filing fails to demonstrate that the fee is constrained by competitive forces, the SRO must provide a substantial basis, other than competition, to show that it is consistent with the Exchange Act, which may include production of relevant revenue and cost data pertaining to the product or service.

LTSE believes the proposed fees for connectivity services are fair and reasonable as a form of cost recovery for the Exchange's aggregate costs of offering connectivity services to Members and non-Members. The proposed fees are expected to generate monthly revenue of approximately $120,000 [18] providing cost recovery to the Exchange for the aggregate costs of offering connectivity services, based on a methodology that narrowly limits the cost drivers that are allocated to those closely and directly related to the particular service. In addition, this revenue will allow the Exchange to continue to offer, to enhance, and to continually refresh its infrastructure as necessary to offer a state-of-the-art trading platform. The Exchange believes that, consistent with the Act, it is appropriate to charge fees that represent a reasonable markup over cost given the other factors discussed above. The Exchange also believes the proposed fee is a reasonable means of encouraging Users to be efficient in the connectivity services they reserve for use, with the benefits to overall system efficiency to the extent Members and non-Members consolidate their usage of connectivity services or discontinue subscriptions to unused physical connectivity.

The Exchange further believes that the proposed fees, as they pertain to purchasers of each type of connectivity alternative, constitute an equitable allocation of reasonable fees charged to the Exchange's Members and non-Members and are allocated fairly amongst the types of market participants using the facilities of the Exchange.

As described above, the Exchange believes the proposed fees are equitably allocated because the Exchange's incremental aggregate costs for all connectivity services are disproportionately related to Members with higher message traffic and/or Members with more complicated connections established with the Exchange, as such Members: (1)

[15] 17 CFR 242.1000–1007.

[16] 17 CFR 242.1001(a).

[17] While some Members might directly connect to the Disaster Recovery Center and incur the proposed $2,750 per month fee, there are other ways to connect to the Exchange, such as through a service bureau or extranet, and because the Exchange is waiving fees for the first three logical connectivity sessions, a Member connecting through another method would not incur any fees charged directly by the Exchange. However, the Exchange notes that a third-party service provider providing connectivity to the Exchange likely would charge a fee for providing such connectivity; such fees are not set by or shared in by the Exchange.

[18] As stated above, the Exchange launched its new trading platform on September 23, 2024. This expected revenue is based on a model for Q4 2024.

consume the most bandwidth and resources of the network; (2) transact the vast majority of the volume on the Exchange; and (3) require the high-touch network support services provided by the Exchange and its staff, including network monitoring, reporting and support services, resulting in a much higher cost to the Exchange to provide such connectivity services.

Commission staff previously noted that the generation of supra-competitive profits is one of several potential factors in considering whether an exchange's proposed fees are consistent with the Act.[19] As described in the Fee Guidance, the term ''supra-competitive profits'' refers to profits that exceed the profits that can be obtained in a competitive market. The proposed fee structure would not result in excessive pricing or supra-competitive profits for the Exchange. The proposed fee structure is merely designed to permit the Exchange to cover some of the costs allocated to providing connectivity services, which would also help fund future expenditures (increased costs, improvements, etc.). While the Fee Guidance did not establish a guideline as to what constitutes supra-competitive pricing through analyzing margin (nor does the Exchange believe it should have), the Exchange does not believe that it would be reasonable to consider the aforementioned margins to constitute supra-competitive pricing. Of course, should the Exchange find opportunities to dramatically reduce costs or increase revenues such that it believes the cost it is charging for physical connections or applications sessions is inconsistent with the cost of providing such connectivity or resulting in unreasonable margin, the Exchange will seek to lower its fees in order to pass savings on to its constituents. Thus, the Exchange believes that its proposed pricing for Connectivity Fees is fair, reasonable, and equitable. Further, the Exchange notes that certain of its competitors have connectivity fees that were approved without the presentation of a cost-based analysis, but it is reasonable to assume that certain of those competitors with significantly higher fees also operate with significantly higher profit margins. Accordingly, the Exchange believes that its proposal is consistent with Section 6(b)(4)40 of the Act because the proposed fees will permit recovery of the Exchange's costs and will not result in excessive pricing or supra-competitive profit.

