

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 27

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2023 - * 06

Amendment No. (req. for Amendments *)

Filing by Nasdaq MRX, LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
---	--------------------------------------	-------------------------------------	---	---	--

Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
--------------------------------	---	-------------------------------------

Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to amend MRX Pricing Schedule at Options 7, Section 7

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Daniel Last Name * Cantu

Title * Senior Associate General Counsel

E-mail * Daniel.Cantu@nasdaq.com

Telephone * (301) 978-8469 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Nasdaq MRX, LLC has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 02/06/2023


(Title *)

By John Zecca

EVP and Chief Legal Officer

(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

 Date: 2023.02.06 12:02:03 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

Add Remove View

SR-MRX-2023-06 19b4.doc

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

Add Remove View

SR-MRX-2023-06 Exhibit 1.doc

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

Add Remove View

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

Add Remove View

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

SR-MRX-2023-06 Exhibit 5.doc

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Nasdaq MRX, LLC (“MRX” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend MRX’s Pricing Schedule at Options 7, Section 7.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the “Board”). Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Daniel A. Cantu
Senior Associate General Counsel
Nasdaq, Inc.
(301) 978-8469

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

On May 2, 2022, MRX initially filed this proposal to amend its Pricing Schedule at Options 7, Section 7, to assess market data fees, which had not been assessed since MRX's inception in 2016.³ The proposed changes are designed to update data fees to reflect their current value, rather than their value when it was a new exchange six years ago. Newly-opened exchanges often charge no fees for market data to attract order flow to an exchange, and later amend their fees to reflect the true value of those services.⁴

³ The Exchange initially filed the proposed pricing changes on May 2, 2022 (SR-MRX-2022-04), instituting fees for membership, ports and market data. See Securities Exchange Act Release No. 94901 (May 12, 2022), 87 FR 30305 (May 18, 2022) (SR-MRX-2022-04). On June 29, 2022, the Exchange withdrew that filing, and submitted separate filings for membership (SR-MRX-2022-07), market data (SR-MRX-2022-08) and ports (SR-MRX-2022-09). On August 25, 2022, the Exchange withdrew the market data filing (SR-MRX-2022-08) and replaced it with SR-MRX-2022-14. See Securities Exchange Act Release No. 95708 (September 8, 2022), 87 FR 56457 (September 14, 2022) (SR-MRX-2022-14). On October 14, 2022, the Exchange withdrew SR-MRX-2022-14 and replaced it with SR-MRX-2022-22 to reflect changes to the information contained within each of the five MRX market data feeds proposed in SR-MRX-2022-18. See Securities Exchange Act Release No. 96144 (October 24, 2022), 87 FR 65273 (October 28, 2022) (SR-MRX-2022-22) (MRX market data fee filing); Securities Exchange Act Release No. 95982 (October 4, 2022), 87 FR 61391 (October 11, 2022) (SR-MRX-2022-18) (modifying the definitions of MRX feeds). On December 8, 2022, the Exchange withdrew SR-MRX-2022-22 and replaced it with SR-MRX-2022-27. On December 19, 2022, the Exchange withdrew SR-MRX-2022-27 and replaced it with SR-MRX-2022-30. See Securities Exchange Act Release No. 96561 (December 21, 2022), 87 FR 79915 (December 28, 2022) (SR-MRX-2022-30). On February 6, 2023, the Exchange withdrew SR-MRX-2022-30 and replaced it with the instant filing.

⁴ See, e.g., Securities Exchange Act Release No 88211 (February 14, 2020), 85 FR 9847 (February 20, 2020) (SR-NYSENAT-2020-05), also available at <https://www.nyse.com/publicdocs/nyse/markets/nyse-national/rule->

Allowing newly-opened exchanges time to build and sustain market share before charging for their market data encourages market entry and promotes competition.

This Proposal reflects MRX's assessment that it is ready to distribute its market data on the same basis as the other 15 options exchanges. When these fees were initially proposed in May 2022, MRX was the only options exchange out of the 16 current options exchanges not to assess market data fees.

The Exchange proposes to amend fees for the following market data feeds within Options 7, Section 7: (1) Nasdaq MRX Depth of Market Data Feed ("Depth of Market Feed");⁵ (2) Nasdaq MRX Order Feed ("Order Feed");⁶ (3) Nasdaq MRX Top of Market

[filings/filings/2020/SR-NYSENat-2020-05.pdf](https://www.sec.gov/filings/filings/2020/SR-NYSENat-2020-05.pdf) (initiating market data fees for the NYSE National exchange after initially setting such fees at zero).

- ⁵ Nasdaq MRX Depth of Market Data Feed is a data feed that provides full order and quote depth information for individual orders and quotes on the Exchange book and last sale information for trades executed on the Exchange. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on the Exchange and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening (size of matched contracts and size of the imbalance). See Options 3, Section 23(a)(1).
- ⁶ Nasdaq MRX Order Feed provides information on new orders resting on the book (e.g. price, quantity, market participant capacity and Attributable Order tags when provided by a Member). The data provided for each option series includes the symbols (series and underlying security), displayed order types, order attributes (e.g., OCC account number, give-up information, CMTA information), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening (size of matched contracts and size of the imbalance), auction and exposure notifications. See Options 3, Section 23(a)(2).

Feed (“Top Feed”);⁷ (4) Nasdaq MRX Trades Feed (“Trades Feed”);⁸ and (5) Nasdaq MRX Spread Feed (“Spread Feed”).⁹ Prior to the initial filing of these proposed price changes on May 2, 2022, no fees had been assessed for these feeds.

In addition to the proposed fees for each data feed, the Exchange proposes an Internal Distributor Fee¹⁰ of \$1,500 per month for the Depth of Market Feed, Order Feed,

⁷ Nasdaq MRX Top of Market Feed calculates and disseminates MRX’s best bid and offer position, with aggregated size (including total size in aggregate, for Professional Order size in the aggregate and Priority Customer Order size in the aggregate), based on displayable order and quote interest in the System. The feed also provides last trade information and for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening. See Options 3, Section 23(a)(3).

⁸ Nasdaq MRX Trades Feed displays last trade information. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. See Options 3, Section 23(a)(4).

⁹ Nasdaq MRX Spread Feed is a feed that consists of: (1) options orders for all Complex Orders (i.e., spreads, buy-writes, delta neutral strategies, etc.); (2) full Complex Order depth information, including prices, side, size, capacity, Attributable Complex Order tags when provided by a Member, and order attributes (e.g., OCC account number, give-up information, CMTA information), for individual Complex Orders on the Exchange book; (3) last trades information; and (4) calculating and disseminating MRX’s complex best bid and offer position, with aggregated size (including total size in aggregate, for Professional Order size in the aggregate and Priority Customer Order size in the aggregate), based on displayable Complex Order interest in the System. The feed also provides Complex Order auction notifications. See Options 3, Section 23(a)(5).

¹⁰ A “distributor” of Nasdaq MRX data is any entity that receives a feed or data file of data directly from Nasdaq MRX or indirectly through another entity and then distributes it either internally (within that entity) or externally (outside that entity). All distributors shall execute a Nasdaq Global Data Agreement.

and Top Feed, an Internal Distributor Fee of \$750 per month for the Trades Feed, and an Internal Distributor Fee of \$1,000 per month for the Spread Feed. If a Member subscribes to both the Trades Feed and the Spread Feed, both Internal Distributor Fees would be assessed.

The Exchange also proposes to assess an External Distributor Fee of \$2,000 per month for the Depth of Market Feed, Order Feed, and Top Feed, an External Distributor Fee of \$1,000 per month for the Trades Feed, and an External Distributor Fee of \$1,500 per month for the Spread Feed.

MRX will also assess Professional¹¹ and Non-Professional¹² subscriber fees. The Professional Subscriber fee will be \$25 per month, and the Non-Professional Subscriber fee will be \$1 per month. These subscriber fees (both Professional and Non-Professional) cover the usage of all five MRX data products identified above and would not be assessed separately for each product.¹³

¹¹ A Professional Subscriber is any Subscriber that is not a Non-Professional Subscriber.