The proposed fees for connectivity services will allow the Exchange to cover certain costs incurred by the Exchange's technology provider associated with providing and maintaining necessary hardware and other network infrastructure as well as network monitoring and support services; without such hardware, infrastructure, monitoring and support the Exchange would be unable to offer the connectivity services. The Exchange routinely works with its technology provider to improve the performance of the network's hardware and software. The costs associated with maintaining and enhancing a state-of-the-art exchange network is a significant portion of the overall expense of the technology provider's services, and thus the Exchange believes that it is reasonable and appropriate to help offset those costs by adopting fees for connectivity services. The Exchange's Cost Analysis estimates the monthly costs to provide connectivity services at $375,597. Based on current connectivity services usage, the Exchange would generate monthly revenues for the rest of 2024 of approximately $120,000. Even if the Exchange earns that amount or incrementally more, the Exchange believes the proposed fees for connectivity services are fair and reasonable because they will not result in excessive pricing or supra-competitive profit, when comparing the total expense of LTSE associated with providing connectivity services versus the total projected revenue of the Exchange associated with network connectivity services.

The Exchange notes that other exchanges offer similar connectivity options to market participants and that the Exchange's fees are a discount as compared to the majority of such fees.[20] With respect to physical connections, MIAX Options (''MIAX''), MIAX Pearl, LLC (''MIAX Pearl''), MIAX Emerald, LLC (''MIAX Emerald''), each of the Nasdaq Stock Market LLC (''Nasdaq'') options exchanges,[21] NYSE American Options (''NYSE American''), NYSE Arca Options (''NYSE Arca''), Cboe Exchange, Inc. (''Cboe Options''), Cboe BZX Options (''BZX Options''), and Cboe EDGX Options (''EDGX Options'') charge between $7,000–$22,750 per month for physical connectivity at their primary data centers that is comparable to that offered by the Exchange.[22] Nasdaq, NYSE American and NYSE Arca also charge installation fees, which are not proposed to be charged by the Exchange. With respect to application sessions, BX,PHLX, GEMX, MRX, BOX Options (''BOX''), Cboe Options, BZX Options and EDGX charge between $500–$800 per month for order entry and drop ports.[23] The Exchange further notes that several of these exchanges each charge for other logical ports that the Exchange will continue to provide for free, such as application sessions for testing and disaster recovery purposes.[24] While the Exchange's proposed Options Connectivity Fees are lower than certain of the fees charged by the Nasdaq options exchanges, MIAX Options, MIAX Pearl, MIAX Emerald, NYSE American, NYSE Arca, BOX, Cboe, BZX and EDGX, MEMX believes that it offers significant value to Members over these other exchanges in terms of bandwidth available over such connectivity services, which the Exchange believes is a competitive advantage, and differentiates its connectivity versus connectivity to other exchanges.[25] Additionally, the

[19] *See* Fee Guidance, *supra* note 13.

[20] One significant differentiation between the Exchanges is that while it offers different types of physical connections, including 10Gb, 25Gb, 40Gb, and 100Gb connections, the Exchange does not propose to charge different prices for such connections. In contrast, most of the Exchange's competitors provide scaled pricing that increases depending on the size of the physical connection. The Exchange does not believe that its costs increase incrementally based on the size of a physical connection but instead, that individual connections and the number of such separate and disparate connections are the primary drivers of cost for the Exchange.

[21] Including Nasdaq PHLX (''PHLX''), Nasdaq Options Market (''NOM''), Nasdaq BX Options (''BX''), Nasdaq ISE (''ISE''), Nasdaq GEMX (''GEMX''), and Nasdaq MRX (''MRX'').