¹² A Non-Professional Subscriber is a natural person who is neither: (i) registered or qualified in any capacity with the Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an “investment adviser” as that term is defined in Section 201(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); nor (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.

¹³ For example, if a firm has one Professional (Non-Professional) Subscriber accessing Top Quote Feed, Order, and Depth of Market Feed the firm would only report the Subscriber once and pay \$25 (\$1 for Non-Professional).

MRX also proposes a Non-Display Enterprise License for \$7,500 per month. This license would lower costs for internal professional subscribers and lower administrative costs overall by permitting the distribution of all MRX proprietary direct data feed products to an unlimited number of internal non-display Subscribers without incurring additional fees for each internal Subscriber, or requiring the customer to count internal subscribers.¹⁴ The Non-Display Enterprise License is in addition to any other associated distributor fees for MRX proprietary direct data feed products.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposal is reasonable and unlikely to burden the market in light of MRX's small size, the nature of the fees, and the demonstrated ability of MRX customers to cancel their subscriptions for market data.¹⁷ MRX has had a consistently low percentage

¹⁴ The Non-Display Enterprise License of \$7,500 per month is optional. A firm that does not have a sufficient number of subscribers to benefit from purchase of the license need not do so.

¹⁵ See 15 U.S.C. 78f(b).

¹⁶ See 15 U.S.C. 78f(b)(4) and (5).

¹⁷ Nasdaq announced that, beginning in 2022, it would migrate its North American markets to Amazon Web Services in a phased approach, starting with MRX. The MRX migration took place in November 2022. The proposed fee changes are unrelated to that effort.

of market share, starting at approximately 0.2 percent when it opened as an Exchange and ending in approximately 1.37% in November 2022. This is the smallest market share of the 16 operating options exchanges.

The proposed fees are comparable to, and in some cases less than, those of other exchanges; in particular, the proposed MRX fees are lower than those charged by ISE today, as well as those of the MIAX Emerald Options Exchange, C2 Options, and NYSE American Options.

The MIAX Emerald Options Exchange charges \$3,000 for internal distribution and \$3,500 for external distribution of the MIAX Order Feed (“MOR”).¹⁸ The proposed MRX Order Feed is \$1,500 for internal distribution and \$2,000 for external distribution.

C2 Options charges \$2,500 per month for internal and external distribution of its Book Depth Data Feed, plus \$50 per Device or user ID for Display Only Service Users (external users).¹⁹ MRX proposes to charge \$1,500 for internal distribution, and \$2,000 for external distribution, of its Depth of Market Feed.

NYSE American Options charges an access fee of \$3,000 per month for its American Options Top, American Options Deep and American Options Complex products, plus a multiple datafeed fee of \$200, a redistribution fee of \$2,000 per month, and a Professional per user fee of \$50 per month and a Non-Professional user fee of \$1

¹⁸ See MIAX Emerald Options Exchange, Fee Schedule (December 8, 2022), available at https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Emerald_Fee_Schedule_12082022c.pdf.

¹⁹ See Cboe U.S. Options Fee Schedule, C2 Options, BBO Data Feed (Effective September 1, 2022), available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.

per month.²⁰ MRX proposes to charge no access or multiple datafeed fees, but rather a monthly external distributor fee of \$2,000 for Top Feed, and a monthly external distributor fee of \$2,000 for its Depth of Market Feed.

Internal distribution fees for the Nasdaq ISE Order Feed is \$3,000 per month per distributor for internal use, and \$3,000 per month for external redistribution, with additional fees for external controlled devices.²¹ Proposed Distributor fees for the MRX Order Feed is \$1,500 per month for internal distribution, and \$2,000 per month for external distribution.

The Top Quote Feed for ISE is \$3,000 per month per distributor for internal use, plus additional fees; \$3,000 per month per distributor for professional external distribution, plus other charges; and \$3,000 per distributor per month for external Non-Professional distribution through a controlled device.²² Proposed distributor fees for the MRX Top Feed are \$1,500 per month for internal distribution, and \$2,000 for external distribution.

A sizeable portion of subscribers—approximately 15 percent—have terminated their subscriptions following the implementation of the proposed fees. As of May 2, 2022, the date that MRX initially proposed these market data fees, MRX reported that

²⁰ See NYSE American Options Fee Schedule (March 1, 2022), available at https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Options_Market_Data_Fee_Schedule.pdf.

²¹ See Nasdaq ISE Rules, Options 7 (Pricing Schedule), Section 10(G) (Nasdaq ISE Order Feed).

²² See Nasdaq ISE Rules, Options 7 (Pricing Schedule), Section 10(H) (Nasdaq ISE Top Quote Feed).

two customers had terminated their market data subscriptions.²³ As of now, a total of five firms have cancelled, amounting to approximately 15 percent of the 34 customers that had been taking MRX feeds in the first quarter of 2022.²⁴ Two of the five customers had access to all five feeds: the Depth of Market Data, the Order Feed, the Top Feed, the Trades Feed, and the Spread Feed. The three remaining customers had access to only two feeds: the Order Feed and the Top Feed. All five customers cancelled all feeds that they had access to.

Three of the five customers were either data vendors or technology suppliers. Data vendors purchase exchange data and redistribute it to downstream customers, while technology suppliers incorporate exchange data into software solutions, which are sold to downstream customers. The remaining two firms engage in options trading, either on their own behalf or that of a customer. The three data vendors/technology suppliers do not trade on their own behalf or on the behalf of any downstream customers, although their customers may do so. The Exchange understands that these three firms cancelled due to insufficient demand from their downstream customers for MRX data. The two remaining firms, which do engage in options trading, have not traded on MRX, but are active traders on other Nasdaq options exchanges.

The Proposal is not unfairly discriminatory. The five market data feeds at issue here—the Depth of Market Feed, Order Feed, Top Feed, Trades Feed, and Spread Feed—

²³ See Securities Exchange Act Release No. 94901 (May 12, 2022), 87 FR 30305 (May 18, 2022) (SR-MRX-2022-04).

²⁴ These terminations were limited to market data; none of these customers were members of MRX and therefore purchased neither memberships nor ports from the Exchange.

are used by a variety of market participants for a variety of purposes. Users include regulators, market makers, competing exchanges, media, retail, academics, portfolio managers. Market data feeds will be available to members of all of these groups on a non-discriminatory basis.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Nothing in the Proposal burdens inter-market competition (the competition among self-regulatory organizations) because approval of the Proposal does not impose any burden on the ability of other options exchanges to compete. MRX fees are comparable to, and in some cases less than, those of other exchanges, as discussed above.

Nothing in the Proposal burdens intra-market competition (the competition among consumers of exchange data) because MRX market data is available to any customer under the same fee schedule as any other customer, and any market participant that wishes to purchase MRX market data can do so on a non-discriminatory basis.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,²⁵ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of 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.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.

5. Text of the proposed rule change.

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-MRX-2023-06)

February __, 2023

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend MRX Options 7, Section 7.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4 thereunder,² notice is hereby given that on February 6, 2023, Nasdaq MRX, LLC (“MRX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend MRX’s Pricing Schedule at Options 7, Section 7.

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/mrx/rules>, 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

received on the proposed rule change. The text of these 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 aspects of such statements.