[22] See the MIAX fee schedule, available at:*http://www.miaxglobal.com/sites/default/files/fee_schedule-files/MIAX_Pearl_Options_Options_Fee_Schedule_09122023.pdf*; the MIAX Emerald fee schedule, available at: *https://www.miaxglobal.com/sites/default/files/fee_schedule-files/MIAX_Pearl_Options_Options_Fee_Schedule_10122023_3.pdf*; the Nasdaq Options markets fee schedule, at *http://www.nasdaqtrader.com/trader.aspx?id=pricelisttrading2*; the NYSE Connectivity fee schedule, at: *https://www.nyse.com/publicdocs/wireless_Connectivity_Fees_and_Charges.pdf*; the Cboe fee schedule, available at: *https://cboe.com/us/options/membership/fee_schedule/bzx/*; the EDGX Options fee schedule, at: *https://cboe.com/us/options/membership/fee_schedule/edgx/*, and the BOX Options fee schedule, available at: *https://boxoptions.com/fee-schedule/*. This range is based on a review of the fees charged for 10–40Gb connections at each of these exchanges and relates solely to the physical port fee or connection charge, excluding co-location fees and other fees assessed by these exchanges. The Exchange notes that it does not offer physical connections with lower bandwidth than 10Gb and that Members and non-members with lower bandwidth than 10Gb and that Members and non-members with lower bandwidth requirements typically access the Exchange through third-party extranets or service bureaus.

[23] *See id.*

[24] *See id.*

[25] As noted above, all physical connections offered by LTSE are at least 10Gb capable and physical connections provided with larger bandwidth capabilities will be provided at the same rate as such connections. The Exchange also reiterates that LTSE application sessions are capable of handling significant amount of message

Exchange's proposed Connectivity Fees to its disaster recovery facility are within the range of the fees charged by other exchanges for similar connectivity alternatives.[26]

In conclusion, the Exchange submits that its proposed fee structure satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act[27] for the reasons discussed above in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities, does not permit unfair discrimination between customers, issuers, brokers, or dealers, and is designed to promote just and equitable principles of trade, 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, particularly as the proposal neither targets nor will it have a disparate impact on any particular category of market participant.

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

In accordance with Section 6(b)(8) of the Act,[28] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that the proposed rule change to apply Connectivity Fees to Users would place certain market participants at the Exchange at a relative disadvantage compared to other market participants because the proposed connectivity pricing is associated with relative usage of the Exchange by each market participant and does not impose a barrier to entry to smaller participants. The Exchange believes its proposed pricing is reasonable and lower than what other exchanges charge and, when coupled with the availability of third-party providers that also offer connectivity solutions, that participation on the Exchange is affordable for all market participants, including smaller trading firms. Therefore, the fees may stimulate intramarket competition by attracting additional firms to become Members of LTSE. As described above, the connectivity services purchased by market participants typically increase based on their additional message traffic and/or the complexity of their operations. The market participants that utilize more connectivity services typically utilize the most bandwidth, and those are the participants that consume the most resources from the network. Accordingly, the proposed fees for connectivity services do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation of the proposed Connectivity Fees reflects the network resources consumed by the various size of market participants and the costs to the Exchange of providing such connectivity services.

As it relates to the reorganization of the fee schedule, as discussed above, the Exchange does not believe that the proposed change would impose any burden on competition because such change serves to create an easier to read fee schedule to avoid any Member confusion.

Intermarket Competition

The Exchange does not believe the proposed fees for Connectivity to LTSE places an undue burden on competition on other SROs that is not necessary or appropriate. Additionally, other exchanges have similar connectivity alternatives for their participants, but with higher rates to connect.[29] The Exchange is also unaware of any assertion that the proposed fees for connectivity services would somehow unduly impair its competition with other exchanges. As a participant in an already highly competitive environment for equity trading, LTSE does not have the market power necessary to set prices for services that are unreasonable or unfairly discriminatory in violation of the Exchange Act. In sum, LTSE's proposed Connectivity Fees for Members are comparable to and generally lower than fees charged by other exchanges for the same or similar services.

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

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

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

This proposed rule change establishes dues, fees or other charges among its members and, as such, may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act[30] and paragraph (f)(2) of Rule 19b–4 thereunder.[31] Accordingly, the proposed rule change would take effect upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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 (*https://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include file number SR–LTSE–2024–07 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–LTSE–2024–07. 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 (*https://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

traffic (*i.e.,* over 50,000 orders per second), and have no application flow control or order throttling, in contrast to competitors that have imposed message rate thresholds.