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

1. Purpose

On May 2, 2022, MRX initially filed this proposal to amend its Pricing Schedule at Options 7, Section 7, to assess market data fees, which had not been assessed since MRX's inception in 2016.³ The proposed changes are designed to update data fees to reflect their current value, rather than their value when it was a new exchange six years ago. Newly-opened exchanges often charge no fees for market data to attract order flow

³ The Exchange initially filed the proposed pricing changes on May 2, 2022 (SR-MRX-2022-04), instituting fees for membership, ports and market data. See Securities Exchange Act Release No. 94901 (May 12, 2022), 87 FR 30305 (May 18, 2022) (SR-MRX-2022-04). On June 29, 2022, the Exchange withdrew that filing, and submitted separate filings for membership (SR-MRX-2022-07), market data (SR-MRX-2022-08) and ports (SR-MRX-2022-09). On August 25, 2022, the Exchange withdrew the market data filing (SR-MRX-2022-08) and replaced it with SR-MRX-2022-14. See Securities Exchange Act Release No. 95708 (September 8, 2022), 87 FR 56457 (September 14, 2022) (SR-MRX-2022-14). On October 14, 2022, the Exchange withdrew SR-MRX-2022-14 and replaced it with SR-MRX-2022-22 to reflect changes to the information contained within each of the five MRX market data feeds proposed in SR-MRX-2022-18. See Securities Exchange Act Release No. 96144 (October 24, 2022), 87 FR 65273 (October 28, 2022) (SR-MRX-2022-22) (MRX market data fee filing); Securities Exchange Act Release No. 95982 (October 4, 2022), 87 FR 61391 (October 11, 2022) (SR-MRX-2022-18) (modifying the definitions of MRX feeds). On December 8, 2022, the Exchange withdrew SR-MRX-2022-22 and replaced it with SR-MRX-2022-27. On December 19, 2022, the Exchange withdrew SR-MRX-2022-27 and replaced it with SR-MRX-2022-30. See Securities Exchange Act Release No. 96561 (December 21, 2022), 87 FR 79915 (December 28, 2022) (SR-MRX-2022-30). On February 6, 2023, the Exchange withdrew SR-MRX-2022-30 and replaced it with the instant filing.

to an exchange, and later amend their fees to reflect the true value of those services.⁴

Allowing newly-opened exchanges time to build and sustain market share before charging for their market data encourages market entry and promotes competition.

This Proposal reflects MRX's assessment that it is ready to distribute its market data on the same basis as the other 15 options exchanges. When these fees were initially proposed in May 2022, MRX was the only options exchange out of the 16 current options exchanges not to assess market data fees.

The Exchange proposes to amend fees for the following market data feeds within Options 7, Section 7: (1) Nasdaq MRX Depth of Market Data Feed ("Depth of Market Feed");⁵ (2) Nasdaq MRX Order Feed ("Order Feed");⁶ (3) Nasdaq MRX Top of Market

⁴ See, e.g., Securities Exchange Act Release No 88211 (February 14, 2020), 85 FR 9847 (February 20, 2020) (SR-NYSENAT-2020-05), also available at <https://www.nyse.com/publicdocs/nyse/markets/nyse-national/rule-filings/filings/2020/SR-NYSENat-2020-05.pdf> (initiating market data fees for the NYSE National exchange after initially setting such fees at zero).

⁵ Nasdaq MRX Depth of Market Data Feed is a data feed that provides full order and quote depth information for individual orders and quotes on the Exchange book and last sale information for trades executed on the Exchange. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on the Exchange and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening (size of matched contracts and size of the imbalance). See Options 3, Section 23(a)(1).

⁶ Nasdaq MRX Order Feed provides information on new orders resting on the book (e.g. price, quantity, market participant capacity and Attributable Order tags when provided by a Member). The data provided for each option series includes the symbols (series and underlying security), displayed order types, order attributes (e.g., OCC account number, give-up information, CMTA information), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening (size of matched contracts and size of the imbalance), auction and exposure notifications. See Options 3, Section 23(a)(2).

Feed (“Top Feed”);⁷ (4) Nasdaq MRX Trades Feed (“Trades Feed”);⁸ and (5) Nasdaq MRX Spread Feed (“Spread Feed”).⁹ Prior to the initial filing of these proposed price changes on May 2, 2022, no fees had been assessed for these feeds.

In addition to the proposed fees for each data feed, the Exchange proposes an Internal Distributor Fee¹⁰ of \$1,500 per month for the Depth of Market Feed, Order Feed, and Top Feed, an Internal Distributor Fee of \$750 per month for the Trades Feed, and an

⁷ Nasdaq MRX Top of Market Feed calculates and disseminates MRX’s best bid and offer position, with aggregated size (including total size in aggregate, for Professional Order size in the aggregate and Priority Customer Order size in the aggregate), based on displayable order and quote interest in the System. The feed also provides last trade information and for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening. See Options 3, Section 23(a)(3).

⁸ Nasdaq MRX Trades Feed displays last trade information. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. See Options 3, Section 23(a)(4).

⁹ Nasdaq MRX Spread Feed is a feed that consists of: (1) options orders for all Complex Orders (i.e., spreads, buy-writes, delta neutral strategies, etc.); (2) full Complex Order depth information, including prices, side, size, capacity, Attributable Complex Order tags when provided by a Member, and order attributes (e.g., OCC account number, give-up information, CMTA information), for individual Complex Orders on the Exchange book; (3) last trades information; and (4) calculating and disseminating MRX’s complex best bid and offer position, with aggregated size (including total size in aggregate, for Professional Order size in the aggregate and Priority Customer Order size in the aggregate), based on displayable Complex Order interest in the System. The feed also provides Complex Order auction notifications. See Options 3, Section 23(a)(5).

¹⁰ A “distributor” of Nasdaq MRX data is any entity that receives a feed or data file of data directly from Nasdaq MRX or indirectly through another entity and then distributes it either internally (within that entity) or externally (outside that entity). All distributors shall execute a Nasdaq Global Data Agreement.

Internal Distributor Fee of \$1,000 per month for the Spread Feed. If a Member subscribes to both the Trades Feed and the Spread Feed, both Internal Distributor Fees would be assessed.

The Exchange also proposes to assess an External Distributor Fee of \$2,000 per month for the Depth of Market Feed, Order Feed, and Top Feed, an External Distributor Fee of \$1,000 per month for the Trades Feed, and an External Distributor Fee of \$1,500 per month for the Spread Feed.

MRX will also assess Professional¹¹ and Non-Professional¹² subscriber fees. The Professional Subscriber fee will be \$25 per month, and the Non-Professional Subscriber fee will be \$1 per month. These subscriber fees (both Professional and Non-Professional) cover the usage of all five MRX data products identified above and would not be assessed separately for each product.¹³

MRX also proposes a Non-Display Enterprise License for \$7,500 per month. This license would lower costs for internal professional subscribers and lower

¹¹ A Professional Subscriber is any Subscriber that is not a Non-Professional Subscriber.

¹² A Non-Professional Subscriber is a natural person who is neither: (i) registered or qualified in any capacity with the Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an “investment adviser” as that term is defined in Section 201(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); nor (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.

¹³ For example, if a firm has one Professional (Non-Professional) Subscriber accessing Top Quote Feed, Order, and Depth of Market Feed the firm would only report the Subscriber once and pay \$25 (\$1 for Non-Professional).

administrative costs overall by permitting the distribution of all MRX proprietary direct data feed products to an unlimited number of internal non-display Subscribers without incurring additional fees for each internal Subscriber, or requiring the customer to count internal subscribers.¹⁴ The Non-Display Enterprise License is in addition to any other associated distributor fees for MRX proprietary direct data feed products.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposal is reasonable and unlikely to burden the market in light of MRX's small size, the nature of the fees, and the demonstrated ability of MRX customers to cancel their subscriptions for market data.¹⁷ MRX has had a consistently low percentage of market share, starting at approximately 0.2 percent when it opened as an Exchange and ending in approximately 1.37% in November 2022. This is the smallest market share of the 16 operating options exchanges.

¹⁴ The Non-Display Enterprise License of \$7,500 per month is optional. A firm that does not have a sufficient number of subscribers to benefit from purchase of the license need not do so.

¹⁵ See 15 U.S.C. 78f(b).

¹⁶ See 15 U.S.C. 78f(b)(4) and (5).