[26] *See supra* note 22.

[27] 15 U.S.C. 78f(b)(4) and (5).

[28] 15 U.S.C. 78f(b)(8).

[29] *See supra* notes 21–24 and accompanying text.

[30] 15 U.S.C. 78s(b)(3)(A)(ii).

[31] 17 CFR 240.19b–4(f)(2).

Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–LTSE–2024–07 and should be submitted on or before November 7, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101306; File No. SR–NYSE–2024–48]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend Section 802.01C of the NYSE Listed Company Manual (Price Criteria for Capital or Common Stock) To Limit the Use of Reverse Stock Splits To Regain Compliance With the Price Criteria in Certain Circumstances

October 10, 2024.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 30, 2024, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''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.

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

The Exchange proposes to amend Section 802.01C (''Price Criteria for Capital or Common Stock'') of the NYSE Listed Company Manual to modify the implications of a reverse stock split for an issuer that falls below compliance with the price criteria set forth in that rule. The proposed rule change is available on the Exchange's website 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, of the most significant parts of such statements.

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

1. Purpose

Section 802.01C (''Price Criteria for Capital or Common Stock'') of the NYSE Listed Company Manual (the ''Manual'') provides that a listed company will be considered to be below compliance standards if the average closing price of a security as reported on the consolidated tape is less than $1.00 over a consecutive 30 trading-day period (the ''Price Criteria''). While the term ''Price Criteria'' is used as a defined term in Section 802.01C, the current rule does not actually provide a definition for the term. Consequently, the Exchange proposes to define the term in the rule using the definition set forth in the immediately preceding sentence.

Once notified that it has fallen below the Price Criteria, the company must bring its share price and average share price back above $1.00 by six months following receipt of the notification. A company is not eligible to follow the procedures outlined in Sections 802.02 and 802.03 of the Manual with respect to this criteria. The company must, however, notify the Exchange, within 10 business days of receipt of the notification, of its intent to cure this deficiency or be subject to suspension and delisting procedures as set forth in Section 804.00 of the Manual. The company can regain compliance at any time during the six-month cure period if on the last trading day of any calendar month during the cure period the company has a closing share price of at least $1.00 and an average closing share price of at least $1.00 over the 30 trading-day period ending on the last trading day of that month. In the event that at the expiration of the six-month cure period, both a $1.00 closing share price on the last trading day of the cure period and a $1.00 average closing share price over the 30 trading-day period ending on the last trading day of the cure period are not attained, the Exchange will commence suspension and delisting procedures as set forth in Section 804.00.

Notwithstanding the foregoing, if a company determines that, if necessary, it will cure the price condition by taking an action that will require approval of its shareholders, it must so inform the Exchange in the above referenced notification, must obtain the shareholder approval by no later than its next annual meeting, and must implement the action promptly thereafter. The company will be deemed to have regained compliance with the Price Criteria if the price promptly exceeds $1.00 per share, and the price remains above the level for at least the following 30 trading days. The action taken by a company to cure its noncompliance with the Price Criteria that is subject to shareholder approval is generally a reverse stock split.

The Exchange proposes to amend Section 802.01C to limit the circumstances under which a listed company may utilize a reverse stock split to regain compliance with the Price Criteria. Specifically, the Exchange proposes that, notwithstanding the general ability of a company to utilize a reverse stock split as a mechanism for regaining compliance with the Price Criteria if a company's security fails to meet the Price Criteria and (i) the company has effected a reverse stock split over the prior one-year period[4] or (ii) has effected one or more reverse stock splits over the prior two-year period with a cumulative ratio of 200 shares or more to one, then the company shall not be eligible for any compliance period specified in Section 802.01C and the Exchange will immediately commence suspension and delisting procedures with respect to such security

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[32] 17 CFR 200.30–3(a)(12).

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

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

[3] 17 CFR 240.19b–4.

[4] For the avoidance of doubt, the proposed rule would apply to a company even if the company was in compliance with the Price Criteria at the time of its prior reverse stock split.