¹⁷ Nasdaq announced that, beginning in 2022, it would migrate its North American markets to Amazon Web Services in a phased approach, starting with MRX. The MRX migration took place in November 2022. The proposed fee changes are unrelated to that effort.

The proposed fees are comparable to, and in some cases less than, those of other exchanges; in particular, the proposed MRX fees are lower than those charged by ISE today, as well as those of the MIAX Emerald Options Exchange, C2 Options, and NYSE American Options.

The MIAX Emerald Options Exchange charges \$3,000 for internal distribution and \$3,500 for external distribution of the MIAX Order Feed (“MOR”).¹⁸ The proposed MRX Order Feed is \$1,500 for internal distribution and \$2,000 for external distribution.

C2 Options charges \$2,500 per month for internal and external distribution of its Book Depth Data Feed, plus \$50 per Device or user ID for Display Only Service Users (external users).¹⁹ MRX proposes to charge \$1,500 for internal distribution, and \$2,000 for external distribution, of its Depth of Market Feed.

NYSE American Options charges an access fee of \$3,000 per month for its American Options Top, American Options Deep and American Options Complex products, plus a multiple datafeed fee of \$200, a redistribution fee of \$2,000 per month, and a Professional per user fee of \$50 per month and a Non-Professional user fee of \$1 per month.²⁰ MRX proposes to charge no access or multiple datafeed fees, but rather a monthly external distributor fee of \$2,000 for Top Feed, and a monthly external

¹⁸ See MIAX Emerald Options Exchange, Fee Schedule (December 8, 2022), available at https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Emerald_Fee_Schedule_12082022c.pdf.

¹⁹ See Cboe U.S. Options Fee Schedule, C2 Options, BBO Data Feed (Effective September 1, 2022), available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.

²⁰ See NYSE American Options Fee Schedule (March 1, 2022), available at https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Options_Market_Data_Fee_Schedule.pdf.

distributor fee of \$2,000 for its Depth of Market Feed.

Internal distribution fees for the Nasdaq ISE Order Feed is \$3,000 per month per distributor for internal use, and \$3,000 per month for external redistribution, with additional fees for external controlled devices.²¹ Proposed Distributor fees for the MRX Order Feed is \$1,500 per month for internal distribution, and \$2,000 per month for external distribution.

The Top Quote Feed for ISE is \$3,000 per month per distributor for internal use, plus additional fees; \$3,000 per month per distributor for professional external distribution, plus other charges; and \$3,000 per distributor per month for external Non-Professional distribution through a controlled device.²² Proposed distributor fees for the MRX Top Feed are \$1,500 per month for internal distribution, and \$2,000 for external distribution.

A sizeable portion of subscribers—approximately 15 percent—have terminated their subscriptions following the implementation of the proposed fees. As of May 2, 2022, the date that MRX initially proposed these market data fees, MRX reported that two customers had terminated their market data subscriptions.²³ As of now, a total of five firms have cancelled, amounting to approximately 15 percent of the 34 customers

²¹ See Nasdaq ISE Rules, Options 7 (Pricing Schedule), Section 10(G) (Nasdaq ISE Order Feed).

²² See Nasdaq ISE Rules, Options 7 (Pricing Schedule), Section 10(H) (Nasdaq ISE Top Quote Feed).

²³ See Securities Exchange Act Release No. 94901 (May 12, 2022), 87 FR 30305 (May 18, 2022) (SR-MRX-2022-04).

that had been taking MRX feeds in the first quarter of 2022.²⁴ Two of the five customers had access to all five feeds: the Depth of Market Data, the Order Feed, the Top Feed, the Trades Feed, and the Spread Feed. The three remaining customers had access to only two feeds: the Order Feed and the Top Feed. All five customers cancelled all feeds that they had access to.

Three of the five customers were either data vendors or technology suppliers. Data vendors purchase exchange data and redistribute it to downstream customers, while technology suppliers incorporate exchange data into software solutions, which are sold to downstream customers. The remaining two firms engage in options trading, either on their own behalf or that of a customer. The three data vendors/technology suppliers do not trade on their own behalf or on the behalf of any downstream customers, although their customers may do so. The Exchange understands that these three firms cancelled due to insufficient demand from their downstream customers for MRX data. The two remaining firms, which do engage in options trading, have not traded on MRX, but are active traders on other Nasdaq options exchanges.

The Proposal is not unfairly discriminatory. The five market data feeds at issue here—the Depth of Market Feed, Order Feed, Top Feed, Trades Feed, and Spread Feed—are used by a variety of market participants for a variety of purposes. Users include regulators, market makers, competing exchanges, media, retail, academics, portfolio managers. Market data feeds will be available to members of all of these groups on a non-discriminatory basis.

²⁴ These terminations were limited to market data; none of these customers were members of MRX and therefore purchased neither memberships nor ports from the Exchange.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Nothing in the Proposal burdens inter-market competition (the competition among self-regulatory organizations) because approval of the Proposal does not impose any burden on the ability of other options exchanges to compete. MRX fees are comparable to, and in some cases less than, those of other exchanges, as discussed above.

Nothing in the Proposal burdens intra-market competition (the competition among consumers of exchange data) because MRX market data is available to any customer under the same fee schedule as any other customer, and any market participant that wishes to purchase MRX market data can do so on a non-discriminatory basis.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²⁵ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-MRX-2023-06 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-MRX-2023-06. This file number should be included on the subject line if e-mail 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 website viewing and printing in the

Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; 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 Number SR-MRX-2023-06 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

J. Matthew DeLesDernier
Assistant Secretary

²⁶ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

Nasdaq MRX, LLC Rules

* * * * *

Options Rules

* * * * *

Options 7 Pricing Schedule

* * * * *

Section 7. Market Data

Distributor Fees

	<u>Monthly Charge</u>	
	<u>Internal Distributor Fee</u>	<u>External Distributor Fee</u>
(1) [Nasdaq MRX]Depth of Market Feed[Data]	<u>\$1,500</u> [\$0 per month]	<u>\$2,000</u>
(2) [Nasdaq MRX]Order Feed	<u>\$1,500</u> [\$0 per month]	<u>\$2,000</u>
(3) [Nasdaq MRX]Top [Quote]Feed	<u>\$1,500</u> [\$0 per month]	<u>\$2,000</u>
(4) [Nasdaq MRX]Trades Feed	<u>\$750</u> [\$0 per month]	<u>\$1,000</u>
(5) [Nasdaq MRX]Spread Feed	<u>\$1,000</u> [\$0 per month]	<u>\$1,500</u>

Subscriber Fees

	<u>Monthly Charge</u>
<u>Professional</u>	<u>\$25</u>
<u>Non-Professional</u>	<u>\$1</u>
<u>Non-Display Enterprise License: Permits distribution to an unlimited number of internal non-display Subscribers without incurring additional fees for each internal Subscriber. The Non-Display Enterprise License covers non-display Subscriber Fees for all MRX proprietary direct data feed products and is in addition to any other associated distributor fees for MRX proprietary direct data feed products.</u>	<u>\$7,500</u>

• A Non-Professional Subscriber is a natural person who is neither: (i) registered or qualified in any capacity with the Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an "investment adviser" as that term is defined in Section 201(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); nor (iii) employed by a bank or other

organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.

• A Professional Subscriber is any Subscriber that is not a Non-Professional Subscriber.

• The Monthly Charge per Subscriber (both Professional and Non-Professional) covers the usage of all five MRX data products and will not be assessed separately for each data product. MRX data is comprised of Depth of Market, Order, Top of Market, Trades, and Spread data. For example, if a firm has one Professional (Non-Professional) Subscriber accessing Top of Market, Order, and Depth of Market the firm would only report the Subscriber once and pay \$25 (\$1 for Non-Professional).

• A “distributor” of Nasdaq MRX data is any entity that receives a feed or data file of data directly from Nasdaq MRX or indirectly through another entity and then distributes it either internally (within that entity) or externally (outside that entity). All distributors shall execute a Nasdaq Global Data Agreement.

* * * * *